

**PRESBYTERIAN CHURCH OF EASTERN AUSTRALIA**

**HANDBOOK  
OF  
PRACTICE  
AND  
PROCEDURE**

**UP TO AND INCLUDING SYNOD**

**2025**

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## **CHAPTER ONE: INTRODUCTION**

1.1 The Presbyterian Church of Eastern Australia is part of the Church universal. It is in historical and constitutional continuity with the Church of Scotland as reformed by John Knox and others in 1560, so that its constitution is the full and authoritative constitution of historic Presbyterianism.

1.2 It was founded on 10 October 1846 in Sydney when three ministers (William McIntyre MA, John Tait and Colin Stewart) and one ruling elder (Samuel Martin) protested and withdrew from ‘The Synod of Australia in connection with the Established Church of Scotland.’ This body had been formed on 5 October 1840 with the standards and law of the Church of Scotland as its basis, although without provision for appeal to the General Assembly of that church.

1.3 The protesters did not establish a church with new or changed doctrines, but renewed their adherence to ‘the standards of the Church of Scotland in their true and original import’ (that is, as interpreted by that section in the Established Church of Scotland which withdrew on 18 May 1843 [‘the Disruption’] to form the Free Church of Scotland), and they erected a new ecclesiastical court to have jurisdiction accordingly. On 25 November 1953, the three congregations of the Free Presbyterian Church of Victoria (a church which had originated in 1846 for the same reason under the leadership of Rev James Forbes MA,) were received into the Presbyterian Church of Eastern Australia. [The two churches had cooperated by means of a voluntary association known as the Assembly of the Free Presbyterian Church of Australia since 10 April 1913].

1.4 The Supreme Standard of the Presbyterian Church of Eastern Australia is the Scriptures of the Old and New Testaments, which are the Word of God and the only infallible rule of faith and conduct.

1.5 The church has formulated much of the teaching of Scripture in certain documents which form part of the basic law of the church, and which are commonly called Subordinate Standards. The most important of these is the *Westminster Confession of Faith* as explained by the Acts of the Assembly of the Church of Scotland in 1647, and the Synod of Eastern Australia in 1952, together with the Formula and the Questions set out by the Synod in 1952. The other subordinate standards are:

### CHURCH GOVERNMENT:

Second Book of Discipline 1578

Westminster Form of Presbyterian Church Government 1645

### WORSHIP:

Westminster Directory for Public Worship 1645

Westminster Directory for Family Worship 1647

### CATECHISMS:

Westminster Larger Catechism 1648

Westminster Shorter Catechism 1648

These standards are to be understood in the light of the Acts passed by the Assembly of the Church of Scotland when they were adopted.

1.6 No person is entitled to hold office in the Presbyterian Church of Eastern Australia who has not subscribed the Formula in terms of the Act of Synod of 1952. The lawful exercise of the powers of the church courts is subject to the constitution, and thus is limited to matters consistent with such subscription. If an office-bearer ceases to regard the whole doctrine of the Confession of Faith as ‘the truths of God’ and his personal confession, he can no longer hold office.

1.7 In accordance with the Presbyterian form of government set forth in the Standards of the church, the church is governed by ministers and elders acting in orderly association in a gradation of courts of the church by which its organic unity is expressed and maintained. In order these courts are the Session, the Presbytery and the Synod. [For status of the Deacons’ Court see 3.4].

1.8 The authority of the courts of the church is a delegated authority received from Christ, the only Head and Lord of the church; it is therefore an authority not to make laws but to declare and apply the mind of Christ revealed in the Scriptures.

1.9 From time to time the Synod has adopted a particular handbook describing the principles and procedure which are either embodied in the Standards of the church, have been enacted by Synod, or have been found by long experience both to guard the interests of individuals and to secure the peace and well-being of the church.

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1.10 The use hitherto of a Book of Practice adopted by another church in another country with differences of size and history has always presented difficulties, if only because of the difficulty of deciding in particular cases how far the Scottish practice is appropriate. Accordingly, this locally produced guide to procedure and practice has been produced with a view to furthering good order and promoting the Gospel. Superficial correctness of procedure is not an end in itself; the aim must always be the edification of the body of Christ, and the

accomplishment of holy, righteous and loving Christian behaviour.

1.11 This work is published by the Synod of Eastern Australia and commended as the approved working text to guide the conduct of business in church courts. Should it genuinely not provide guidance or direction on a particular matter, advice should be sought from the Law and Advisory Committee, and the Synod overtured for clarification.

## **CHAPTER TWO: THE SESSION**

### **2.1-2.3 MEMBERSHIP OF THE SESSION**

2.1 The spiritual government and discipline of a congregation is committed to its session. The minister or ministers of each congregation, along with a suitable number of ruling elders (that is, elders who are not ministers of the congregation) constitute the session.

2.2 If there are no elders in a congregation, or if there are fewer than two, the presbytery appoints elders from within its bounds to act as interim or assessor members of the session.

2.3 In extraordinary circumstances, the presbytery may appoint assessor elders to a session to strengthen it or to provide assistance with the conduct of any matter before it.

### **2.4-2.7 INSTALLING ELDERS AND DEACONS**

2.4 The number of elders and deacons ought to be in accordance with the size and circumstances of the congregation. They must be male communicant members of the congregation and aged at least 21 years, mature in Christian experience, meeting the requirements laid down in the word of God [elders: 1 Timothy 3: 1-7; Titus 1: 5-9; deacons: 1 Timothy 3: 8-13].

2.5 Elders and deacons are elected by the communicant members of the congregation in which they serve. They are elected for life and exercise office until the session accepts their resignation, they cease to be members of the congregation, or they be held by the session to have resigned through long absence from meetings (not less than 12 months) or they be deposed. An elder who wishes to demit his duties and responsibilities as elder in his congregation because of 'age, sickness or other accidents' [Second Book of Discipline (1578), 7.17] may be accorded recognition as elder emeritus. In a manner similar to a retired minister the elder retains status as an elder but ceases to be a member of the Session although he may be invited to sit in on Session meetings to offer advice. An emeritus elder is entitled to be held in honour by his fellow elders and the members of the congregation which he has served. Should the disability which led to him retiring from active duties be removed he may of course be re-elected a serving elder. Upon leaving one congregation and joining another the office of elder or deacon is retained but cannot be exercised

in the new congregation until the person is elected by that congregation and set apart to serve in it.

2.6 An ordained minister who is without a pastoral charge from any cause not involving church censure, is eligible for election as a ruling elder in the congregation of which he is a member. (Note also 4.55d)

2.7 Prior to an election it is recommended that the Moderator should preach on the scriptural qualifications and warrant for the office. The session must not install any person as an elder or deacon whom it does not regard as meeting the qualifications of Scripture, nor may it install any person who has not received the approval of a majority of communicant members, nor may the session dispense with an edict. Subject to these requirements, the session may exercise discretion in the manner of election, but it is recommended that the following procedure be followed.

a) The session determines when an election should take place and the number of persons to be chosen, and arranges for a ballot in an appropriate form (e.g., circulation of lists, congregational meeting, etc.) If the voting is taken at a congregational meeting, signed and witnessed votes may be received at the meeting from members not personally present.

b) When the voting is finalised, the result is entered in the session minutes. If a person elected is judged qualified by the session and is willing to accept office, the session appoints a day and hour for his installation. At public worship on each of the two Lord's Days preceding the date appointed, the following Edict or its substantial equivalent is read.

#### *EDICT*

*Whereas <NAME(S)> members of this congregation recently chosen to be ruling elders (or deacons) have been examined by session and approved as persons qualified by Scripture to be ordained and/or inducted to the office, the session hereby gives notice that their ordination and/or induction has been fixed for <DATE & TIME> and unless some valid objection is lodged with and proven to session, which is appointed to meet on <DATE> at <TIME & PLACE>, session will proceed accordingly. By order of the session.*

*Signed: Moderator / Clerk*

c) The order of procedure on the day of installation, which is usually the Lord's Day, is along the following lines:

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- i. the session is constituted before the service, satisfies itself that the Edict has been served, and intimates to the congregation that the session is now ready to hear any valid objection to the life and doctrine of the office-bearer elect. If any objections are given in, the party making an objection is required to substantiate it as an objection to life or doctrine. If the objection appear, in the judgement of session, to be substantiated, it must decline to proceed with the ordination or admission, and may have to take the party objected to upon discipline. But if the session finds that the objections are frivolous or unsupported by evidence, it is the session's duty to proceed with the ordination or induction as appointed. A minute is made of the decision.
- ii. the service proceeds and, after praise, prayer and the reading of the Word, an appropriate sermon is preached.
- iii. the Scripture warrant for the office must be stated.
- iv. the questions prescribed by Synod 1952 must be put to the office-bearers-elect by the Moderator of session. Upon satisfactory answer, the Formula must be signed (a copy may be pasted inside the session minute book for this purpose.)
- v. the office-bearers-elect shall then come forward and be ordained to office with prayer and be thereby inducted to the exercise of their office. A person already ordained shall be inducted with prayer.
- vi. the Moderator shall then make declaration of admission to office along the following lines:  
*I do now, in the name of the Lord Jesus Christ, the only King and Head of the Church, and by authority of this session, admit you <NAME> to the office of elder in this congregation, and you <NAME> to the office of deacon in this congregation, to take part with us in the work of the Lord, and in token of this, we give you the right hand of fellowship.*
- vii. the members of session then give the right hand of fellowship to the newly admitted office-bearers.
- viii. when the congregation has been dismissed, the session formally adds the names of the new office-bearers to its rolls, and the clerk is directed to inform the presbytery clerk and, if new deacons have been installed, the clerk of the deacons' court.

### **2.8-2.11 TASKS AND JURISDICTION**

2.8 The session is responsible to the presbytery for the spiritual life of the congregation and for its

effective role in the church at large. Christian fellowship and service through Youth Fellowships, Missionary Unions, Sabbath Schools and Prayer or Bible Study Meetings should be encouraged as circumstances suggest, and all such activities are under the authority of the session. The following description of the work of the session is thus not exhaustive of its interests, powers and duties. The elders visit the sick, instruct the young, warn the careless, and edify and comfort believers. In session meetings, applications for communicant membership or baptism (which may already have been handled in a preliminary way by the minister) are dealt with, discipline is administered, and action taken for the spiritual well-being of the congregation. In numerically or geographically large congregations, districts should be assigned to particular elders. The minister is especially responsible to the Presbytery for the mode in which all the parts of public worship are conducted.

2.9 The session, with the minister's concurrence, fix the time and hours of public worship, appoint fast days, and authorise the administration of the sacraments. The minister, in consultation with the other elders, appoints the precentor. Sessions are encouraged to seek the views of the congregation on significant matters affecting its life, so that the fullest harmony and co-operation may be achieved as all labour together for the cause of Christ.

#### Disturbance in a church service

From time to time there may be serious incidents of disturbance in a church service. A caring Christian approach is usually able to resolve the issue without recourse to legal measures. The legal position is understood to be: There is an implied licence to enter a church for the purpose of public worship. If a person acts in a manner that is contrary to this purpose the licence can be revoked by words spoken to him, and he can be asked to leave or the police will be called. One must not use physical restraint to remove a person unless the physical safety of congregants is at risk. If needed one can seek a court order.

2.10 **Relationship to Minister** - The session does not stand to the minister in the relation of his spiritual rulers. At the first meeting of session after his admission to the office by the presbytery, the fact of his admission, and its date, ought to be minuted, and his name added to the communion roll. The minister is not responsible to the session for the discharge of his own functions, although if he seems to neglect these, or to encroach upon the session's functions, it can petition the presbytery about his action. He is permitted to exercise a wide discretion

in his endeavours to advance the spiritual welfare of all classes and conditions of people within his reach. Hence it follows that the place of worship is available to the minister for the spiritual purposes of his office. But he cannot use it, or allow it to be used, for any purpose which is not of a strictly religious, ecclesiastical or charitable nature, without the consent of the deacons' court. On the other hand, neither the session nor the deacons' court can employ it for any purpose whatsoever without the minister's consent.

**2.11 Jurisdiction** - All judicial action affecting the standing of members of the congregation including ruling elders and deacons, is to be initiated by the session unless the offence is committed in the presence of a superior court. However, the decisions of the deacons' court cannot be reviewed by the session, nor can complaints against a minister be actually prosecuted in the session, since the minister is under the jurisdiction of his presbytery, not the session. In both these cases, friendly remonstrance is to be employed first, and this failing, the presbytery is to be advised. Similarly, if a session considers another session has encroached on its jurisdiction, suitable approach is made to the presbytery which has jurisdiction over the session of whose procedure complaint is made.

## **2.12-2.21 MEMBERSHIP OF THE CONGREGATION**

2.12 The session admits persons to the membership of the congregation.

2.13 The members in full communion of a congregation are baptised persons professing saving faith in the Lord Jesus Christ, who satisfy the session as to their knowledge of the Word of God, whose life and outward conduct appears consistent with a Christian profession, and who are admitted to communicant membership by the session, and thus to participation in the Lord's Supper and into full communion with the Presbyterian Church of Eastern Australia. It is usual for the minister to take the principal charge of examining applicants with respect to their profession and their knowledge. Ministers are members of the congregation they serve or to which they are attached, but jurisdiction over them belongs to their Presbytery (Act of Synod 2007.14)

2.14 The session may add communicant member by letter of transfer from another congregation of the church, or by disjunction certificate from another church not deemed to be in fundamental error in the judgement of the session. It may be helpful if

persons becoming members on profession of faith be received during a service of worship on the Lord's Day. [Reception of persons excommunicated from another church requires that reasons for such discipline be obtained from the church concerned, that the discipline be respected if scriptural, the consent of the presbytery be obtained if it proposed to receive the applicant, and that the other church be informed of the action taken and the reasons - see Act 3, Class 2, Synod 1978.]

2.15 An inquisitorial minuteness is not to be employed in the examination of persons for admission to membership. The essential requirements are competent knowledge of the Gospel, profession of faith in Christ, and a life and conduct consistent with that profession as far as can be judged outwardly. Whilst the importance of correct doctrine is not to be underestimated, members are not required to subscribe the Confession of Faith as are office-bearers.

2.16 Children in the care of a parent or parents who are communicant members are entered on the Baptismal Roll from which they are removed upon entering into full communion.

2.17 Baptism is to be administered during a public worship service. It is suggested that the following or the like questions to parents would be suitable.

- a) Do you believe the Scriptures of the Old and New Testaments to be the true and complete Word of God?
- b) Do you affirm in the presence of God and these witnesses that you are trusting the Lord Jesus Christ as your Saviour, and that you are saved, not by any works or merits of your own, but only through faith in Jesus Christ?
- c) Do you acknowledge that baptism is not a saving ordinance, but the instituted sign and seal of God's covenant for the redemption of your life through Jesus Christ, and that your child has a responsibility to believe in Christ for salvation as he/she reaches the age of understanding?
- d) Do you promise, with God's help, to nurture your child in the discipline and instruction of the Lord, instructing him/her in the truths of God's Word, praying with him/her and for him/her; and to live before him/her as Christian parents who are yourselves subject to the will of God?
- e) Do you promise to avail yourselves of all the means of grace, and to do your utmost to lead your child into a saving knowledge of Jesus Christ?

The congregation may be asked or exhorted along the following lines:

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That the members of the congregation receive this child of the covenant, that they endeavour under God so to order their life and witness that he/she may grow up in the knowledge and love of God and be continually surrounded by Christian example and influence.

2.18 The celebration of the Lord's Supper is to be maintained and the frequency of its observance is left to the discretion of the session. (A common practice is a quarterly celebration.) The session is responsible to see that no person openly known to be ignorant or delinquent in doctrine or life be permitted at the Table. Persons other than communicant members of the congregation, whom the session are satisfied are members in good standing of other evangelical churches, are welcome at the Lord's Table.

2.19 Communicant members, unless under process of discipline, have the right to have their names entered on the appropriate roll and, in proper circumstances, to approach the appropriate church court by petition, and to sign a call. Communicant members are entitled to baptism for their children and, when leaving a congregation, to a certificate of their standing; they are also entitled to vote in all matters competent to members. Example of a disjunction certificate:

### *DISJUNCTION CERTIFICATE*

*This is to certify that ..... was admitted a member in full communion of this congregation by profession of faith/disjunction certificate on ..... and now leaves the congregation in good standing consequent upon their removal to .....OR is commended to the care of the ..... congregation at ..... Date ..... Signature*

2.20 Adherents (that is, regular hearers and persons in pastoral care who are not communicant members) do not have the right to vote, but may sign concurrence in a call. Their opinion may be sought on any other matter if the session considers it appropriate to do so.

2.21 It is the duty of communicant members and baptised members to give faithful attendance on gospel ordinances, and to show a Christian spirit in all the relationships of life. They ought to give their minister due respect, encouragement and obedience in the Lord, and submit to the session as over them in the Lord. It is also their privilege and duty to take a lively interest in the welfare of the whole church, and to contribute heartily, as the Lord prospers them, for the maintenance of the Christian ministry and the furtherance of the gospel at home and abroad.

## **2.22-2.30 MEETINGS AND RECORDS**

2.22 The session ought to meet regularly. It is lawfully convened by authority of the moderator, or by command of a superior court, either through public intimation from the pulpit, or through personal citation to all the individual members. A reasonable time must be allowed for the attendance of members. No meeting of the session can be held at an hour when the presbytery of the bounds or the Synod is sitting, except with the permission of the court concerned.

2.23 At all meetings of the session the minister (or other minister at his request) or Interim-Moderator (or other PCEA minister at his request) must be present and preside as moderator. The quorum is three persons including the moderator.

2.24 Normally, the session meets in private. Great care is necessary to ensure the confidentiality of matters discussed bearing on the spiritual state of individuals.

2.25 The moderator may introduce business to the court and speak on any matter before it, but he has only a casting vote. In his discretion he allows members to speak more than once to the same question, unless in special cases he, or the court, applies the more formal rules of debate as employed by the Synod. Discussion by the session should be limited to matters proper to its spiritual function, and have in view spiritual objects conducive to the edification of the church.

2.26 The session appoints a Clerk. Upon his appointment the clerk makes a declaration that he will perform his duties faithfully. He keeps minutes of the proceedings in a proper book, takes charge of his books, papers and documents, and does such other secretarial work as is appropriate to his office. He keeps copies of outward correspondence and marks the date received on inward correspondence. He receives and submits to the session for incorporation into its minutes such extracts of minutes as are forwarded for that purpose from the deacons' court or a congregational meeting, or from presbytery.

2.27 Every meeting of the session must be both opened and closed with prayer. The minute must always state at the outset that the session was constituted (viz. with prayer) and at the end that the meeting was closed with prayer. No minute is valid without mention of these particulars, and no extract can be received which does not certify that the session was constituted, and which is not certified by

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the clerk as having been extracted from the records of the court.

2.28 The minutes of session are kept in a durable and well-bound minute book with numbered pages. Blank spaces between sets of minutes are to be cancelled by ruling and initialling. At each meeting the first business after the opening is the confirmation of the previous minutes. These must contain the names of those who were present. Any corrections are initialled by the clerk and moderator and noted in the subsequent minutes. The record is then confirmed as a correct record of what was transacted, and for this reason the wording of confirmed minutes cannot be changed without the permission of the presbytery. (Of course, a subsequent meeting may decide to implement a different decision, but the record of the earlier decision is not touched.)

2.29 Decisions of the court necessarily involving advice to third parties may be given by extract minute without specific authorisation, but in other cases the session is to authorise the provision of an extract minute.

2.30 The Roll of Communicant Members and the Roll of Baptised Members are to be carefully kept and regularly revised by the session, normally not less than once a year, and always before the election of a minister (see 4.59).

### **2.31-2.36 CONGREGATIONAL MEETINGS**

2.31 Congregational meetings are convened only on the authority of the session or a superior court. The minister or Interim-Moderator must preside unless, for adequate reason, he appoints a deputy, or unless a convening superior court appoints one of its own members for that purpose. No congregational meeting can be held during a sitting of the presbytery of the bounds or of the Synod unless with the permission of the court concerned.

2.32 Adequate notice of the time, place, nature and purpose of the meeting must be given. This notice is commonly given at the time of ordinary public worship, but may be given by letter to all communicant members. The annual meeting of the congregation, and meetings for the election of a minister or office-bearers must be intimated at least two weeks previously.

2.33 Each congregation must hold an annual meeting as early as convenient in the year for the purpose of receiving reports of the past year's work, considering the audited financial statement (see

3.15), and for transacting such other business as may be properly brought before it. The calendar year is the church's financial year.

2.34 Minutes of congregational meetings are to be kept in proper form by the session clerk or someone appointed with the approval of session. Procedure in congregational meetings is to follow the conduct of business in church courts so far as applicable, although formal rules of debate may be suspended at the discretion of the person presiding.

2.35 Members of the congregation do not have a right of appeal or complaint against decisions of the deacons' court or of a congregational meeting. However, the actions of the deacons' court may be brought under the review of presbytery on the grounds that the deacons' court has acted unlawfully by going out of its province or not carrying out the decisions of Synod, and this is done by way of petition to the presbytery of the bounds. In the case of decisions of a congregational meeting, a petition that they be reviewed is addressed to the session as the court of first instance. Again, the grounds must be that the decisions were unlawful (e.g., that the meeting was not properly constituted, or that the matter was not lawfully on the agenda).

2.36 It is the duty of the session to explain as required the rules and forms of church procedure, so that no disadvantage be done to anyone through ignorance of those rules and forms.

### **2.37-2.41 RELATIONS WITH PRESBYTERY AND SYNOD**

2.37 The session, in all its proceedings, is directly responsible to the presbytery of the bounds, and submits to the presbytery annually the following:

- a) the session minute book;
- b) the rolls of baptised and communicant members;
- c) deacons' courts and congregational minute books; and
- d) any other documents, reports or statistics that the presbytery may require; and such of these at such other times as the presbytery directs.

2.38 It is the duty of session to seek the advice of the presbytery in matters of doubt and to report any irregularities in connection with procedure for which they are responsible. They also refer certain cases of discipline for advice (see chapter 7).

2.39 Promptly after the rising of the regular Synod meeting, each session meets and elects one of the ruling elders to be its representative to the presbytery and Synod for the ensuing period in terms of the

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following specimen minute, a certified extract of which is forthwith sent to the clerk of presbytery.

### **COMMISSION**

*The Session of the Presbyterian Church of Eastern Australia <NAME> Congregation at a duly constituted meeting on <DATE> appointed <NAME>, duly inducted ruling elder in this congregation to be representative elder in the higher courts of the church and to deliberate and act in accordance with the constitution of the church until the rising of the next ordinary meeting of the Synod of Eastern Australia.*

*Extracted from the records of the session of the <NAME> Congregation.*

*Signed: <NAME> Moderator.*

*<NAME> Clerk.*

2.40 The Session appoints and commissions with as little delay as possible a representative elder to replace one who dies, or resigns, or who has been removed from office, or who for any other reason becomes ineligible to act.

2.41 Procedure in respect of power of dissent, dissent and complaint, appeals, references, petitions and the like is gathered together in a distinct chapter of this Practice (ch.6. 'Common Procedure'), and the session transmits to presbytery in proper form all the documents and papers appropriate for the consideration of that court.

### **2.42 SUPPLY DURING VACANCY**

The Interim Moderator (cf. 4.53) is responsible to the Presbytery during a vacancy and particularly for the pulpit. A person proposed for full time supply or residential supply who is not a minister in good standing of the PCEA must be first approved by the Presbytery as a person of knowledge and capacity who is sufficiently familiar with the position of the PCEA and able to work in harmony with it. In the case of residential supply the terms of occupancy of a church residence must be so arranged by the Presbytery so as to ensure the church will not be prejudiced by overstaying when the period of supply ends.

## **CHAPTER THREE: THE DEACONS' COURT [DIACONATE]**

### **3.1-3.4 MEMBERSHIP OF THE DEACONS' COURT**

3.1 The minister or ministers of the congregation, along with the elders and the deacons, constitute the Deacons' Court, whose task is to administer the temporal affairs of the congregation. This they are to do according to the judgement and appointment of the Session (Second Book of Discipline, 1578, Chapters 8 & 9).

3.2 Where there are no deacons, the membership of the session and deacons' court is identical. Where there are deacons, all the members of the local session (including the minister/s) are still entitled to meet with them as members of the deacons' court. It is held that the office of elder includes the office of deacon.

3.3 Deacons are to be male communicant members of the congregation meeting the requirements laid down in the Scriptures (Acts 6:1-7; 1 Timothy 3:8-13). The number of deacons ought to be in accordance with the size and position of the congregation. The session decides when an election for deacons should be held and follows the procedure in 2.4-2.7). After each change in the membership of the deacons' court, which should be advised by a session minute, a revised roll of deacons ought to be recorded in the deacons' court minutes. The discipline, removal or resignation of deacons are matters within the province of the session.

3.4 It should be noted that, despite its name, the deacons' court is not a court in the Presbyterian system of church government since it has no power of spiritual rule as does the session, presbytery and synod, nor power to convene congregational meetings. It is a church court in the sense that it is a constituted meeting with specific functions and powers (compare also 3.1).

### **3.5-3.9 MEETINGS**

3.5 The deacons' court ought to meet regularly and certainly at least once a quarter. Adequate notice must be given of the time, place, nature and purpose of meetings to each member of the deacons' court. The time of meetings may also be fixed by a previous meeting. In the absence of such arrangement, the deacons' court is convened by authority of the minister. In a vacancy it is usual for the clerk of the deacons' court to convene the

meetings, but the Interim-Moderator, being a member of the local session, must still receive notice. Any two members may request the minister or his deputy to call a meeting and the convening of such a meeting must not be unduly delayed.

3.6 The ordinary business of the deacons' court cannot be transacted on the Lord's Day. The deacons' court may not meet during a sitting of the session, the presbytery of the bounds or the Synod unless with the permission of the court concerned.

3.7 Normally, the meetings of the deacons' court are private, unless otherwise decided, such as meeting with the congregation. Great care is necessary to ensure the confidentiality of matters discussed bearing on the financial state of individuals.

3.8 At all meetings of the deacons' court the minister presides if present. In his absence any other member of the deacons' court may be chosen as chairman. If there is more than one minister it is decided between them which of them will preside when both are present. The quorum is three persons.

3.9 The chairman may introduce business to the court and speak on any matter before it, but he has only a casting vote. It is usual for discussion to be relatively informal with speaking more than once to the same question being allowed. Circumstances may occur where more formal rules of debate may be applied along the lines employed by the Synod.

### **3.10-3.13 THE CLERK AND MINUTES**

3.10 The deacons' court appoints a clerk. Upon his appointment the clerk makes a declaration that he will perform his duties faithfully. He keeps minutes of the proceedings in a proper book, takes charge of its books, papers, and documents, and does such other secretarial work as is appropriate to his office. He keeps copies of outward correspondence and marks the date received on inward correspondence. He receives and submits to the deacons' court for incorporation into its minutes such extracts of minutes as are forwarded for that purpose from the congregational meeting or from other church courts.

3.11 Every meeting of the deacons' court must be both opened and closed with prayer. The minutes must always state at the outset that the court was constituted (i.e., with prayer) and at the end that the

meeting was closed with prayer. No minutes are valid without mention of these particulars, and no extract can be received which does not certify that the deacons' court was constituted, and which is not certified by the clerk as having been extracted from the records of the court.

3.12 The minutes of the deacons' court are kept in a durable and well-bound minute book with numbered pages. Blank spaces between sets of minutes are to be cancelled by ruling and initialling. At each meeting the first business after the opening is the confirmation of the previous minutes. These must contain the names of those who were present. Any corrections are initialled by the clerk and chairman, and noted in the subsequent minutes. The record is then confirmed as a correct record of what was transacted, and for this reason the wording of confirmed minutes cannot be changed without the permission of the presbytery. (Of course, a subsequent meeting may decide to implement a different decision but the record of the earlier decision is not touched.)

3.13 Decisions of the deacons' court necessarily involving advice to third parties may be given by extract minute without specific authorisation of the court, but in other cases the deacons' court must authorise the provision of extracts.

### **3.14 COLLECTIONS**

3.14 The approved method of fund-raising is by free-will offerings. Raffles, games of chance or other forms of lottery are forbidden. The deacons' court is responsible, in conjunction with the session where appropriate, for arranging collections for local needs as well as for the funds of the Synod and other purposes. An amount for such may be allocated in the annual budget of the congregation and advised to the congregation and/or regular specific collections may be made for such purposes. Funds collected for other than local use must be remitted promptly to the appropriate person or body. Collectors of funds may be appointed by the deacons' court.

#### **OBLIGATIONS UNDER AUSTRALIAN LAW [Act of Synod 2018]**

3.14a [Note: The Australian Charities and Not-for-profit Commission (ACNC) is the independent national regulator of charities which includes the Church who may have specified more detailed requirements.]

- A. The Deacons' Court and its members are*
- a) to act with reasonable care and diligence
  - b) to act honestly and fairly in the best interests of the charity and for its charitable purposes
  - c) not to misuse their position or information gained as a responsible person
  - d) to disclose conflicts of interest [cf. Handbook 6.1]
  - e) to ensure that the financial affairs of the charity are managed responsibly, and
  - f) not to allow the charity to operate while it is insolvent. [Presbytery must be promptly advised if there is any risk of the congregation being unable to meet its commitments, Handbook 3:17.]
  - g) to comply with legal requirements re child abuse and related matters according to applicable State and Commonwealth legislation.

*B. The Deacons' Court is to ensure that*

- a) an ABN is secured for the congregation.
- b) the Congregation is registered with the Australian Charities and Not for Profit Commission [ACNC] as a 'basic religious charity' (or other classification if appropriate) and submits the Annual Information Statement for each calendar year not later than the prescribed cut-off date (currently 30 June following), as well as promptly advising any changes to personnel, contact details or other matters on the ACNC register.
- c) the Congregation is duly registered with the Australian Taxation Office for GST, FBT Rebate and Income Tax Exemption, and submits the required Business Activity Statement [BAS] in respect of Stipend payments, PAYG tax deductions and GST, preferably quarterly.
- d) Superannuation Contributions are remitted quarterly per Synod regulations.
- e) the minister/s and any employees are issued with a PAYG payment summary immediately following 30th June each year and that the PAYG Payment Summary is sent to the Australian Taxation Office.
- f) financial records are accessible and available for at least seven years, being all the records necessary if a fresh audit was being carried out.
- g) the annual financial statement discloses all assets and liabilities of the congregation and its controlled entities, and meets not less than the minimum audit requirements set by the ACNC from time to time.

### **3.15 CONGREGATIONAL FINANCIAL MANAGEMENT**

The Deacons' Court is to see that mandatory Government Legislation is complied with including:

- Australian Business Register
- Australian Taxation Office
- Australian Charities and Not-for-profits Commission

#### **Australian Business Register (ABR)**

The Deacons' Court is to apply for an Australian Business Number (ABN) through the ABR.

#### **Australian Taxation Office (ATO)**

The Deacons' Court is to register for Goods and Service Tax (GST) through the ABR. Charity Tax Concessions are to be applied for including GST Concession, FBT Rebate and Income Tax Exemption.

#### **Australian Charities and Not-for-profits Commission**

The Australian Charities and Not-for-profits Commission (ACNC) is the independent national regulator of charities.

The Deacons' Court is to register with the ACNC as a "basic religious charity" but is not required to meet set governance standards set by them as other charities are. However, the Deacons' Court is to comply with regulations set by Synod to ensure the court is run in an accountable and responsible manner.

It is to submit an Annual Information Statement as at 31st December, to the ACNC and advise of any changes to the detail recorded on their register when it occurs.

#### **Function of Deacons' Court**

The Deacons' Court gathers the monetary contributions of the congregation, takes charge of them and any moneys received by or for the congregation and disburses them for the purpose for which they were contributed.

#### **Treasurer**

Each Deacons' Court appoints one or more treasurers, not necessarily member(s) of the Deacons' Court. He receives, disburses and accounts for all moneys under the care of the Deacons' Court as it directs and produces for inspection when required all books of account together with relevant

vouchers. He promptly deposits all moneys received in an Australian Deposit-Taking Institution (banks, building societies and credit unions – corporations authorised by the Government under the Banking Act 1959 to take deposits from customers) account in the name of " Presbyterian Church of Eastern Australia - <Name> Congregation". At least two persons as appointed by the Deacons' Court are required to authorise disbursement of funds except in circumstances specifically agreed to by the Court. Church offerings are to be counted by two persons designated by the Deacons' Court while in each other's presence and details recorded and initialled by both persons.

#### **Financial Accounting**

The Deacons' Court is to keep proper and adequate books of account and other financial records as appropriate. As at 31st December each year it is to produce a financial report for the preceding twelve months including a Balance Sheet (Assets/Liabilities/Equity), Statement of Income and Expenditure and explanatory notes as required.

#### **Annual Financial Report - Review or Audit**

The ACNC classifies charities into:

- Small Charities - Annual revenue less than \$500,000
- Medium Charities - Annual revenue \$500,000 to less than \$3m
- Large Charities - Annual revenue \$3m or over

They require a Review or Audit of the congregation's Annual Financial Report as follows:  
Small Charities - None required

Medium Charities - Review or Audit

Large Charities - Audit

Congregations classified as Small Charities are required by Synod to have their annual Financial Statement examined. They may obtain a professional Review or Audit or they may appoint as examiner a competent independent person who is not a member of the court. Congregations classified as Medium Charities must submit either a Review or Audit Report to the ACNC with their Annual Information Statement.

Persons qualified to conduct a:

Review

- a registered company auditor
- an audit firm
- an authorised audit company
- a current member of a relevant professional body, CPA Australia – CPAA (CPA or FCPA designation), Chartered Accountants Australia

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and New Zealand – CAANZ (CA or FCA designation) or Institute of Public Accountants – IPA (FIPA or MIPA designation).

### **Audit**

- a registered company auditor
- an audit firm
- an authorised audit company.

A *Review* involves a lower level of examination/assurance of the financial report and attracts a lower fee by the reviewer for the service provided.

### **Attestation of Financial Report**

After the accounts have been duly prepared and the Financial Report reviewed or audited it is submitted to the Presbytery of the Bounds for attestation if the Presbytery finds it in order. Once attested the Financial Report is ready to be presented at the annual meeting of the Deacons' Court with the congregation (see 2.33)

### **3.16 MINISTER'S STIPEND & BENEFITS**

3.16 A congregation, through its deacons' court, is responsible to provide the following benefits for its minister:

- a) not less than the minimum stipend and benefits set by Synod from time to time - Non-Cash Benefits are to be limited to 40% of minimum stipend (Synod 2017).
- b) Five weeks annual leave.
- c) Reasonable sick leave.
- d) Travelling expenses in working the charge,
- e) Telephone rental and church calls and
- f) Manse with carpets and drapes, or house allowance in lieu of manse.
- g) Long Service Leave (Synod 2024)

### **Annual Leave**

Annual leave is provided for all serving ministers within the PCEA. Five weeks fully paid annual leave shall be available each year on a pro-rata basis. Annual leave may be taken in any manner as may be mutually agreed by the minister and session. Relief pulpit supply is to be provided in this period. Annual leave is accumulative but should not exceed 10 weeks accrued leave.

Deacons' Courts are to keep a close eye on the minister's leave entitlement to ensure he does not suffer burnout through failure to take it. Recording of entitlement in the minutes should occur once a

year to avoid misunderstanding and facilitate Presbytery's role when examining records.

### **Long Service Leave**

Long service leave only applies to ministers for periods of continuous service with the PCEA.

Accruing LSL: Long service leave accrues at a rate of 0.866 weeks per year (i.e. 2 months after 10 years). Where there is a break in continuous service, a minister must make application to Presbytery, with assistance from the Superannuation and Insurance Committee if necessary, regarding their ongoing accumulation of long service leave.

Taking LSL: Long service leave may be taken after 10 years of continuous service, and after each subsequent 5 years of continuous service. A minister is required to give 3 months' notice to his congregation and must obtain approval from Presbytery prior to the taking of any long service leave.

LSL Termination Payments: Unused long service leave is payable as a termination payment based on the cash stipend plus exempt fringe benefits at the date of termination. Pro-rata payments are available after 7 years' service have been completed.

### **3.17 FINANCIAL MANAGEMENT**

3.17 a. The Synod's Superannuation Levy is a preference burden after stipend, and is paid quarterly to the Treasurer of the Synod. After meeting all other expenses, the deacons' court is to consider applying some of the surplus in supplementing the minister's stipend. After deciding on this, the balance is to be applied in the spirit of 2 Corinthians 8: 1-5 for religious, charitable and benevolent objects consistent with the objects for which the funds have been received.

b. If a Church Officer or similar person is required, the deacons' court is responsible for the terms of his appointment. As it impinges on the conduct of worship, a matter for which the minister is especially responsible to the presbytery, the appointment of a precentor is in the hands of the minister in consultation with the other elders, but the deacons' court decides any question of remuneration.

c. If a deacons' court becomes unable to meet its commitments, it must promptly advise the presbytery of the situation in full detail. If there is

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reason to believe commitments are not being met, although no formal advice has been received, the presbytery is entitled to take such action as the circumstances seem to require.

d. The Synod allocates assistance to aid-receiving congregations according to regulations of Synod from time to time. Requests for financial assistance of Deacons' Courts are to be submitted to the Presbytery and supported by a budget for the ensuing year. A copy of the request and budget are to be sent to other Deacons' Courts within the charge by the Clerk of Presbytery in sufficient time for them to consider it prior to the next meeting of Presbytery. If Deacons' Courts are able to contribute to the Financial Assistance being sought, Presbytery is to take such into account and forward their recommendation to the Synod Finance Committee. (See 4.79)

e. Note: Vide Act 5 Class 2 Synod 1991, deacons' courts are reminded that action taken by them re church funds must comply with Trustee Acts and the Church Property Acts (see 3.26). Investment of funds requires ordinary business prudence, and impartiality. See 3.27 for detail on Investment principles.

### **3.18 USE OF CHURCH, HALL, MANSE**

3.18 The place of worship and other buildings provided for the use of the congregation, including the manse, are available to the minister (or interim moderator) for the spiritual purposes of his office. However, he cannot use these buildings for any purpose which is not strictly of a religious, ecclesiastical or charitable nature, without the consent of the deacons' court, but neither can the session or deacons' court use them for any purpose at all without the minister's consent.

### **3.19 LEASES**

3.19 a. A deacons' court desiring to lease the manse or other property to others for any period must first obtain the consent of the presbytery, and consent cannot be given without the presbytery being satisfied as to why the lease is desired and how the proceeds will be applied. The effect of a lease on rates exemption and back rates must be considered, the period of any one lease should not exceed 12 months (other than investment property as such where normal commercial terms should apply), and

the rental must represent fair market value and be regularly reviewed to that level.

b. Leases, including a lease of others' property, are executed in the name of the applicable body corporate and not by the deacons' court. [See, for Vic/Tas., Act of Synod 1961 Class 1; for NSW, Synod 1988 Act 9 Class 2; for Qld, Synod 1989 Act 13, Class 2] but Synod 1994 (Act 12, Class 2) approved execution by Deacons' Courts on behalf of the body corporate on condition leases are first sanctioned by the Presbytery, and copies provided to the trustees as soon as practicable after signature, for report to the ensuing Synod.

c. It should be noted that under the Synod of Eastern Australia Property Act 1918, Section 12, use of rents from the congregational property to meet the stipend of the minister of the congregation (if in New South Wales) is to be provided to the extent of \$300 per year but no more than this. There is no limit in other states, nor does the limit apply to payments of a manse allowance from the manse rental or payments other than for stipend. (This paragraph coincides with the Procurator's advice to Synod).

### **3.20 MAJOR CAPITAL EXPENDITURE/BUILDING WORKS**

3.20 Application to the presbytery of the bounds is to be made by a deacons' court for permission to erect, extend, alter significantly, remove or demolish any buildings belonging to the congregation. Reference must be made to presbytery before commencement, particularly with respect to financial and insurance aspects. Evidence of the session's approval will be necessary. (Act of Synod 1989). Purchase or capital improvements of property where full funds are not available must be cleared with Presbytery first and any loan proposals approved by Presbytery. (Act of Synod 2014).

### **3.21 INSURANCE**

*(See Act 16, 1991, and Act 3, 2016)*

3.21a. The Synod maintains Australia-wide Public Liability insurance in respect of the activities of the church except liability arising from the properties of St George's Congregation at Lindfield. Each deacons' court is allocated an appropriate share of the premium. Appropriately skilled and qualified members (or qualified external contractors with appropriate insurance) must conduct activities such as archery, beach and water activities, bike riding, flying foxes &c, and have risk management procedures in place to ensure adequate supervision,

first-aid kit, emergency contact details &c. Unless otherwise agreed there is no cover for liability arising from major building works. There is NO cover for sexual molestation arising from persons known to have been previous offenders or against whom a complaint has been made which has not been appropriately investigated. [A record of historical Public Liability insurance cover appears in Law & Advisory Committee Report, Synod 2016.]

b. Guidelines for insurance cover generally (including vehicles) were set by Synod 1982. In 1990 the Synod effected a group insurance scheme for all church, manse and other buildings and church-owned contents allowing St George's Congregation to opt out and make their own arrangements. Each congregation contributes according to the insured value of its property.

c. Presbyterian ministers in the normal parish situation are not in a master-servant relationship and are not covered by Workers Compensation. In the eyes of the law they are self-employed and should make appropriate arrangements for protection against disability by accident and/or illness. However, congregations should ensure that any other persons who are 'workers' for Workers Compensation purposes are duly insured under applicable State legislation.

### **3.22 MORTGAGE/SALE PROCEDURE**

3.22 Where mortgage or sale of congregational property is desired, the Deacons' Court shall ensure that the Congregation, and relevant higher courts are informed of the reasons for the sale and/or mortgage, the purposes for which the funds realised will be used and how repayment will be funded. Sale, mortgage or other encumbrance of church property cannot take place without the approval of the relevant higher courts. The sale of church property requires the approval of the congregation. In respect of congregational property in New South Wales, the proceeds of a mortgage can only be applied to the erection, improvement or maintenance of a church, manse or school-house on land held for the congregation. (Synod of Eastern Australia Property Act 1918, section 10). [Relevant Synod legislation includes Act of Synod 1958 (Class 1) re Victorian Act; Act of Synod 1984 re NSW Act.]

Synod 1988 (Act 10) gave authority to the Presbytery of the bounds to approve in the name of

Synod the sale of property other than places of worship where a) the Congregation has been informed of the reasons for the proposed sale, and the purpose for which the funds realized will be used, and has given its consent, certified to the Presbytery by extract minute; b) in the case of the sale of a manse the Presbytery has been satisfied that the provision of a suitable manse is assured upon the sale of the old; c) the sale and related purchases are handled in their legal aspects by a competent firm of solicitors; and d) in all respects the provisions of the applicable Act of Parliament, and legislation of Synod are adhered to.]

The congregation must consent as certified by extract minute; in the case of a manse the Presbytery must be satisfied that the provision of a suitable manse is assured upon the sale of the old; a competent firm of solicitors must handle the legal aspects; and the legislation of the Synod and the applicable Act of Parliament must be adhered to. Sales of places of worship require Synod approval.]

Should it be impracticable to wait until the annual Synod, a congregation desiring to mortgage property (other than church buildings) may submit a Presbytery-approved proposal to the Finance Committee in terms of the existing *Capital Assistance Fund* procedure and the Administration Committee is authorised to make a decision after receiving recommendation or otherwise from the Finance Committee. (Act 9, 2008)

### **3.23 BEQUESTS AND LEGACIES**

*(Act 4, Class 2, Synod 1983)*

3.23 a. Bequests automatically vest in the relevant trust corporation. The disbursement and/or investment of the same is a legal responsibility of the trustees.

b. Notwithstanding, a bequest to a congregation, or congregational organisation, in terms which allow the capital to be spent, may be retained and administered locally on the following conditions:

i. certified copies of the relevant documents shall be lodged by the deacons' court, or other organisation, with the Presbytery of the bounds;

ii. Presbytery shall determine whether the sum shall be held locally or not;

iii. In any event, the trustees shall be kept fully informed so that they are assured they will not be held to be in breach of trust.

c. In all other cases bequests are to be held and administered by the relevant trust corporation in consultation with the congregation or committee

concerned, and a full report made by the trust corporation to the ensuing Synod.

**SPECIMEN FORMS OF BEQUEST**

Synod 2014 provided the following examples:

**(i). General or undesignated Bequests**

These general bequests are of most benefit to the mission of the Church. In such cases, the funds can be applied to specific areas of priority need at the time. If a person wishes to make an undesignated bequest, the following clauses can be used:

*Clause A where the capital gift is to be made directly to the Church.*

“I GIVE DEVISE AND BEQUEATH ..... to the Presbyterian Church of Eastern Australia for the charitable and/or religious purposes of the Presbyterian Church of Eastern Australia as the Synod of the said Church may direct.”

*Clause B where the capital of the gift is to be permanently invested, with the income earned to be used by the Church*

“I GIVE DEVISE AND BEQUEATH ..... to the Presbyterian Church of Eastern Australia to be invested and the income therefrom from time to time received to be used for the charitable and/or religious purposes of the Presbyterian Church of Eastern Australia as the Synod of the said Church may direct.”

**(ii). Specific Bequests**

If a person wishes to designate a particular congregation, parish, project, activity, agency or institution within the Church the following clauses can be used:

*Clause C where the capital gift is to be made directly to the particular part of the Church:*

“I GIVE DEVISE AND BEQUEATH ..... to the Presbyterian Church of Eastern Australia for the general work and activities of ..... of the Presbyterian Church of Eastern Australia provided that should that work or activity of the said Church have ceased prior to my death or thereafter cease, the said sum shall be used in such other manner as determined by the Synod of the said Church.

*Clause D where the capital of the gift is to permanently invested, with the income earned to be used by the nominated activity:*

“I GIVE DEVISE AND BEQUEATH ..... to the Presbyterian Church of Eastern Australia to be invested and the income therefrom from time

to time received to be used for the general work of ..... of the Presbyterian Church of Eastern Australia, provided that should that work or activity of the said Church have ceased prior to my death or thereafter cease, the income arising from said sum shall be used in such other manner as determined by the Synod of the Presbyterian Church of Eastern Australia”

*After the desired clause A, B C or D has been selected for the Will, the following wording should also be added:*

“...the receipt of the Secretary or other proper officer for the time being of the relevant corporate trust body of the Presbyterian Church of Eastern Australia shall be a sufficient discharge to my Trustees”. (or similar)

**3.24-3.25 REVIEW OF DECISIONS**

3.24 Decisions of the deacons’ court are final when the court keeps within its province and obeys the decisions of superior courts. While a member of the court may register his dissent against a decision, there is no provision for regular complaint. The presbytery of the bounds inspects the minutes and financial records annually and may order correction of defects in procedure or take whatever steps are appropriate to rectify any mistakes or correct any abuses. The deacons’ court may appeal to Synod on lawful grounds against the action of the presbytery.

3.25 A member of the deacons’ court or a communicant member of the congregation may petition the presbytery against the procedure of the deacons’ court on the grounds that the deacons’ court has exceeded its powers or disregarded decisions of superior courts. Upon request the petitioner is entitled to receive promptly appropriate extracts of the deacons’ court minutes. The petitioner provides the deacons’ court and the presbytery with a copy of his petition indicating the grounds of the complaint. He must do so promptly and as soon as possible before the meeting of the presbytery. If the presbytery rejects the petition without lawful grounds, the petitioner may petition the Synod.

**3.26 NOTES RE TRUST CORPORATIONS BY WHOM PROPERTY IS HELD**

a. In New South Wales, the trust corporation is THE TRUSTEES OF THE SYNOD OF EASTERN AUSTRALIA created by the Synod of Australia Property Act, 1918 on March 20, 1918 and amended

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by *The Synod of Eastern Australia Property Amendment Act 2004* No. 6/2004. The Moderator, Clerk and Treasurer for the time being of the Synod are the members, the quorum being three. [Specific Synod legislation: Sales and Mortgages in N.S.W., Synod 1984; Leasing, Synod 1988]

b. In Victoria the corporation is called THE TRUSTEES FOR VICTORIA OF THE PRESBYTERIAN CHURCH OF EASTERN AUSTRALIA, created on November 25, 1953 by the Free Presbyterian Church Property Act 5691 and amended by the Free Presbyterian Church Property Amendment Act 2012, No. 67/2012. There are five members appointed by Synod, two of whom form a quorum. Tasmanian property is also held by this corporation. [Specific Synod legislation: Rules of the Trustees for Victoria, Synod 1954; Sales & Mortgages in Victoria, Synod 1958; Leasing of Property in Victoria, Synod 1961; Preservation of Real Value of Bequests, Synod 1984]

c. In Queensland incorporation occurred on July 23, 1981 under the Religious, Educational and Charitable Institutions Act 1861-1967 under the name PRESBYTERIAN CHURCH OF EASTERN AUSTRALIA (Register of Patents No.35 Page 9). Membership is the same as New South Wales. [Specific Synod legislation: Statement on the Constitution, Synod 1979; Leases, Synod 1989]

It should be noted that the trust bodies cannot engage in property transactions without the approval of the relevant church courts.

### **3.27 INVESTMENT OF CONGREGATIONAL FUNDS**

Deacons' Courts may approach the relevant Trust Corporations in the Congregation's name without an appropriate designation to the particular congregation to invest funds in their online share broking accounts.

## **CHAPTER FOUR: THE PRESBYTERY**

### **4.1-4.5 FORMATION & MEMBERSHIP**

4.1 In the Presbyterian system the presbytery is the court which has the responsibility for spiritual oversight within the territory assigned by the Synod and over the congregations within those bounds, over its own members and over all ministers without charge and licentiates living or working within its bounds, and is answerable to the Synod.

4.2 A presbytery is formed by the Synod, which assigns it a name, fixes its bounds, appoints a time and place for its first meeting, and instructs a particular minister from within its bounds to convene, constitute and preside over the first meeting until the commissions of the representative elders present have been sustained, the roll of members has been fixed, and a moderator has been elected.

4.3 A presbytery consists of:

- a) the duly inducted ministers of all charges within its bounds;
- b) a representative elder from each charge within its bounds in favour of whom a written commission has been sustained by the presbytery;
- c) such ministers and ordained foreign missionaries as have been granted a seat in the presbytery by rule, regulation or resolution of the Synod, or have been transferred to it by agreement with another presbytery;
- d) pursuant to (c) and by Synod enactment 1986, any ordained minister of the church giving full-time residential supply of more than three months duration in a Special Development or Fully Sanctioned charge within the bounds, provided he sign the Formula.\* (see text below)
- e) such assessor members appointed by the Synod in extraordinary circumstances to strengthen it or to provide assistance with the conduct of any matter before it. [See also 4.12]

All such ministers and elders, and only they, are members of the presbytery and their names are placed upon and constitute its membership roll.

\* the Synod resolution is as follows:

**1986: SEATS ON PRESBYTERIES FOR MINISTERS NOT INDUCTED [Act 18, Synod 1986]**

It was resolved that: The Synod regulates the granting of seats on presbyteries to ministers who

are not inducted, as follows; Such a man must be ordained. Unless appointed as an assessor he must reside within the bounds of the presbytery on which he receives a seat, and the Synod must be satisfied that a task substantially equivalent to a pastoral charge is committed to him, or that he is able and willing to assist in the courts of the church and circumstances (nature of task, fewness of other ministers, etc.) suggest granting a seat is for the church's distinct advantage. The Synod reviews granting of seats under this provision from time to time.

Nothing in this Act affects the right of ministers not inducted to be elected as ruling elders in the congregations to which they attach themselves, nor the right of church courts to give a voice but not a vote to un-inducted ministers of the church in good standing.

An ordained minister of the church giving regular full time residential supply in a Church Extension or Fully Sanctioned Charge is for that period under the oversight of the presbytery of the bounds, and if he gives extended service of more than three consecutive months he has a seat on the presbytery automatically if necessary to give a quorum (or by the decision of the presbytery otherwise) provided that in all cases he sign the formula.

4.4 A minister or an elder may only be a member of one presbytery except in the case of appointment as an assessor (4.3e above). The clerk of the presbytery is responsible for maintaining a correct roll and ensuring that changes are duly recorded. If a minister or an elder appears to qualify for membership of more than one presbytery, the presbytery of which he is a member decides whether or not his membership shall be transferred.

4.5 Except when a judicial case is before it, the presbytery may associate with itself at any particular meeting, any member of another presbytery who is present, and also any ordained minister of the church in good standing who is present, allowing such person to take part in the proceedings of that meeting but not to preside, vote, or move or second a motion.

### **4.6-4.7 MODERATOR**

4.6 The presbytery elects from its members an ordained minister to be its moderator. He holds office for such time as the presbytery may determine, usually twelve months.

In the absence of the moderator, or in the event of his leaving the chair to address the court, the member among those present who was most recently moderator of the presbytery takes the chair, or, if there be no ex-moderator, the court appoints one of its members to take the chair; but, if the moderator enters at any stage of the proceedings, he takes the chair and the fact of his having done so is recorded in the minutes.

If the moderator should die or otherwise cease to be a member of the presbytery during his term of office, the duties immediately devolve upon the previous moderator until the next ordinary meeting of the presbytery. If the previous moderator is unavailable, the rights and duties in connection with the calling of extraordinary (pro re nata) meetings devolve upon the clerk until a new moderator is appointed.

A moderator *pro tempore* (that is, for the time being) enters into all the rights and duties of the moderator, though in signing any document he must add to his signature “moderator *pro tem*” or “acting moderator.”

4.7 Except where otherwise expressly provided, the moderator is responsible for convening such meetings of the presbytery as have not been fixed by its own action or that of a superior court.

At all meetings of the presbytery the moderator

- a) presides;
- b) sees that the meeting is properly constituted, and closed with prayer;
- c) causes good order to be kept in the conduct of its business;
- d) disallows motions which are in conflict with the law of the church, or which are irrelevant, offensive or otherwise incompetent;
- e) protects the rights of each member of the presbytery and rules on points of order;
- f) announces decisions, administers censures and admonitions, conveys felicitations and instructs parties at the bar;
- g) calls upon members to state their views, cast their votes or discharge any duties which may have been assigned to them;
- h) vacates the chair when a session of which he is a member is at the bar or when he wishes to become a party to a case or speak to a matter before the presbytery, and returns to the chair when the matter is completed. The moderator has only a casting vote in the case of equality.

## 4.8 CLERK

4.8 The presbytery appoints a clerk who is usually, but not necessarily, a member of presbytery, and who holds office at the will of the presbytery.

The clerk of presbytery makes the declaration of fidelity on taking up his office. The presbytery decides what remuneration (if any) he shall receive from its funds. In his absence, another is appointed to act for the time being, and he also makes the declaration of fidelity, which is as follows:

“I do solemnly affirm and declare that I will faithfully discharge the duties now entrusted to me.”

The clerk:

- a) keeps an accurate roll of the presbytery;
- b) receives, dates, examines, records and reports to the presbytery all documents, papers or communications addressed to it, and suggests the order of business;
- c) keeps accurate minutes of the proceedings of the court (see 4.24) and, with the authority of the court, supplies properly attested extracts from them to those entitled to them (see 4.25);
- d) takes care of the books, papers and records of the court as it directs, and produces them when the court requires them.
- e) carries out such other duties and enters into such correspondence on behalf of the court as it may direct or the rules, regulations, or directions of a superior court require.

The clerk of presbytery is required to vacate his table while a session of which he is a member is at the bar and an acting clerk is appointed.

## 4.9-4.10 TREASURER

4.9 The presbytery appoints a treasurer to gather, take charge of, disburse and account for all the funds held by the presbytery as it may direct. The presbytery clerk may also be the treasurer, if the presbytery so decides.

4.10 The presbytery establishes a fund to meet its expenses, and for this purpose has the power to fix a rate charged on each parish and congregation on some equitable basis. Offerings made at services appointed by the presbytery may also be appropriated by it for this fund.

## 4.11 COMMITTEES

4.11 The presbytery appoints such committees as it deems necessary to facilitate its work. Any such committee that includes members of the presbytery

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may meet when the presbytery is sitting only by leave of the presbytery.

### **4.12 QUORUM**

4.12 Three of the members on the roll of the presbytery of whom two must be ordained ministers constitute the quorum of a presbytery. If membership is such that a quorum is difficult or impossible to obtain, the Synod appoints assessors from the membership of other presbyteries. To obviate the necessity of a special Synod if the lack of a quorum occurs between Synods, Synod directs that other Presbytery Clerks be notified in order that each of the other two Presbyteries may appoint an assessor (with liberty to also specify a substitute if desired).

### **4.13-4.16 KINDS OF MEETINGS**

4.13 ORDINARY meetings of a presbytery are for the transaction of whatsoever business may arise and are held:

- a) by adjournment from the previous ordinary meeting,
- b) by special appointment of a superior court, and
- c) in consequence of the constitutional revival of the presbytery after its powers and functions have lapsed (see 4.14)

Such meetings are usually held within the bounds of the presbytery at certain set times and places and ought to be held at least twice a year, but the presbytery may meet whenever it judges this to be expedient.

At each ordinary meeting, the time and place of the next ordinary meeting is fixed, intimated and minuted. No further intimation is legally necessary, but it is usual for the clerk to send to members a written reminder including notice of the business which it is proposed to consider.

When it appears to the moderator of a presbytery that the day appointed for its next meeting will be unsuitable, he may, with the consent of the clerk and another member, alter the date and instruct the clerk to give notice to members of such alteration. At least 14 days' notice must be given of such alteration (unless all members of the presbytery agree otherwise), and the moderator submits in writing to the presbytery the reasons for his action, and these reasons are recorded in the minutes.

4.14 A presbytery is a continuing court but its powers and functions lapse:

- a) when at the close of an ordinary meeting it neglects to appoint a time and place for its next meeting, or
- b) when a quorum is not present for an ordinary meeting;

and in either such event, the presbytery cannot again meet for business until it is convened by special summons issued to all members at least 14 days before the time fixed for the meeting, unless all members of the presbytery agree otherwise. The moderator must comply with a requisition for such a meeting addressed to him by two or more members.

The circumstances of the lapsing of the presbytery must be recorded in the minutes of the first meeting thereafter and, except in the event of this meeting having been called by the Synod, be reported to the Synod clerk for noting in the Administration Committee report. (Section 4:14 is Act of Synod 1990.)

4.15 Besides its ordinary meetings, a presbytery may hold SPECIAL (*in hunc effectum*) meetings.

A special meeting is one appointed by the previous ordinary meeting for some particular business, which must be intimated at the time of appointment, and recorded in the minutes. A special meeting takes up only the business thus intimated and minuted, and only that part of the minutes of the previous ordinary meeting which is relevant to the special meeting is read at this latter meeting. However, elders' commissions are entitled to be received at a special meeting even though not previously intimated.

If a special meeting lapses from want of a quorum, or if it is desired to change the date, an extraordinary meeting is held to fix a new date, or the change agreed by correspondence (see 4.20).

4.16 Besides its ordinary and special meetings, a presbytery may hold EXTRAORDINARY (*pro re nata*) meetings.

An extraordinary meeting is one which is summoned to transact urgent business which has emerged since its previous ordinary meeting and which needs to be dealt with before the next ordinary meeting.

An extraordinary meeting may be convened by the moderator on his own responsibility or, if he see cause, when requested to do so for reasons stated by two or more of the members on the roll of the presbytery.

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An extraordinary meeting is convened by circular issued by the moderator, or by the clerk with his authority, and bearing the words “by order of the moderator”, to every member of the presbytery at least 14 days before the time fixed for the meeting (unless all members of the presbytery agree otherwise), and such circular must specify the business for which the meeting is convened, and only such business is entered upon at the meeting; the content of the circular is incorporated in the minutes of the meeting. However, elders’ commissions are entitled to be received at an extraordinary meeting even though not specified in the circular.

If the moderator declines to call an extraordinary meeting when duly requested, he must state the facts and his reason for declining to do so at the next ordinary meeting, and is answerable to the court for his decision.

At an extraordinary meeting, before the business specified is taken up, the presbytery approves or disapproves the action of the moderator in causing the meeting to be convened. In the event of the presbytery disapproving, the moderator or any other member or members of the court may bring the whole circumstances of the case to the notice of the next ordinary meeting of the presbytery.

### **4.17 ADJOURNMENT**

4.17 A special or extraordinary meeting may be adjourned to meet again before, but not on or after the date of its next ordinary meeting, for the purpose of completing its specified business and for that purpose alone; when such an adjournment is for a period longer than one day the clerk sends notice of the adjournment to all absent members.

### **4.18 TIME & PLACE OF MEETING**

4.18 A presbytery meeting may be called at the time and place where the Synod is being held but cannot meet during actual sessions of the Synod without that court’s permission (see 4.83). In other circumstances, a presbytery may meet beyond its own bounds only with the consent of all its members and for adequate cause.

### **4.19-4.20 PUBLIC & PRIVATE SITTINGS**

4.19 The presbytery is, by long-established practice, an open court, and in respect to all ordinary matters, this practice is regarded as highly desirable.

4.20 However, the presbytery may sit in private when it judges it to be necessary or expedient, as in certain cases of discipline or of allegations which may prove to be ill-founded. The presbytery must meet alone when students are proposed for trial, and when the private trials of students are going on, and when directed so to meet by Synod.

### **4.21 AUTHORITATIVE SIGNATURE**

4.21 When the moderator or the clerk signs any document or communication on behalf of or with the authority of the court, he appends his official designation to his signature, which he ought not otherwise to do.

### **4.22 DECISIONS: WHEN OPERATIVE**

4.22 Notwithstanding the fact that a minute of a decision of the court has not been confirmed, the decision itself becomes operative from the time it was made or ordered to take effect.

### **4.23-4.24 KEEPING OF MINUTES**

4.23 As with other courts, the presbytery keeps accurate minutes of its proceedings. Minutes should be statements of facts only and should always include:

- a) the circumstances of the meetings, whether by appointment, pursuant to adjournment, ordinary, special or extraordinary, and their place, date and time;
- b) the fact of the constitution of the meeting (i.e., with prayer);
- c) the names of those present and the names of members for whose absence apologies were received and sustained;
- d) all decisions of the court;
- e) the appointment of the next meeting if such needs to be made; and
- f) the fact that the meeting was closed with prayer.

NB: No minute is valid without mention of the particulars in (b) and (f). The absence of one or other at a presbytery meeting merits censure as indicating lack of spiritual concern, but does not automatically render decisions void.

4.24 The clerk is responsible for recording a true account of the business transacted. It is not essential for the names of movers and seconders of motions to be recorded, nor is it normally desirable that extended narrative appears recording every opinion expressed by members. The decisions of the court with sufficient connecting narrative to render the transactions clear and concise are sufficient.

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Minutes recorded in closed court are not read in open court. Members may not divulge the content of closed court discussions to outsiders, but the actual decision is not normally private, and does not need to be read in open court before it can be made public.

The minutes may be framed as the business proceeds, and, being read and approved, may be confirmed at the close of the meeting by the signatures of the moderator and clerk. In grave or urgent matters, this course may be desirable.

Normally, the minutes are circulated among members of the presbytery shortly after the meeting. Any necessary amendments should be advised immediately to the clerk. At the next ordinary meeting, the minutes are confirmed after any needed corrections and thus declared to be an accurate record of what took place. Once confirmed, the permission of Synod is needed to alter the record.

### **4.25 EXTRACTS OF MINUTES**

4.25 An extract cannot be received as an authoritative record of the presbytery's decision if it lacks certification that the presbytery was constituted (i.e. with prayer), and that it has been extracted by the clerk from the records of the court. Decisions of the presbytery necessarily involving advice to third parties may be given by extract minute without specific authorisation of the court in ordinary matters, but in other or doubtful cases, the presbytery must authorise the provision of an extract minute.

### **4.26 JURISDICTION AND FUNCTIONS**

4.26 The functions of the presbytery embrace original action, review and relation to the superior court, and it is required to watch over and aid the interests of the church and the progress of the gospel in such a manner as seems best fitted to these ends. The representation of the practice of the presbytery which follows is thus not exhaustive of its powers and duties.

**For ease of reference, the following matters have been grouped together in this manual:**

- a) *Oversight of congregations - see 4.33-4.44*
- b) *allegations against a minister - see 4.45*
- c) *Reception, status, oversight of students and home missionaries including student training and allowances and licensing procedure - see 4.46-4.50*
- d) *Admission of ministers from other churches - see 4.51-4.52*

- e) *Vacancy, calls, settlement and transfer of ministers - see 4.53-4.74*
- f) *Mental incapacity in a minister - see 4.75*
- g) *Relationship to Synod - see 4.76-4.83*
- h) *Presbytery bounds and relationship between presbyteries 4.84-4.87*
- i) *Minister without charge and resigned/retired ministers 4.88*

### **4.27 OBJECTION TO PRESBYTERY DECISIONS**

4.27 Except where otherwise provided, appeal or complaint (as the case may require) may be lodged against any decision of a presbytery. If appeal or complaint is refused by the presbytery, the right of petition to the Synod against the reasons for such refusal may be exercised. (For procedures see Chapter 6.)

### **4.28 OVERTURES**

The presbytery takes up and deals with, as provided in 6.5, all overtures competently transmitted to it by the sessions within its bounds. With a view to the careful consideration of the matter, an overture ought not to be moved in the presbytery unless notice of it has been given at a previous ordinary meeting of the presbytery or intimated by circular provided by the overtureist to the clerk and circulated by him to the members of the presbytery a reasonable time before the meeting at which the overture is brought forward.

### **4.29-4.30 PETITIONS**

4.29 A petition may be competently addressed to the presbytery:

- a) to ask the presbytery to review the decision of a session when the petitioner -
  - i. has been obstructed in his right of appeal or complaint in the inferior court, or
  - ii. being the deacons' court, cannot conveniently deal with a matter before it otherwise than petitioning the presbytery to take a specified action;
- b) to ask the presbytery to review a decision of the deacons' court (see 3.25);
- c) to ask the presbytery to make a special visitation, or to intervene in some other competent manner, when a dispute or difficulty involving the minister has arisen within a congregation (see 7.29);
- d) by a session, deacons' court, or any person having an interest in the matter, when the object craved can only be accomplished by, or originated in, the presbytery, such as the

establishment of a preaching station, the sanctioning of a charge, the creation of a session, or permission to erect a church or manse; but such matters are more usually dealt with by formal application and direct motion in the presbytery.

The presbytery deals with petitions in the manner provided in 6.7.

4.30 Presbyterian order requires that the presbytery ought not to receive a petition with reference to any matter which ought to have been previously brought before the session, unless obstructed as in 4.29 (a) (ii) above. A petition to the presbytery is the proper remedy in such cases, and upon receiving such a petition, the presbytery clerk is warranted in ordinary cases to summon the session to the bar of the presbytery to be heard for their interests at the same time as the petitioners are heard.

#### **4.31 REFERENCES**

4.31 The presbytery takes up and deals with, as provided in 6.6, all references competently submitted to it by the sessions within its bounds.

#### **4.32 APPEALS & COMPLAINTS FROM SESSIONS**

4.32 The presbytery takes up and deals with, as provided in 6.21-25 all appeals and complaints competently taken against the decisions of the sessions within its bounds.

#### **4.33-37 FORMATION, STATUS, OVERSIGHT & REVIEW OF CONGREGATIONS**

*4.33-4.37 constitutes Act 1, Synod 1989*

4.33 The presbytery has a general responsibility and duty relative to the well-being of the church and its work, and of the congregations, and all congregational property, organisations and activities, within its jurisdiction, in consequence of which it exercises a general oversight of congregational affairs and of the interests of the church within its bounds, and sees that the law of the church and all lawful directives received from time to time from the Synod are obeyed within its bounds.

4.34 The presbytery has a special responsibility to all those residents within its bounds who are not connected with some other branch of the Christian Church and takes such steps as it deems necessary and practicable, including house-to-house visitation under the direction of sessions, to locate such persons and make Gospel ordinances available to them.

4.35 In sparsely populated areas within its bounds, or where the number of persons is too few to form an organised congregation, it is the duty of the presbytery to arrange for periodical visits or such other actions as will make the services and ordinances of the church available to such persons.

4.36 In areas within its bounds where rapid development, accompanied by increasing population, is apparent, it is the duty of presbytery, by the erecting of new charges or preaching stations, or by the rearrangement of existing ones, to see that adequate provision is made for the religious needs of such areas, the mind of effected existing congregations being always obtained.

4.37 A number of persons in a locality wishing to be supplied with Christian ordinances may apply for the same to the presbytery within whose bounds they live. If the presbytery judge it expedient to grant their request, the presbytery establishes a preaching station and places it under a session. A presbytery may itself originate a preaching station. A preaching station may be raised to the status of a fully organised congregation by the presbytery when it is satisfied as to the stability of the membership roll and the viability of the work, and the Synod Clerk is advised by extract minute of the presbytery resolution. However, in cases where the proposed sanctioned charge is not fully self-supporting both as to revenue and capital needs, the presbytery must first obtain the consent of the Synod.

#### **4.38 AID-RECEIVING CHARGES**

4.38 In order to facilitate and encourage the work of extension, different stages of development between a preaching place and a fully-sanctioned charge have been recognised by Synod with various levels of financial assistance subject to funds being available. [See legislation of Synod 1990.] The continuation of a charge at any stage of development is subject to regular review by presbytery which makes appropriate recommendation to Synod each year through Synod's Finance Committee.

#### **4.39 PROPERTY/INSURANCE/BEQUESTS**

4.39 It is the duty of presbytery to consider all applications from congregations within its bounds for permission to erect, extend, alter, remove, demolish (see 3:20), sell (3.22), mortgage (3.22), lease (3.19) or otherwise encumber congregational property, to ensure that the best interests of the church are served, and that the provisions of the law

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relating to the trust corporations and any rules of Synod are followed.

Presbytery also ensures that congregational property is kept from needless deterioration or misuse and is adequately insured (3.21), and also acts in respect of bequests and legacies as stated in 3.23.

### **4.40-4.41 REVIEW OF RECORDS ETC.**

4.40 The presbytery may, at any time it sees fit, call for specified information concerning their affairs from sessions and deacons' courts within its jurisdiction.

4.41 The presbytery calls annually, and in particular cases at such other times as it sees fit, for the minute book, rolls, registers, annual financial statement, and such other records as it may require, of each congregation, deacons' court and session within its bounds, examines them, and attests them by the signature of the moderator (see 4.21), if found in order.

The presbytery, in attesting the records,

- a) Records its judgement as to the correctness and accuracy of form with which each record is kept.
- b) gives any needful directions for future guidance or improvements.
- c) may censure any matter or procedure which it finds in excess of power or contrary to the law of the church, and it may declare it to be null and void, or order the minutes to be altered or parts to be deleted, but, before doing so, the presbytery summons parties concerned to its bar and hears them concerning the matter; the presbytery also takes such further action as may still be practicable to remedy any injustice which may have been involved in the matter or procedure of which it disapproves.
- d) Ensures a record of the minister's outstanding leave entitlement is entered in the deacons' court or session minutes at least annually.
- e) sees to it that congregations under their care include a fair value of their assets in their annual financial statement as well as detail of any liabilities

### **4.42 STATISTICS**

4.42 The presbytery records the statistics of membership and baptisms in the congregations within the bounds as at 31st December showing also the additions to and removals from the rolls during the preceding year, and such other information as required by Synod. The presbytery clerk sends the

statistical summary to the clerk of Synod at least 6 weeks before the ordinary meeting of the Synod.

### **4.43 ORDINARY PRESBYTERIAL VISITATION**

The presbytery visits every charge within its bounds, as far as possible in rotation, at least once in every five years, in order to acquaint itself with the state of affairs within the charge, to strengthen the hands of the minister, session, office-bearers and members of the congregation, to advise them should anything appear to be unsatisfactory in the state of the charge or not in accord with the law of the church, and in general to give counsel and encouragement as may be suitable to the circumstances of the case.

Such a visitation is thus not of an inquisitorial nature. Normally, questions are prepared in advance so that written replies may be received before the actual visitation. The visitation may then concentrate on those matters seeming to require the most attention. [An illustration of a possible questionnaire is given in bordered paragraphs below.]

The usual procedure is that the presbytery meets privately, first with the minister, then with the session, and then with the deacons' court to hear replies to queries, to enter into appropriate discussion and to have devotional exercises. Afterwards, commonly in the evening, perhaps following a congregational tea, the presbytery meets with the congregation, conducts public worship and hears suggestions/comments from the congregation. Often the presbytery is ready to then give its finding but it may advise this later. It should be carefully noted that the public meeting with the congregation is not the place for members or adherents to raise serious matters affecting persons. Procedure in dealing with such matters is outlined below (4.44-4.45).

### **4.44 PREJUDICIAL REPORTS RE A CONGREGATION**

4.44 If it appears to a presbytery from:

- a) a petition presented by office-bearers, communicants or adherents; or
- b) statements made by the minister of the congregation; or
- c) a presbyterial visitation report; or
- d) a remit from Synod; or
- e) the examination of congregational records; or
- f) reports which the presbytery deems to be such as require investigation that an unsatisfactory state of affairs may exist in any congregation

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within its bounds, it is the duty of the presbytery to prefer the honour of Christ and the purity of his church to the temporary feelings and interests of men, and to proceed with caution and prudence to remedy the situation in an appropriate manner. Private and brotherly conference with the persons concerned may be sufficient or a special presbyterial visitation may be required.

preparing and tabling a Libel for the consideration of the presbytery (see 7.31). [For mental incapacity see 4.75.]

All Christians should be prudent and careful in accusing ministers of any fault worthy of censure, and thus should not report or spread such accusations, nor accuse the minister before the presbytery without first acquainting the minister himself, if they can obtain access to him, and then, if necessary, obtaining the advice of some of the most prudent of the ministers and elders in that presbytery. [Form of Process, 1707, Chapter VII.4] It is part of the duty of presbyteries to promote the edification of the members and to stir them up in the common faith and thus to deal in a friendly manner with their shortcomings so as to avert the necessity of more formal procedure at a future time.

**4.45 ALLEGATIONS AGAINST A MINISTER**

4.45 The constitutional method of bringing before the church any question seriously affecting the character or the orthodoxy of a minister or probationer is by a petition to the presbytery, unless such question be originated in the presbytery itself, or in the Synod; or unless the parties otherwise raising it take upon themselves the responsibility of

**GUIDE FOR ORDINARY PRESBYTERIAL VISITATION (Handbook 4.43)**

These questions are a guide and other questions may be asked as individual circumstances suggest. The completion of the questions prior to the visitation saves time on the visit, enables concentration on the main issues and should enable the Presbytery to be ready with a preliminary or final finding to intimate to the congregation before the close of the visit. Practical encouragement in outreach and mission, perhaps with a special speaker, could be a fitting element in making the visit a positive and helpful one

**A. PUBLIC WORSHIP AND CONGREGATIONAL ACTIVITIES (TO BE ANSWERED BY THE SESSION)**

1. Note down communicant membership and typical actual attendance at public worship at each centre 5 years ago and today, with an estimate of the percentage of over 60s and under 21s.

| Centre      | Communicants | Typical Attendance | % over 60 | % under 21 |
|-------------|--------------|--------------------|-----------|------------|
| 5 Years ago |              | AM                 |           |            |
|             |              | PM                 |           |            |
| Today       |              | AM                 |           |            |
|             |              | PM                 |           |            |

2. Is the singing in tune and at a suitable pitch and speed?
3. How is the Catechism taught?
4. Give details of youth work.
5. What prayer/study/missionary meetings are there?
6. What arrangements are there for visiting the sick and infirm?
7. What specific efforts are made to contact outsiders?
8. Do any of the congregation participate in Religious Instruction in schools?
9. How would you assess the spiritual condition of the congregation in the matter of :
  - a. love between members?
  - b. unity and peace?

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- c. sanctified living?
  - d. growth in knowledge?
  - e. witness in word and deed?
  - f. willingness to serve?
  - g. Warmth in welcoming visitors?
  - h. interest in searching the Scriptures?
  - i. interest in wider work of P.C.E.A.?
  - j. Christian liberality?
  - k. observance of the Lord's Day?
  - l. knowledge of our distinctives?
  - m. practice of family worship?
10. What areas do you consider need attention with a view to improvement?
  11. What are the specific goals of the congregation for the next twelve months?
  12. Do you have a forward plan for the next five years? Describe it.
  13. Are there any matters on which you wish to seek Presbytery's guidance?

### B. QUESTIONS ABOUT THE ELDERS AND THEIR WORK.

1. Are the elders regular in attendance at services and session meetings?
2. Are the elders exemplary in their family and public life?
3. What assistance do they give to the minister in visiting/catechising?
4. How many elders and deacons are there? Approximate ages? Is there a need for further men? Are suitable men available? When was the most recent addition to the session? - to the Deacons' Court?
5. Does the session work together well? Are there clashes or problems?
6. Do the elders seek to remove difficulties and to exercise their oversight impartially?
7. Note strengths and/or weaknesses in the session and/or areas where Presbytery could be of assistance.

### C. QUESTIONS ABOUT THE DEACONS AND THEIR WORK

1. Are the deacons regular in attendance at services and deacons' court meetings?
2. Are the deacons exemplary in their family and public life?
3. Are the meetings of the deacons' court harmonious?
4. Do they follow the directions in counting and recording collections (see 3.15)?
5. Do they have regard to the needs of the poor in the congregation?
6. Are all payments of accounts and stipend kept up to date?
7. Are the financial records of congregational organisations scrutinised each year?
8. Does the annual financial statement show all liabilities and indicate approximate value of assets?
9. What contributions have been given to Synod funds over the last three years?
10. Are any of the properties of the congregation in need of repair or upgrading?
11. Are there any matters you would like to bring to the attention of the Presbytery?

### D. QUESTIONS ABOUT THE MINISTER

1. Do you preach mainly on extended portions of Scripture, or on a particular topic? Describe.
2. What is the normal duration of the service and do they appear to be appreciated by the people?
3. Do you receive due co-operation and support from the office-bearers?
4. Is there anything you wish to discuss privately with the Presbytery?

### E. QUESTIONS FOR THE CONGREGATION OR ITS REPRESENTATIVE

1. Is the congregation regularly and adequately visited by the minister and elders?
2. What suggestions do you have for making the congregation a more effective witness for Christ through Godly living, spiritual depth and love and compassion for the lost?
3. Are there any matters affecting the welfare of the congregation that you wish to bring to the attention of presbytery, publicly or privately?

## **RECEPTION, STATUS & OVERSIGHT OF STUDENTS & HOME MISSIONARIES**

### **4.46-4.49 RECEPTION, STATUS & OVERSIGHT OF STUDENTS & HOME MISSIONARIES**

*Text corresponds to Act of Synod 1983 as amended 1990, 1991, 2004*

4.46 The church does not encourage the exercise of the pastoral office by those not set apart to it, but does permit the needful provision in special circumstances of home missionaries, whose duties are those performed by an ordained pastor except for the dispensing of the sacraments and presiding over church courts. Permission to celebrate marriages may be granted by resolution of Synod, subject to civil requirements.

The moral and spiritual qualifications required in a home missionary are those expected in a minister, and such a person should be an elder in good standing or a recognised student for the ministry, the requirements of Synod as regards studies, licensing and ordination trials being always observed.

4.47 To the presbytery belongs the right and duty of judging the fitness or otherwise of men within its jurisdiction who apply to be accepted as students for the ministry or home missionaries, examining them as to their qualifications at any stage of their progress, and of determining in due time, after examination, whether they may be licensed or not. As the presbytery is exercising its discretion, not dealing with a point of law, there is no regular provision for an applicant to appeal against the presbytery's decision, but the right to petition Synod remains.

4.48 In view of the present smallness of presbyteries and because the general interest of the church at large is vitally bound up with the exercise of its functions in this area, reception of students and home missionaries is so regulated by Synod that Synod must confirm the acceptance by a presbytery before the presbytery's acceptance is effective.

No minister may be inducted to a charge (or licentiate ordained and inducted), unless he has satisfied the requirements of the State in which the charge to which he is to be ordained/inducted is situated with regard to approval to engage in employment involving contact with minors. A

statement regarding this approval should be recorded in the Presbytery minutes.

4.49 Those contemplating the ministry of the word should discuss the subject with their own pastor and seek guidance in preparatory studies from the Synod's Training of Ministry Committee, from whom application forms may be obtained.

Specifically, the PCEA is looking for a man with the scriptural qualifications of mature Christian character - thus "not a novice" but "apt to teach", married to a believing wife and "ruling his household well", and "of good report among outsiders".

University training or its equivalent is required of ministers, and at least two years membership in the PCEA is considered desirable at time of recognition.

While not an inflexible rule, it is considered that the level of maturity is such that a candidate will be at least 21 years of age at the beginning of his course.

a) In considering the acceptance of students for the ministry, the Presbytery shall bear in mind the seriousness of the decision it is called upon to make and its bearing on the welfare of the whole church, and shall exercise every care in the matter of the application. The presbytery must not assume that the applicant is called by God, but must discern the outward evidences of God's call in the character, gifts and graces of the applicant.

b) The applicant must appear in person before the presbytery.

c) The candidate shall be required to satisfy the requirements of the State in which he resides with regard to approval to engage in employment involving contact with minors.

d) From the information in and with the application form and by personal examination, the Presbytery shall satisfy itself as to the following points:

- i. the maturity of the applicant's Christian character and conviction, and his sense of God's call,
- ii. the applicant's knowledge of the Reformed Faith and familiarity with the principles of the PCEA,
- iii. the stability of his background, the nature of his domestic life, his satisfactory length of membership in and service to the PCEA,

- iv. his experience and ability in public speaking and/or lay preaching, and his aptness to teach,
- v. his reputation among outsiders, former employers etc., and his capacity of making and maintaining satisfactory personal relationships,
- vi. his emotional and general health: a written medical report should be provided as to his state of health and fitness for the ministry.
- vii. his plans for financing himself during the course of studies.

e) After examination of the candidate, the presbytery deliberates in private. If it views the application favourably at this stage, it communicates with the Training of Ministry Committee, which arranges whatever interviews it considers appropriate and reports its finding to the Presbytery. On receiving the Committee's recommendation, the presbytery shall follow it, unless it sees good cause to decide otherwise, in which case the application is held in abeyance pending reference by presbytery to the Synod (see 6.6).

f) If the presbytery and the Training of Ministry Committee are in favour of the applicant's reception, the presbytery shall admit him to provisional recognition, and shall overture Synod seeking confirmation of its action.

g) Once so accepted by Synod the first year is one of probation. Thereafter the presbytery must exercise regular oversight of the student and meet with him in private at least once in the ensuing year. At the end of the year of probation the presbytery may extend the period of probationary recognition by a maximum of one further year, or it may admit him to full recognition, provided that the presbytery is satisfied with him, and the Training of Ministry Committee report that his studies are satisfactory.

The presbytery continues oversight in the manner already described until the course of study is completed and the Training of Ministry Committee certifies accordingly. When this occurs, he may be taken on trials for licence to preach the gospel and, if he passes satisfactorily, is licensed and is then eligible for a call.

Throughout his course, the presbytery is to provide that counsel and encouragement appropriate to the case. If serious personal or spiritual problems arise, the presbytery seeks the advice of the Training of Ministry Committee, and this done, may withdraw recognition, advising other presbyteries accordingly.

The Training of Ministry Committee constantly monitors study progress, and arranges, where

applicable, for the person's expenses in attending annual Synod meetings as an observer, to be met from Committee funds. If at any stage the Training of Ministry Committee judges that the person's studies are not satisfactory it consults the presbytery and, this done, may withdraw recognition or impose special conditions.

In meeting not less than annually with a student for the ministry, as required by Handbook 4.49g, areas appropriate for Presbytery to cover include the following:

Personal life. Are there any issues of health or stress? Is the family supportive? Are finances satisfactory? Any other personal struggles? How is his sense of call? Family life. Are there areas of housing, health, education or other needs affecting the family? Church Involvement. Regularity of attendance of student and family in worship? What tasks has he in the church (eg. Bible Class or Youth leader? Elder? Precentor? Is he gaining familiarity with the Handbook of Practice and Procedure? Has he had opportunity to experience the operation of church courts? How often has he conducted public worship and what is Session or Presbytery's opinion of his efforts?

Doctrinal issues. Does he have any questions concerning the Reformed faith as set out in the Westminster Confession of Faith as adhered to by the PCEA?

Study programme. How is he finding the demands of study? Are his grades below or above average? Is Pastoral Care included in his College course? Overall. Is the Presbytery satisfied with the candidate and his progress? Have positive and negative issues been discussed with him? Are there matters requiring advice of the Training of Ministry?

h) Although having responsibility to the presbytery and the Training of Ministry Committee, until a student is licensed he remains under the direct supervision of the session of the congregation to which he belongs, and the session must certify each year to the presbytery their continued satisfaction with his character and conduct. Synod 1991 ruled: Students are required to be in good standing as communicant members in a congregation convenient to their residence, and to give ample notice of any proposed change of address to their presbytery and to the Training of Ministry Committee. Students moving beyond the bounds of the presbytery to the bounds of another presbytery are to obtain a certificate of character and attainments so as to enable orderly transfer between presbyteries.

**4.49A STUDENT TRAINING & ALLOWANCES**

*Act 16 of Synod 1983 as amended 1991 and 2013.*

**TRAINING**

Those contemplating the ministry are to be urged to give early indication of possible intention and sessions and presbyteries are to give counsel and oversight to all such whether they have received formal recognition as students or not.

Formal recognition as a student is not given unless the applicant holds the Higher School Certificate, or its equivalent, securing Matriculation into a recognised Educational Institution, and the first year of recognition is always provisional.

The normal course requires the successful completion of a 3 year degree course at a recognised University or like institution, and the successful completion of a 3 year theological course at the Free Church of Scotland College, now Edinburgh Theological Seminary, or an alternative Synod approved College where a comparable standard is maintained. PTC Melbourne was approved in 1988. Tertiary and Theological studies need not be taken in the order stated, subject to Synod's Training of Ministry Committee approval and any requirements of the Theological College.

'The Training of Ministry Committee prescribe additional written work on the history and distinctive principles of the PCEA, and ensure Pastoral Care in theory and practice is included in his College course (by supplement if necessary). The local session are to provide a satisfactory report on the student's involvement with the congregation before certifying completion of the course' (Synod 2013).

Students who acquit themselves well in the normal course may, subject to approval of Synod, proceed to postgraduate study.

The modified course involves the successful completion of 2 years of a 3 year degree course at a recognised University or like institution, and the successful completion of a 3 year theological course as for the normal course, but with the opportunity to seek Synod approval for exemption from the Hebrew language. This course is intended for men over 35 years whose practical experience in industry and commerce and in the life of the church suggests modification of the normal course.

The course may be further modified, at the discretion of the Synod, in the case of elders over the age of 35

years whose family or other circumstances are such as render attendance on the normal course impractical and where it is considered that their background and gifts are such that they can meet licensing requirements (with exemption in Hebrew if requested and granted by Synod) while they labour as home missionaries for from two to four years. Very careful examination and report is made to the Synod in respect of such a proposed course since it is not granted automatically but only in special cases where Synod, through its Training of Ministry Committee, is fully satisfied with all aspects.

Recognised students must have the written approval of the Training of Ministry Committee before embarking on any course of study, or before taking on additional studies to the ones the Committee has specified.

**ALLOWANCES**

Financial support in the provisional year and in subsequent years to the divinity stage is derived by the student from government allowances and vacation employment, with the Synod meeting fees for approved courses (not otherwise reimbursed) and a grant of books to the value of one week of minimum stipend for ministers as set from time to time. If a further living allowance is necessary at the predivinity stage it will be at the discretion of the Synod and on a needs basis, hence early notice by a (recognised or intending) student to the Committee is necessary in order that Synod approval may be sought.

At the divinity stage the fees and annual grant of books continues, and in addition a living allowance on a needs basis together with fares to the city where study is to be undertaken (for student only, not family) and return to point of licensing if applicable.

Fares paid are based on the most economical and practical mode of transport and do not include cost of transporting personal or household effects.

Only recognised students are eligible for allowances, and then only after entering into a bond agreeing to return the amount received from the Synod if they do not proceed to licensing or give less than 5 years service from date of license, subject to a reduction of 20% of the amount for each completed year of active service, and subject to the proviso that if the sum owing is not repaid within one year of leaving the church's service interest at normal bank overdraft rates as set from time to time will accrue from date of cessation of service, and the whole sum due must be paid within two years of cessation of service. The bond does not apply to monies paid for

pulpit supply to home missionaries or students in vacation, but only to allowances granted by Synod through the Training of Ministry Committee. Synod 2018 resolved monies for Placement Scheme costs come under the Bond from Synod 2019.

NOTE: For legal reasons the bond is executed on behalf of the church by the body corporate, The Trustees for Victoria of the Presbyterian Church of Eastern Australia, - (refer Synod Reports 1984). Rates of allowance were set by Synod 1991, Art. 29 (3) - up to 50% of stipend for single men and up to 75% for married men.

Any student who desires to engage in paid employment during the course of the academic year (with the exception of occasional week-end supply) must have the written approval of the Training of Ministry Committee, and the pastoral load for home missionaries is to be a matter of agreement between the Training of Ministry Committee and the presbytery concerned, so as to ensure adequate time is given to study.

#### **4.50 LICENSING OF STUDENTS**

*4.50 is Act 6, Synod 1975 as amended by 1983, 2004 & 2013.*

4.50 The Synod prescribes regulations for the licensing of students to preach the Gospel. The current regulations are as follows:

“Synod rule that in the Licensing of Students by the Presbyteries of the Presbyterian Church of Eastern Australia the following procedure be followed:

1. No student may be taken on trials until he has completed satisfactorily the theological course prescribed for him. He should make timely application during the final year of his course.
2. Normally a student should apply to the presbytery under whose jurisdiction he was at the conclusion of his theological course but may in certain circumstances request that the presbytery permit him to apply to another presbytery.
3. When the presbytery comes to consider whether to take a student on trials, the following regulations must be observed:
  - a) the presbytery shall meet in private.
  - b) the student must be at least 21 years of age.
  - c) documentary evidence that the student has completed his theological course must be to hand.
  - d) The presbytery must be assured that the character and conduct of the student are in accord with his desire to enter the Christian ministry. As part of this assurance, the Presbytery must ensure that the candidate for

licence has satisfied the requirements of the State in which he resides with regard to approval to engage in employment involving contact with minors. A statement to this effect should be recorded in the Presbytery Minutes.

If the presbytery is satisfied with a student's credentials and agrees to take him on trials, it should appoint the time and place of the examination and arrange the necessary details.

4. Whenever the dates of a student's trials for licence are settled, a note to this effect must be sent immediately by the clerk to the other presbyteries in the church so that if these courts have any objection to the life or doctrine of the student, they may communicate with the presbytery concerned.

5. All students shall be examined thoroughly by the presbytery on the following subjects. 'In view of the importance of the matter and to ensure thorough consideration without undue pressure on the presbytery or the candidate it is strongly recommended that the examination be spread over more than one sitting/meeting of the presbytery. If a public meeting to licence the student is planned it should not be arranged until the examination is concluded.'

- a) Old Testament studies in general. A certificate stating that a student has completed courses in Hebrew may be accepted in place of an examination in Hebrew.
- b) New Testament studies in general. A certificate stating that the student has completed courses in New Testament Greek may be accepted in place of an examination in New Testament Greek.
- c) Systematic Theology covering the doctrine embodied in the Westminster Confession.
- d) General Church History with a knowledge of Australian Presbyterianism.
- e) Apologetics, with special reference to current deviations from the Christian faith.
- f) Practical Theology, including the work of the minister as preacher and pastor, together with a knowledge of church law. The Presbytery must be assured of the student's ability to conduct public worship appropriately, preach the Gospel with clarity and commitment, and exercise pastoral care with a loving and faithful attitude. To that end members of Presbytery as far as practical should take opportunity to attend a service or services conducted by the student and/or to otherwise inform themselves of his competence in these areas. In addition, the Presbytery normally prescribes a sermon on a specified passage to be preached in the hearing of the Presbytery.

g) Church Principles, with attention to the Regulative Principle embodied in WCF 21:1 and how it bears on Public Worship. The student should be able to demonstrate competent exegetical grounds for exclusive psalmody.

6. The presbytery shall take a conjoint view of the examination. If it is of the opinion that the student is not properly qualified to perform the duties of a minister of the Gospel, it shall not grant him a licence. If a favourable judgement be reached, this shall be recorded in the minutes, and the presbytery shall intimate this to the student.

The moderator shall then proceed to propose to the student the questions prescribed by Act of Synod. Satisfactory answers having been obtained, he is then required to sign the formula.

Then the moderator, in the name and by the authority of the presbytery, shall licence the student to preach the Gospel of the Lord Jesus Christ. Thereafter the moderator shall briefly address the newly-licensed preacher in suitable terms, and the presbytery shall engage in prayer.

At the conclusion of this procedure, the moderator and other members of the presbytery shall give the right hand of fellowship to the licentiate.

7. It shall be the duty of the clerk to notify the other presbyteries of the church that a student has completed his examination, and that having been duly licensed, he is now eligible for call. The licentiate shall be given an extract minute of presbytery relating to his licence.”

Note: The following or similar form of licence is recommended:

MINUTE OF LICENCE

Mr....., having made application to be taken on trials for licence, and having produced the certificates in connection with his application, the Presbytery did take him on trials for licence, in accordance with the regulations of Synod, and resolved that it was fully satisfied with them. The questions appointed by the Synod were then put to him by the Moderator and, satisfactory answers having been given by him, Mr ..... subscribed the appointed Formula. Whereupon the ..... Presbytery did licence the said Mr..... to preach the Gospel of the Lord Jesus Christ this ..... day of ..... 2.....

**4.51 ADMISSION OF MINISTERS FROM CHURCHES WITH WHOM THERE IS MUTUAL ELIGIBILITY**

The Synod has established Mutual Eligibility with certain other churches the Free Church of Scotland in 2005, with the Reformed Churches of New Zealand in 2006, the Orthodox Presbyterian Church in 2007, and the Free Church of Scotland Continuing 2019.

In no case does this mutual eligibility impinge on the right and responsibility of the relevant FCS/FCC/RCNZ/OPC or PCEA Presbytery to require *the usual application for admission to be fully and satisfactorily completed* and full and satisfactory Presbyterian certificates of character and attainment before admission. This may include clearance under any relevant child protection legislation. ‘Where a minister is potentially or actually under call or appointment by the PCEA, he must, inter alia, (a) have read the history of the PCEA and also its Handbook of Practice and Procedure, and have answered satisfactorily questions on them; (b) assure the presbytery that he will maintain the simplicity and purity of the PCEA form of worship; and (c) answer satisfactorily concerning his adherence to the teaching of the Confession of Faith as per Formula of Subscription. His satisfactory compliance with this admission procedure is to be minuted by the Presbytery and must be met before a call or invitation is transmitted so that the minister may know that his acceptance will enable his admission.’ (Synod 2018)

By Act 5 Synod 2012, Synod directed that in regard to a minister in good standing of a denomination with whom mutual eligibility has been established, but who does not hold a charge or appointment with that denomination, and who comes to Australia without an invitation or call and wishes to be eligible for call after he arrives, the following provisions will apply:

1. He must make application to the Presbytery within whose bounds he resides within 2 months or thereabouts of his arrival in Australia. He must present full and satisfactory certificates of character and attainment including current clearance under any relevant childcare legislation, and satisfy the other requirements of the relevant mutual eligibility legislation.
2. If the Presbytery is satisfied that he meets the requirements, - and it must make specific enquiry of the denomination holding his credentials and minute the result, - it directs the Clerk of Synod to add his name to the Register of Ministers eligible for call in terms of Act 4

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Synod 2012, and the Synod Clerk is to advise all Presbytery Clerks that this has been done.

3. If there is any significant division of opinion on the application and/or any significant period when the applicant was outside the practical oversight of his denomination's church courts, the application should be referred to the Synod for consideration and decision.

### **4.52 ADMISSION OF MINISTERS FROM OTHER CHURCHES WITH WHOM WE DO NOT HAVE MUTUAL ELIGIBILITY**

[Synod 1983, Act 18, as amended 2004, 2012]

4.52 Application for admission being made by a minister of any other denomination not embraced by an Act of Synod creating mutual eligibility the presbytery arranges to confer with him, with reference to, *inter alia*,

- a) his character and status,
- b) the reasons which have led him to make the application,
- c) the course of professional education he has pursued,
- d) the body by which he was ordained and the manner of ordination,

- e) his suitability to work with minors, as shown by his having been approved to do so by the civil authorities in the State in which he resides, or, if the applicant resides outside Australia at the time of application, the State in which he intends to take up residence,
- f) a written medical report should be provided as to his state of health and fitness for the ministry.

The presbytery has no power to admit him, but transmits its report to the Training of Ministry Committee, together with any remarks or recommendations it may see fit to add. The Training of Ministry Committee makes such further enquiries as seem appropriate and the case is reported to the next meeting of Synod for its decision.

Authority to admit him having been granted by Synod, the presbytery requires the applicant to answer the questions prescribed in Act of Synod 1952, and to sign the Formula. After prayer and a suitable address by the moderator, he is admitted into communion and declared a Minister (or probationer) of the church eligible for call.

## **VACANCY, SUPPLY, CALLS, SETTLEMENT & TRANSFER OF MINISTERS**

### **4.53 VACANCY/SUPPLY**

4.53 A congregation having only one minister becomes vacant by his death, resignation, transference, suspension without time restriction or deposition. In the case of a vacancy from any of these causes, the presbytery appoints to the session an interim moderator who has the authority and executes all the functions of a stated pastor, although he need not convene the deacons' court (see 3.5).

The Interim Moderator is responsible to the Presbytery during a vacancy and particularly for the pulpit. A person proposed for full time supply or residential supply who is not a minister in good standing of the PCEA must be first approved by the Presbytery as a person of knowledge and capacity who is sufficiently familiar with the position of the PCEA and able to work in harmony with it. In the case of residential supply the terms of occupancy of a church residence must be so arranged by the Presbytery so as to ensure the church will not be prejudiced by overstaying when the period of supply ends.

To assist the congregation as it enters the vacancy it may be desirable that a presbyterial visitation be held. When a vacancy has occurred, a duly constituted meeting of the congregation may appoint a committee of its members to co-operate with the session in seeking out a suitable person, or persons, to be heard by the congregation with a view to expediting the settlement of a minister in the charge.

### **4.54 VACANCY BY DEATH**

4.54 When a minister in sole charge is removed by death, the members of the presbytery present at the funeral may assemble after it, appoint one of the ministerial members to preach in the church on the next or convenient Lord's Day to declare that the pastoral charge has become vacant and to call upon the congregation to take steps for filling the vacancy in due form and with convenient speed. Arrangement for the supply of the pulpit and for other necessary matters may also be made at this time. A minute is made of the proceedings and report is made to the presbytery.

### **4.55 VACANCY BY RESIGNATION**

4.55 A minister who wishes to resign his charge from ill-health, old age or other circumstances not affecting his ministerial character, must tender his resignation to the presbytery under whose jurisdiction he is placed. Permission to resign a charge cannot be granted to a minister against whom a judicial process has commenced or against whom a fama, that is, bad or prejudicial reports or rumours, prevails.

Should a minister apply for leave to resign his charge, the presbytery may order the application to lie on the table, appoint a committee to confer with him and ascertain the reason that led to the application, and cite the session and congregation to appear for their interest at an appointed time and place. If, however, the session and congregation have been duly informed of the minister's purpose to seek leave to resign the charge, the presbytery may deal with the matter at once.

If the reason given is ascertained to be change of opinion relative to the doctrines or government of the PCEA, incapacitating him to continue in its ministry, his resignation is accepted by the presbytery, which then declares him no longer a minister of the church.

If the resignation is accepted for other than such reasons, the pastoral tie between the minister and the congregation is dissolved, and the congregation declared vacant; but he still remains a minister of the church. His name, however, is taken from the roll of presbytery but he is eligible for election as a ruling elder in the congregation to which he attaches himself as a communicant member. The presbytery must decide if the resigned man's name is to be placed on the Register or the Roll of Resigned Ministers which are kept by the Synod Clerk in accordance with Act 19, Synod 1986. A minister whose name is on the Roll of Resigned Ministers is not eligible for call, but if he is on the Register, he is eligible for call subject to time restrictions and other conditions per Acts 19 and 20, Synod 1986. In certain circumstances the Synod may grant him a seat on the Presbytery (see Act 18, Synod 1986).

#### **4.56 VACANCY OTHER THAN BY DEATH**

4.56 When a vacancy occurs by resignation, transference, suspension indefinitely as to time, or deposition of a minister, the presbytery takes steps as in a vacancy arising from death.

#### **4.57 TEMPORARY VACANCY**

4.57 In the case of suspension of a minister as a consequence of the presbytery resolving to order a libel to be served on him (see 7.33f), the presbytery provides for the temporary moderatorship of the session and charge of the congregation until the libel has been disposed of, and similarly when the minister is on leave of absence.

#### **4.58 FILLING A NON-TEMPORARY VACANCY**

4.58 The control of the vacant pulpit is in the hands of the interim moderator who co-operates with the ruling elders and any vacancy committee (see 4.53) with a view to providing suitable supplies for the pulpit and bringing forward possible candidates. It is considered important that vacant congregations have and take the opportunity of hearing several ministers with a view to an informed and harmonious decision being made.

It must be clearly understood that no one can be called to the pastorate in the PCEA but a licentiate or a minister of the PCEA or of a church whose licentiates and ministers are declared eligible by the rules of the church, e.g. the ministers and licentiates of the Free Church of Scotland (subject to any limitation on their ordination or licence).

The steps in the calling of a minister are:

- a) election by the congregation and presbytery requested to moderate call [see 4.59]
- b) presbytery agrees to meet to moderate a call if satisfied as to harmony of desire and financial capacity; edict [see 4.60]
- c) presbytery meets with congregation, subscription of call, decision to sustain and transmit the call or otherwise [4.61]
- d) competent objections at this or earlier stages now stop procedure [4.62]
- e) if call is sustained and transmitted, it is either accepted or declined if transmitted at the other end [4.63-68]
- f) if accepted a suitable time is appointed for the ordination and/or induction of the minister by the presbytery and same proceeds as described [4.69-73]

There are several different procedures depending on whether the person called is a licentiate or already in a charge and whether or not he is under the jurisdiction of the same presbytery as the calling congregation. The steps in each particular case are outlined in the following sections.

#### **4.59 ELECTION**

4.59 When the session has reason to believe that a general desire for an election prevails in the congregation, it calls a meeting of the congregation (see 2.31/2.32) having first purged and updated the communion roll. It is considered very desirable that the minister should be the willing choice of all, and that neither should a majority ignore the views of a significant minority nor a minority thwart the desire of a majority for any but the weightiest reasons. The election should be conducted in a spirit consistent with the Christian profession, and in a way which fosters Christian unity and love. It ought therefore to be a matter of earnest and repeated prayer before and after, and be characterised by the fullest consideration of the overall needs of the congregation.

- a) At this meeting the financial capacity of the congregation is formally established having regard to the requirements of 3.16 as to stipend and benefits, and to removal costs.
- b) At the meeting any member in full communion may propose any eligible licentiate or minister for election and, the motion being seconded, put to the meeting, and carried, the licentiate or minister thus proposed is declared elected. If two or more motions are made and seconded, the moderator puts them all to the vote in the order in which they were proposed. If one motion does not have a majority of votes the one having the smallest number is dropped and the vote taken again and so on until a clear majority is obtained, and the name so obtained is again put to the vote as a substantive motion. If the result of any part of the voting is doubtful or challenged, the roll is called and votes marked. The result of the election is recorded in the minutes of the congregation.
- c) It is also usual for some person or persons to be appointed to represent the congregation at the bar of presbytery.
- d) The decision of the meeting is advised promptly to the presbytery.

#### **4.60 PRESBYTERY CONSIDERS REQUEST FOR MODERATION**

4.60 At the next ordinary meeting of the presbytery or at an extraordinary meeting called for the purpose,

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the interim moderator reports on the condition of the congregation, the amount of agreement as to the choice of pastor and their ripeness for calling one. Any representative of the congregation is also heard.

If the presbytery considers the circumstances of the congregation are such that presbytery is NOT warranted to proceed immediately to moderate in a call, it holds a meeting with the congregation and does not proceed to moderation until the financial situation and/or level of harmony is such as to warrant it. The Presbytery must satisfy itself of the availability of any needed aid from Synod funds by communicating with the relevant Synod Committee, and in the absence of satisfaction on the financial situation cannot moderate a call. In such a situation a limited appointment may be possible.

When the presbytery is prepared to moderate in a call, it fixes a day and hour for doing so and appoints one of its members to make the intimation in the form below from the pulpit of the congregation not less than seven clear days before the date fixed. The presbytery must moderate a call at large except in cases where it is clear that there is a harmonious desire for the person named.

When a Presbytery has satisfactory information from the Interim-Moderator as to the harmony of a congregation and its financial viability it may proceed to meet with the congregation in accord with Handbook 4.61 without a separate meeting to consider the request for moderation as in 4.60, but records its satisfaction on harmony and financial viability in its minutes.

### EDICT

*In the name and by the appointment of the .....Presbytery of the Presbyterian Church of Eastern Australia, I hereby intimate that in consequence of an application from this congregation, the said Presbytery agrees to meet within this church on ..... day of ..... 2.... at o'clock in the ..... for the purpose of moderating in a call for filling the vacancy in this congregation [to Mr .....], the Rev Mr ....., to preach and preside on this occasion. [Only those members personally present will be able to subscribe the call at the meeting. OR Absent members may provide written authority for the addition of their names to the call. - (see note below)]*

Note: If the call is to a person named in the edict, it should also be intimated that absent members may provide written authority for the addition of their names to the call. If the call is open, it should be

intimated that no vote can be allowed or recorded unless given by a member of the congregation personally present. [Subject to these requirements there is of course no objection to absent members expressing their views in letters to the presbytery.]

### 4.61 PRESBYTERY MEETING WITH CONGREGATION TO MODERATE CALL

4.61 At the specified time, the presbytery meets in the premises of the vacant charge and receives a certificate that the edict has been duly published. The duly certified rolls of communicants and adherents are laid on the table. The moderator of presbytery or the person appointed by the presbytery to preside conducts worship, delivers an appropriate sermon and states the object of the meeting. The call in the following or similar terms is produced and read:

#### CALL

To .....Preacher of the Gospel

*We, the undersigned Elders, Deacons and Communicant members of the Congregation of the Presbyterian Church of Eastern Australia at ..... desire to promote the glory of God and the good of the church.*

*We do not have a pastor settled among us, and we are assured by reliable information and our own experience of your ministerial abilities, piety and prudence, and of your suitability to our needs.*

*By this Call we invite and entreat you to undertake the work of a Pastor among us, and to shepherd us in the ways of the Lord for the extension of his kingdom.*

*Should you accept this Call, we promise you all due respect, encouragement and obedience in the Lord, and undertake to contribute to your fitting maintenance as God may prosper us.*

*In witness of this we have signed our names this ..... day of ..... 2.....*

*We, the undersigned adherents of the ..... Congregation, heartily concur in the above call.*

The congregation is then asked whose name they desire inserted in the call (unless this has been already harmoniously agreed at the meeting of the congregation previously, in which event the name of the person elected is inserted in the call before the presbytery meeting). If voting is necessary, the procedure outlined previously (4.59) is followed. When the name of the person is agreed upon, the persons who are present whose names are on the

Roll of Communicants are invited to subscribe their names, the principles in the note at the close of 4.60 above applying in the case of absent members. In the event of a division the minority is affectionately urged to concur with the majority. Adherents (see 2.20) are then invited to sign concurrence in the call. After the call has been signed the moderator attests it and the number of subscribers are entered in the presbytery minutes.

If the call has been subscribed by a large number of communicant members in proportion to the whole number, and if there are no dissents given in, the presbytery sustains and transmits the call in all ordinary cases. It may allow time for additional signatures to be added. If there are dissents implying a serious division, the call cannot be sustained unless a majority of the communicant members on the roll has signed it. Even then, reference to Synod may be desirable.

#### **4.62 OBJECTIONS TO CALL**

4.62 Dissents against the moderation of a call can be received only when they are tendered or given immediately after the call has been attested by the moderator. If reasons accompany any dissent, they are judged upon by the presbytery. If special investigation is required, it may be necessary to adjourn the meeting, citing all parties, before the moderating of the call can be completed (for citation see 6.4).

If the objection involves a charge affecting the orthodoxy or moral character of a minister or licentiate, the presbytery must insist upon the objectors either framing a libel (7.30) and proceeding with it in usual form, or abandoning the objections.

Of course, the presbytery may find that a prejudicial report prevails against the person called, and may find it necessary to suspend proceedings until the matter is disposed of, even though no objector is prepared to frame a libel.

An appeal (or complaint) at any stage of procedure stops procedure only after the presbytery has moderated and sustained the call. The presbytery may decline to sustain the call either on the ground of the number of dissents or on the ground of the weight due to objections adduced. If such judgement is not appealed from or complained against in due form, or if the judgement be affirmed by the Synod, the whole proceedings as to the particular call fall, and a new election must take place.

#### **4.63 CALL TO LICENTIATE**

4.63 If the call is sustained at the time of moderation, and if the person called is a licentiate, the call is put into his hands, and he is asked whether he accepts it or not. He may accept it, decline it, leave the decision to the presbytery or request further time for its consideration. In this last case his answer should be given in the time specified by the presbytery (30 days is usual). If he is absent, the call is either promptly delivered to him in person, or sent to him by certified mail with request for his decision not later than a month thereafter or such longer period as may be granted by the presbytery in special cases.

When a licentiate to whom a call has been addressed intimates his acceptance of it, the presbytery prescribes to him particular subjects of trials for ordination covering the same areas as the trials for licence as laid down by Synod (see 4.50), although these may be abbreviated if the person has been but recently licensed. Once the trials are completed to the presbytery's satisfaction, a day is appointed for his ordination and induction if no appeals or complaints stay proceedings. Reasons for objection to his ordination must be distinctly stated.

The reasons must not affect the orthodoxy or moral character of the licentiate since these can only proceed by way of libel unless admitted to the presbytery or evidenced in its presence. If the trials are not sustained, and no complaint is made in due form, or if the judgement is reversed by the Synod after complaint, the congregation is advised that the licentiate has not been found qualified, and that a new election must take place.

If the minister under call desires further time for consideration the answer should be given in the time specified by the Presbytery (up to 30 days is usual). If the call is to a minister in another country who is eligible for call and whose credentials are in order, including a fully completed application form, criminal/sexual abuse checks and referees' reports, the impact of immigration requirements needs to be considered carefully and acceptance of the call will be conditional upon meeting those requirements in a timely manner. Immigration eligibility should be ascertained first as delays could be lengthy and detrimental to the congregation's interests. Presbytery should explore the issues with the calling congregation first before forwarding a call to a minister overseas.

**4.64 CALL TO MINISTER WITHOUT CHARGE**

4.64 If the call is to an ordained minister without fixed charge the procedure is similar to 4.63. However, if he accepts the call, and if there are no other impediments, no trials are required and the presbytery may proceed without delay to appoint the day for the induction.

**4.65 CALL TO MINISTER IN A CHARGE IN ANOTHER PRESBYTERY**

4.65 If a sustained call is to an ordained minister of a charge, the clerk transmits it to the clerk of the presbytery to which the called minister belongs, with extract minutes of all the proceedings in the case, and a statement of reasons for translation. If necessary, one or more commissioners are appointed to appear before such presbytery to prosecute the call (see also 4.66). The session clerk of the minister's congregation is also advised and this intimation is sufficient warrant for the session to call a congregational meeting and arrange for representation at the presbytery meeting.

If the ordinary meeting of the presbytery to which the minister called belongs takes place within four weeks after the reception by the clerk of the official intimation, the call is normally taken up at that meeting. Otherwise, an extraordinary meeting is summoned by the moderator for consideration of the call. To this meeting, whether ordinary or extraordinary, it is the duty of the clerk of the presbytery to cite the session and congregation whose minister has been called to appear for their interests as well as to ensure that the other presbytery clerk receives intimation of the meeting.

At the presbytery meeting the call and relative documents are read and, if deemed desirable, commissioners are heard. The minister to whom the call is addressed is asked to state his views in regard to it. The presbytery then deliberates and by formal motion resolves either to put the call into the hands of the minister or to refuse to do so. The minister under call is entitled to speak at any stage and is not at the bar. The decision is intimated to parties. If the decision is affirmative and there is no appeal by the commissioners or complaint by a member of the court, and if the minister acquiesce in the decision and accept the call, the presbytery formally agrees to translation and instruct the minister to await the time of induction from the other presbytery.

The presbytery instructs its clerk to send the papers to the presbytery to which the minister called is to be

transferred, and on reception of these documents the presbytery agrees to induction, sets the date and time and those who shall officiate, and directs an edict to be served (see 4.69) reporting these proceedings to the presbytery from which the minister is to be transferred so that his charge may be declared vacant from the date of induction.

**4.66 CALL TO MINISTER IN A CHARGE IN THE SAME PRESBYTERY**

4.66 The procedure is essentially the same as in except that the complication of commissioners from one presbytery to another is avoided.

**4.67-68 APPEALS/COMPLAINTS**

4.67 If due to distance the presbytery prosecuting the call cannot be represented by commissioners, it is competent for it to appoint a minister or elder of the church who can be present to indicate an appeal on its behalf. Twenty-one days from the date on which advice of the presbytery's decision to refuse to transmit the call (and the reasons for it) is sent to the presbytery prosecuting the call is allowed for that presbytery to confirm adherence to the appeal made on its behalf, giving reasons, and failing such confirmation, the appeal falls. (4.67 is Act of Synod 1990)

4.68 In the case of an appeal against the decision being lodged by the commissioners of the prosecuting presbytery or by the commissioners of the congregation whose minister is under, or in case of complaint by a member of the presbytery, the presbytery cannot proceed further until the appeal or complaint is fallen from or resolved by the judgement of the Synod.

**4.69-4.73 PROCEDURE FOR ORDINATION AND/OR INDUCTION**

4.69 Once the day of ordination and/or induction is set, an intimation in the following or similar form is ordered to be read in the congregation on the Lord's Day, at least seven days being allowed to elapse between the first intimation and the day fixed for the ordination and/or induction.

**EDICT**

*This Presbytery of the Presbyterian Church of Eastern Australia, having resolved to proceed to the ordination/installation of Mr ..... who has been duly called to be minister of this congregation, (and whose trials have been sustained,) gives notice to all concerned, and especially to members of this congregation, that if*

*any of them have anything to object to the life or doctrine of the said Mr ....., they must substantiate the objections to the satisfaction of the presbytery at a meeting to be held at .....on .....day of .....2.... at .....o'clock. The presbytery certifies that if no one offer any relevant objection, or unless relevant objections are proved on the spot, the presbytery will forthwith proceed to the (ordination and) induction of the said Mr ..... (to the office of the holy ministry,) and will admit him to the pastoral charge of this congregation.*

**CERTIFICATE OF EDICT BEING SERVED**

*At ..... Church, the ..... day of ..... 20 .... The above Edict was this day duly served by me in the face of congregation at the service/s held at..... a.m. & .....p.m.*

*Signed: .....*

4.70 On the ordination/induction day the presbytery meets about half an hour before the time fixed for public worship and receives a certificate of the Edict being served. It is usual to associate with the presbytery members of other presbyteries who may be present. Intimation is again made in the church in terms of the Edict. Should any objection be made, the objection, to be admissible, must be relevant, given in writing and substantiated on the spot by sufficient proof. A formal libel at this stage is not necessary. If the objection is not found relevant or is not substantiated, the presbytery sets it aside and proceeds to the ordination/induction. If the objection is not summarily disposed of, the ordination/induction is postponed until the case is investigated according to the laws of the church.

4.71 The minister duly appointed to preside conducts public worship and calls upon the presbytery clerk to read the narrative of steps taken since the occurrence of the vacancy with a view to filling it. He then proposes to the person about to be ordained/inducted the questions appointed by Act of Synod 1952. The questions having been satisfactorily answered, he is then required to subscribe the Formula in the presence of the congregation. [It is recommended that a copy of the Formula be fixed on the inside cover of the presbytery minute book for this purpose.]

4.72 The person is then ordained to the office of the holy ministry by prayer and the laying on of the hands of the presbytery, and is thereafter declared admitted to the pastoral charge of the congregation. The moderator says:

In the name of the Lord Jesus Christ, the only King and Head of the Church, and by authority of this presbytery, I hereby declare you duly ordained, and inducted into the pastoral charge of this congregation and entitled to all the rights and privileges belonging to it, and committed to the discharge of all its responsibilities.

The moderator, followed by the other members of the presbytery, then gives the newly ordained/inducted brother the right hand of fellowship.

The service when the man to be inducted is already ordained is the same except that there is no reference to ordination and no laying on of hands.

4.73 Addresses to the minister and people are then delivered, and the congregation is dismissed. The name of the minister is added to the roll of the presbytery before it adjourns. The newly ordained/inducted minister is then introduced to the session of his congregation, and takes his place as its moderator.

**4.74 ORDINATION OTHER THAN UPON INDUCTION TO A PASTORAL CHARGE**

Ordination without reference to a particular pastoral charge or some equivalent position or function is contrary to the practice of the church. Missionaries to foreign countries are ordained before they proceed to their spheres of labour, but in these cases, and other special cases, the matter ought to be referred to the Synod for authorisation.

**4.75 MENTAL INCAPACITY IN A MINISTER**

4.75 When it has been established to the satisfaction of the presbytery, in the course of any judicial process affecting the status of a minister, or by members of his session or of his congregation and on the certificates of two registered medical practitioners, that a minister is mentally incapable of performing the duties of his office, the presbytery relieves him from the exercise of them and takes steps to provide for the administration of ordinances. The presbytery appoints an interim moderator, and it may, if deemed necessary, allocate a portion of the minister's stipend, not exceeding one half, towards the expenses of supplying ordinances.

The generally approved practice is that in the event of the minister being certified by two registered medical practitioners as mentally capable of resuming his duties, the presbytery reinstates him in the full exercise of the duties of his office and

discharges the interim moderator. However, in the event of the minister not being mentally capable at the expiration of one year, the presbytery declares the charge vacant and takes the usual steps for filling the vacancy.

The presbytery may be well advised to refer a case of mental incapacity to the Synod.

#### **4.76-4.83 PRESBYTERY IN RELATION TO SYNOD, &c.**

4.76 The presbytery provides a duly certified roll of its members to the clerk of Synod immediately following the first presbytery meeting after Synod. In the present circumstances of the church all members of the presbytery are also thereby constituted members of the Synod (see 5.3). Any changes in the roll are advised by the clerk of presbytery to the clerk of Synod, and ministerial changes by death or otherwise, and the fact of the death of any elders within the bounds, are also advised.

4.77 An annual statistical return and a report on work in each charge are furnished to the Synod each year.

4.78 The presbytery is responsible to the Synod for the correctness and accuracy of form of the permanent record of its proceedings, and has a general responsibility to the Synod for seeing that the law of the church and all lawful directions received from time to time from the Synod are obeyed within its bounds. The presbytery is required to submit its minute book to each ordinary meeting of Synod for examination and attestation.

4.79 Requests for financial assistance for aid receiving congregations are to be scrutinised carefully and the presbytery's recommendations are sent by extract minute direct to the Finance Committee with such supporting detail as may be appropriate. All assistance is on a needs basis, subject to funds being available, with allocation on a calendar year basis two years in advance. The recommendation of the presbytery is to be supported by a budget and evidence that the charge is being efficiently worked according to some definite programme of extension. (See Act 11, 1990 as amended 2008.)

4.80 The presbytery may overture the Synod to take legislative or executive action relative to any matter with which the Synod may competently deal. The presbytery may transmit a reference to the Synod in terms of the procedure in 6.6. The presbytery may

petition the Synod in relation to any matter within the competency of the Synod if the matter is one which could not come up to that court by overture or reference or by appeal or complaint.

4.81 Appeals (by person not a member of the presbytery) and dissent & complaint (by members of the presbytery) may be taken against any decision of the presbytery on proper grounds, unless in any particular matter the Synod has provided that the decision of the presbytery is final; for procedure see chapter 6.

4.82 It is the right and duty of every presbytery to take its part in the legislation of the church by approving or disapproving of remits from the Synod. The presbytery is also responsible to see that any remit which the Synod has ordered to be sent to sessions is duly communicated to them and that they are diligent in making their returns to the presbytery, through whose clerk their decisions are in turn reported to the Synod.

4.83 The presbytery requires leave to meet while the Synod is actually in session, but as all members can be presumed to be present, if at such a time the presbytery receives leave or instructions to meet, no further notice requires to be given to members (see also 4.18).

#### **4.84-4.87 PRESBYTERY BOUNDS AND RELATIONS BETWEEN PRESBYTERIES**

4.84 The bounds of Northern Presbytery are the Hastings Municipality and to the north and west of the same in New South Wales together with the whole of Queensland. (Defined by Synod 1986) The bounds of Central Presbytery are the Manning Municipality and to the south and west of the same in New South Wales. (Defined by Synod 1986)

The bounds of Southern Presbytery are the States of Victoria, South Australia and Tasmania. (Defined by Synod 1983)

4.85 A presbytery which desires to have a change made in its name or its bounds proceeds by petition addressed to the Synod. When the change desired is in its bounds it supplies, at least 30 days before the Synod meets, a copy of the petition to any other presbytery which would be affected.

4.86 If a presbytery desires that one of its congregations should be transferred to another presbytery, or that a congregation within the bounds of another presbytery be transferred to within its own bounds, it petitions the Synod, and at least 30

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days before the Synod meets, supplies a copy of the petition to the other affected presbyteries.

4.87 A presbytery has no right to interfere with or review the procedure of another presbytery. A presbytery aggrieved by such encroachment may remonstrate or make representations to the other presbytery. If this proves ineffective it seeks redress by means of a petition to the Synod.

### **4.88 MINISTERS WITHOUT CHARGE AND RESIGNED/RETIRED MINISTERS**

[Act 5, Class 2, Synod 2012]

1. A Register of Ministers without Charge and a Roll of Resigned or Retired Ministers shall be kept by the Clerk of Synod. Only those whose names are placed on the Register will be eligible for a call, and placement on the Register will be taken to imply an individual's sincere readiness to accept a call in appropriate circumstances. Congregations may not address calls to ministers whose names are on the Roll of Resigned or Retired Ministers.

2. When a minister's resignation or retirement from his charge has been accepted by his Presbytery, the Clerk of Presbytery shall inform the Clerk of Synod by Extract Minute. The Extract Minute shall include the resolution of the Presbytery to place the name of the minister either on the Register of Ministers without Charge or on the Roll of Resigned or Retired Ministers.

3. The normal procedure shall be that the name of the resigning or retiring minister shall be placed on the Roll of Resigned or Retired Ministers. If the Presbytery resolve to place the name on the Register of Ministers without Charge, they must minute positive reasons for such placement on the Register, or subsequent continuance on or transference to it, and the Extract Minute furnished to the Synod Clerk shall contain these reasons. Such reasons shall be of the following order:

3.1 where resignation is due to a breakdown in health;

3.2 where resignation or severance of the pastoral tie is due to non-censurable incompatibility with his congregation;

3.3 where resignation is due to secondment by the Synod of the PCEA or its responsible Committee to other pastoral or para-pastoral work.

4. Placement on the Register shall not be granted where the resigning minister has accepted an

appointment outside the PCEA other than by secondment as noted at 3.3 above.

5. If a minister whose name has been placed on the Register or Roll shall be admitted to the ministry or other full-time employment of another Church other than by secondment, his name shall be removed from the Register/Roll.

6. A Minister whose name is placed on the Register or Roll is required to notify the Clerk of Presbytery of any change of address. If a minister takes up residence within the bounds of another Presbytery of the PCEA, he shall also inform the Clerk of that Presbytery of his address.

7. In no case shall the name of a minister remain on the Register of Ministers without Charge for more than three years from the date of inclusion in the Register unless application for an extension of the period, conforming to the conditions of paragraph 3 above, be made to the Presbytery within whose bounds he is resident before the expiry of the three year period. When the minister resides outside the bounds of a Presbytery of the PCEA, his application for retention on the Register shall be made to the Presbytery of which he was previously a member. In no case shall a name remain on the Register for more than six years.

8. If a Presbytery instruct that a minister's name be placed on the Roll of Resigned or Retired Ministers, it shall remain on that Roll for his lifetime, subject to the provisions of paragraph 5 above and 11 and 12 below.

9. A minister whose name is on the Roll of Resigned or Retired Ministers and who desires to have his name transferred to the Register of Ministers without Charge shall petition the Synod through the Presbytery within whose bounds he is resident at the time, such petition to conform with the conditions of paragraph 3 above.

10. Ministers without Charge on the Register, and Resigned or Retired Ministers on the Roll shall be under the jurisdiction of the Presbytery within whose bounds they are resident. If a minister takes up residence outside the bounds of any Presbytery of the PCEA, he shall remain under the jurisdiction of the Presbytery within whose bounds he last resided.

11. A request by an individual whose name is on the Roll of Resigned or Retired Ministers to have his name removed from it shall be dealt with by the Presbytery within whose bounds he resides. That Presbytery after due investigation and on due

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grounds shown (such as, the individual concerned no longer holds communicant membership with a congregation of the PCEA) shall declare him to be no longer a minister of the PCEA and order that his name be removed from the Roll.

12. Each Presbytery of the Church shall maintain a list of ministers on the Roll of Resigned or Retired

Ministers who have informed them that they are resident within the bounds of the Presbytery.

Presbyteries are required to make due investigation annually that such individuals continue to associate with the PCEA and after due intimation to the individual concerned, may order their name to be removed from the Roll if appropriate grounds are found.

## **CHAPTER FIVE: THE SYNOD**

### **5.1 - 5.4 FORMATION AND MEMBERSHIP**

5.1 The Synod is the court of the church superior to the presbyteries. The constitution of the church allows for the creation of a General Assembly but unless and until such an Assembly is created, the Synod is the highest court of the church.

5.2 The Synod, like the lower courts, has permanent existence. [A General Assembly does not have permanent existence but meets to perform specific duties assigned to it by the constitution of the church and, after fixing a time and place for another meeting, is dissolved].

5.3 The Synod consists of all members of presbyteries unless or until representation is changed by Synod following Barrier Act procedure. A certified roll from each presbytery clerk shall be sufficient evidence of entitlement to membership of Synod.

5.4 The Synod may associate with itself at any particular meeting, any minister or elder in good standing of another denomination with which the Synod has established links. Persons who are associated are permitted to take part in all or part of proceedings of that meeting, but not to preside, vote, or move or second a motion. At the annual Synod participation by video conference or phone will not normally be permitted.

### **5.5-5.11 OFFICIALS (MODERATOR, CLERK, TREASURER, AUDITOR, PROCURATOR)**

5.5 The Synod elects from its members an ordained minister to be its moderator. He continues to hold his office until he has constituted the next ordinary meeting of the court, and presided at the election and installation of his successor. If absent or if he ceases to hold office mid term, the procedure in 4.6 applies.

5.6 While the Synod is at full liberty to decide at the time of its meeting who shall be its moderator, it has long been the practice for the nomination to be made at the preceding annual meeting. It is customary to rotate the office, but to allow a man to decline to accept nomination.

5.7 Except where otherwise expressly provided, the moderator is responsible for convening extraordinary (pro re nata) meetings of the Synod. By virtue of his office he also at the present time has responsibilities as a member of the NSW and Qld.

trust corporations. Where practicable, he arranges to preach throughout the congregations of the church during his period of office so as to express the greetings and encouragement of the whole church to its parts.

At all meetings of the Synod the moderator:

- a) presides;
- b) sees that the meeting is properly constituted, and closed with prayer;
- c) causes good order to be kept in the conduct of its business;
- d) disallows motions in conflict with the law of the church, irrelevant, offensive or otherwise incompetent,
- e) protects the rights of each member of the Synod and rules on points of order;
- f) announces decisions, administers censures and admonitions, conveys felicitations and instructs parties at the bar;
- g) calls upon members to state their views, cast their votes or discharge any duties which may have been assigned to them;
- h) vacates the chair when a session or presbytery of which he is a member is at the bar or when he is or wishes to become a party to a case or to speak to a matter before the Synod, and returns to the chair when the matter is completed. The moderator has only a casting vote in the case of equality.

5.8 The Synod appoints a clerk who is usually but not necessarily a member of the Synod and who holds office at the will of the Synod, and by virtue of his office is a member of the New South Wales, Victorian and Queensland trust corporations. The clerk of Synod makes the declaration of fidelity on taking up his office. The Synod decides what remuneration he shall receive from its funds. In his absence, another is appointed to act *pro tempore* and he also makes the declaration of fidelity, as does any person whom the Synod appoints to assist the clerk in his duties. The declaration of fidelity is as follows: "I do solemnly affirm and declare that I will faithfully discharge the duties now entrusted to me." The clerk's duties are analogous to those of a presbytery clerk (see 4.8).

5.9 The Synod appoints a treasurer to gather, take charge of, disburse and account for all the funds held by the Synod as it may direct. The treasurer is to be an office-bearer of the church, and if not a member of Synod is automatically associated so as to be able to speak on all matters relating to finance and by

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virtue of his office is a member of the New South Wales, Victorian and Queensland trust corporations.

5.10 The Synod appoints a professionally qualified accountant or company auditor to audit the accounts of the treasurer, and he has right of access to all those documents necessary for the proper discharge of his duties.

5.11 The Synod from time to time appoints a procurator whose duties are to advise the church in matters of ecclesiastical procedure and the church's constitution and to revise all libels.

The procurator is to be a communicant member in good standing of a Presbyterian church having the Westminster Confession of Faith as its chief subordinate standard, have demonstrated familiarity with Presbyterian law and practice, and be entitled to practise as a barrister at law in New South Wales &/or Victoria.

The procurator's advice is to be given to Synod, Presbyteries and Synod Committees upon the case being submitted to him through the Synod's Law and Advisory Committee. Except in respect to any matter which comes before Parliament or the Law Courts, no remuneration attaches to the office of procurator.

In the event that there is no occupant of the office, the procurator's task is carried out by the Synod Law and Advisory Committee, which obtains such professional advice as it considers necessary.

### **5.12 - 5.17 MEETINGS AND MINUTES**

5.12 In strict law, three members, of whom two must be ordained ministers, constitute a quorum. In practice such a small number is to be avoided, and a quorum of about 25% of the members and representative of a majority of presbyteries is considered desirable.

5.13 The Synod ordinarily meets once a year. Each synod, before it adjourns, fixes the time and place of its next meeting.

When it appears to the Administration Committee (5.19) that the day appointed for the Synod's next meeting will be unsuitable, it may alter the date and instruct the clerk of Synod to give notice to members of such alteration. Except where it is quite impossible to do so, at least eight weeks notice of the change is to be given, and the Committee is answerable for its conduct to the Synod, and the

Synod records the reason for the change in its minutes.

5.14 The Synod may hold special (*in hunc effectum*) and extraordinary (*pro re nata*) meetings on the same principles as the presbyteries (see 4.15 - 4.17).

5.15 The Synod is, by long established practice, an open court, and in respect to all ordinary matters, this practice is held to be highly desirable. Live-streaming of open-court proceedings may be allowed at the discretion of the court.

However, the Synod may sit in private when it judges it to be necessary or expedient, as in certain cases of discipline or of allegations which may prove to be ill-founded or in cases already partly heard in private in presbytery.

5.16 It is the normal practice to record the substantial content of proceedings in closed court, including decisions taken in closed court, in the ordinary minutes, but without divulging matters deemed of such a nature that they must be kept confidential (see Act 2, Synod 1985). A separate record for recording material other than the actual decision of the court may sometimes be appropriate. Members may not divulge the content of closed court discussions to outsiders, but the actual decision is not normally private, and does not need to be read in open court before it can be made public.

5.17 The clerk is responsible for recording a true account of the business transacted in a clear and concise manner. The minutes are framed as the business proceeds and, being read and approved, are confirmed at the beginning of the following session, with the exception of the minutes of the last session which are confirmed immediately prior to the conclusion of the Synod meeting.

Where minutes are taken down in writing, two sets of minutes are kept. The 'scroll' minutes are the minutes taken at the time. A 'permanent record' is typed up from these and is compared with the scroll minutes and, being found correct, is duly attested by the clerk and moderator. Where the minutes are typed up on a computer at the time, only one set of minutes need be kept, provided that it is duly confirmed by the court and signed by the clerk and moderator. The Clerk of Synod is permitted, without formal instruction, to give extracts of deliverances to all persons who have an interest in them. In other respects the rules for extracts in presbyteries apply (see 4.25).

**5.18 - 5.24 POWER AND FUNCTIONS**

5.18 Subject to the church's constitution and to relevant civil law, the Synod, being the supreme court of the Presbyterian Church of Eastern Australia, has and exercises the power to consider and deal with all matters of doctrine, worship, discipline and government, and generally with all matters affecting the well-being of the church, the spiritual needs of the civil community, and the extension of Christ's kingdom.

5.19 Synod Committees: membership and method of operating [Act 7 Class 2 Synod 2011 as amended Act 9, 2019]

1. Synod appoints such standing and occasional Committees as deemed appropriate.

2. Most Committees shall consist of five members, and given the prevalence of electronic means of communication, these members do not normally need to be geographically close to each other. Some Committees may have more than five members (eg: Missions or Youth and Fellowship), or less than five members (eg: Superannuation) and these are determined at the discretion of the Synod. Some Committees solely or in part of positional membership at the discretion of Synod (eg: Moderator, Moderator-elect, Clerk). It is desirable that the Committee membership is made up where possible of at least one representative from each of the geographical areas of the Presbyteries. Members are expected to serve on their Committee for at least three years unless otherwise decided by Synod.

The Administration Committee proposes a Committee composition for each Synod however delegates and courts of the church are welcome and encouraged to also propose changes to the committees, either by previous contact with the Administration Committee or by petition, overture or notice of motion at Synod. Sessions are encouraged in particular to search out, foster and cultivate suitable people from their congregations to serve, within their God given interests and abilities on Synod committees.

3. It is a courtesy that parties being proposed for new membership of Committees be informed of and agree in advance of their appointment (to be referred to as 'entry courtesy'). It is also courtesy that parties who are currently members of Committee be informed of and agree in advance to being removed (except in cases of church discipline, or other established reason. This is to be referred to as 'exit courtesy').

4. Committees have the power to seek assistance and advice from other qualified persons if considered appropriate.

5. All members of a Committee have a responsibility to contribute promptly to its deliberations and proposals. When using emails the subject line should include reference, in an agreed form, to the Committee concerned. 'Reply to all' should be used in all responses so that each member is aware of the responses of all other members and can interact accordingly, just as if they were personally present. Members have the responsibility of advising of any change to their email address. The use of employer-provided email addresses should be avoided. When using a conference call (audio or video) care must be taken to give each member opportunity to contribute, and decisions arising out of such hook-ups are to be very clearly expressed at the time and circulated in written form immediately thereafter.

6. The Convener of a committee is to ensure that the proposed report to the next Synod is distributed to all members of the committee and this is done sufficiently to incorporate changes. In the event of significant disagreement or alternate opinion then committee members are entitled to submit minority reports to the Synod. It is expected that this is the exception rather than the rule – with all members endeavouring to work in Christian harmony so far as possible.

7. Committees are encouraged to begin their work soon after each Synod and where appropriate to divide the work among themselves. Committees may elect a Vice-convener to understudy the Convener so as to maintain the work if the Convener is not available.

Standing committees are arranged as follows:

- Administration
- Law and Advisory
- Finance
- Superannuation and Insurance
- Inter-Church Relations
- Church and Nation and Publication
- Youth and Fellowship
- Missions
- Training of Ministry
- Information Technology

Committees may meet when the Synod is sitting only by leave of the Synod.

5.20 The Synod authorises special collections for designated Synod funds and encourages

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undesigned giving to General Funds so that help may be given where the need is greatest.

5.21 The Synod may exercise such of its lawful powers as it deems fit by means of a special commission of the Synod for a specific purpose. The Synod may also appoint an ordinary commission to meet between Synods, but subject to the approval of the procedure and rules of such ordinary commission in terms of Barrier Act procedure.

5.22 It has been claimed that the Synod, in virtue of its position as the supreme court of the church, naturally and necessarily possesses the power *nobile officium*, that is, the power to deal with and dispose of any matter before it for which there is no precise and sufficient legal provision. Such power does not enable the Synod to overrule law but only to supply the want of it when necessary.

Only in extraordinary emergency could the exercise of this power to the disturbance of the ordinary course of discipline be justified. However, there is every reason to suggest such a power is not a necessary or proper part of the church's constitution.

5.23 The functions of the Synod are legislative, executive and judicial. It exercises them by considering and dealing appropriately with:

- a) reports from its standing and any other committees, and corporate trustees, etc.;
- b) matters regularly brought before it by:
  - i. overture
  - ii. reference
  - iii. appeal
  - iv. complaint
  - v. petition
  - vi. correspondence (when other course is not open)

5.24 Act 5, Class 2, Synod 1984: 'The approved procedure in proposing significant motions involving areas where Committees have responsibility is by overture from lower courts or by approach to the relevant Committee, and not by way of motion on the floor of Synod; and with a view to ensuring prior and mature consideration and wise decision making Synod members are to follow out this procedure to the fullest practical extent'

Synod 2008 (minute 17.1) requested any who frame proposals for Synod's consideration to take care to make provision for specifying previous enactments that are varied or rescinded by such proposals.

Synod 2008 (Act 2, Class 2): 'To ensure careful consideration and wise decision making, copies of

correspondence for transmission to Synod shall be supplied with the Reports. Any non-procedural proposal that arises from late correspondence or on the floor of the Synod that is not already anticipated in the prayer of an overture or petition regularly before the Synod, or the subject of a notice of motion in terms of clause 6 of this Act, shall be held over until the next session and, if contentious or of complexity, referred to a representative *ad hoc* committee for report to the next or later session, before being debated.'

### **5.25 TIME LIMITS RE REPORTS & CORRESPONDENCE TO SYNOD**

[See Appendix 3 - Synod Standing Orders]

5.25 The Annual accounts are issued at least 60 days before the Synod, and Committee reports are to be submitted to the Clerk of Synod at least 45 days prior to the Synod. The Clerk arranges to print same, together with the correspondence for Synod, so that they may be in member's hands at least 21 days before the Synod.

Requests for finance from Synod funds are forwarded via presbyteries to reach the Finance Committee at least 60 days before the Synod.

### **5.26- 5.42 ORDINARY SYNOD PROCEEDINGS**

5.26 The members having assembled at the time and place appointed, the Moderator of the previous Synod after public worship preaches a sermon, and immediately thereafter, with prayer, constitutes the court in the name of the Lord Jesus Christ, the King and Head of the Church.

5.27 The Synod then proceeds to approve the roll of members as derived from duly attested rolls of presbyteries, and apologies for absence are noted.

5.28 A moderator is then elected (procedure in 5.4) who, on his appointment, is introduced to the assembly by the retiring moderator, and receives from him the right hand of fellowship.

5.29 The chair is then taken by the new moderator, and he delivers an introductory address.

5.30 The Standing Orders adopted by Synod (5.46) are taken as read and with any amendments for the current Synod are, on being adopted, regulative of the conduct of business.

5.31 The clerk then presents the Administration Committee's report including the proposed

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timetable, and names of ministers and elders who have died since the last meeting, If appropriate, a Committee is appointed to draft memorial minutes not already in the report in respect of any deceased ministers for submission to a later sitting.

5.32 Persons are appointed to examine the records of presbyteries, and these examiners report their findings to a later sitting.

5.33 After reading any notices of motion, and attending to any other pressing business, it is usual for the Synod to adjourn.

5.34 At the next sitting the report of the Administration Committee is taken up. This Committee also functions as a committee to deal with bills and overtures, and all overtures and papers for transmission to Synod are first laid before it. The Committee sees that all papers presented have been duly transmitted, and are regular and proper to be brought before the Synod. If the Committee refuse to transmit any document it must give the person/s concerned notice of the ground of refusal. The Committee may allow the withdrawal or amendment of the document to remove objection to its transmission. Time limits on submission of documents must be observed (see 5.25). If aggrieved with the Committee's decision the person concerned may petition Synod in the usual way without conforming to the above mentioned deadline.

5.35 Synod takes up and deals with overtures, references, appeals, complaints, petitions and other correspondence, and committee reports subject to the provisions of 5.2-25 and to Synod Standing Orders (5.46). 'Correspondence from the Sessions and the Presbyteries will take priority over other correspondence and over Synod reports.' [Synod 2019.14] Overtures may also originate in the Synod itself.

5.36 In recommending the order of business for each sitting of Synod, the Administration Committee takes care to recommend a timetable that 'gives priority to correspondence from the sessions and presbyteries of the church, but also' allows reports of standing committees to have a place that allows due consideration. In accordance with Synod Standing Orders, causes are normally held over until the last day of Synod, other than appeals or complaints against transmission which, depending on the circumstances, may be taken up with the Administration Committee's report.

5.37 The legislation of the Synod may be divided into two classes:

Class 1 legislation arises from an overture suggesting the enactment of some new law or the alteration of existing law where the proposal involves a change affecting the church generally and designed to be of permanent force. To prevent any innovation and to secure due deliberation and harmony in the enactment of new laws and the alteration of old ones the course of procedure prescribed by the Barrier Act 1697 is followed.

### BARRIER ACT, 1697

*'The General Assembly, taking into their consideration the Overture and Act made in the last Assembly concerning innovations, and having heard the report of the several commissioners from Presbyteries to whom the consideration of the same was recommended, in order to its being more ripely advised and determined in this Assembly; and considering the frequent practice of former Assemblies of this Church, and that it will mightily conduce to the exact obedience of the Acts of Assemblies, that General Assemblies be very deliberate in making of the same, and that the whole Church have a previous knowledge thereof, and their opinion be had therein, and for preventing any sudden alteration or innovation, or other prejudice to the Church, in either doctrine or worship or discipline, or government thereof, now happily established; do, therefore, appoint, enact, and declare, that before any General Assembly of this Church shall pass any Acts, which are to be binding Rules and Constitutions to the Church, the same Acts be first proposed as overtures to the Assembly, and, being by them passed as such, be remitted to the consideration of the several Presbyteries of this Church, and their opinions and consent reported by their commissioners to the next General Assembly following, who may then pass the same in Acts, if the more general opinion of the Church thus had agreed thereunto.'*

Class 2 legislation arises from an overture or committee report suggesting legislation entirely or substantially related to the Synod itself, such as the regulation of the business of Synod and its committees. In these matters the Synod comes to its own mind without use of Barrier Act procedure, although it may refer proposed Class 2 legislation to presbyteries if it wishes (but consent is not required for enactment to take place).

5.38 Despite the fact that all members of presbyteries are, at present, members of the Synod, Barrier Act procedure remains a desirable procedure for ensuring due deliberation, and is to be observed where appropriate. Acts passed under Barrier Act

procedure may only be amended or repealed by the same procedure (Act 8, Assembly 1736).

5.39 Barrier Act procedure is as follows: - If the Synod sustain an overture proposing Class 1 legislation, it does not pass it at once into a law having permanent effect, but remits the overture to presbyteries. Each presbytery must approve simpliciter, and without alteration (other than for unimportant grammatical points), or it will be held as disapproving.

If a majority of presbyteries report approval of the remit, the Synod may (a) enact the proposal (but is not obliged to do so), or (b) resolve not to enact it, or (c) remit it to presbyteries again in amended form.

5.40 If the object of an overture transmitted to presbyteries appear to the Synod as of urgent practical importance, it is competent to that Synod, while transmitting the overture to presbyteries, to pass it, at the same time, into what is called an Interim Act. Such an Act has force only till the meeting of the next Synod.”

5.41 It is competent for the Synod to pass a Declaratory Act. This is an Act which declares what the Synod understands the law of the church to be, and is not a means of changing that law. Such an Act may be passed without Barrier Act procedure when it is generally agreed that the declaration is in accord with the old law. But if there is much difference of opinion on the subject, and if the point enforced be new, in any considerable measure, to the existing members of the Synod, it has been held that, before the passing of such an Act, an overture on the subject ought to be transmitted to presbyteries in terms of the Barrier Act.

5.42 Acts of Synod are titled, listed and numbered by the Administration Committee so as to facilitate citation, and they are incorporated into a regularly up-dated Handbook/Decision Book, classified according to subject/committee.

### **5.43 - 5.46 JUDICIAL FUNCTION**

5.43 In its judicial function as a court of review, the Synod takes up and considers references, petitions, complaints and appeals in accordance with the procedure in chapters 6 and 7, and in 5.25 and Synod Standing Orders (see 5.48).

5.44 No question which belongs to the jurisdiction of any one of the lower courts can be decided by the Synod until it has first been dealt with, to some

extent at least, in that lower court, and unless it has been duly brought up by reference, petition, complaint or appeal. The Synod may, indeed, originate any question which might have been originated in a presbytery or session, but if it do so, the first step taken must be to remit it to that presbytery or session, unless, on account of some extraordinary emergency, there be sufficient ground for assisting or specially instructing the presbytery or session, or, on account of the presbytery or session being under discipline, for superseding it, and appointing either assessors or a special commission to act in its place.

5.45 It is undoubtedly in the power of the Synod, when it sees sufficient cause, to summon any member or any court of the church to appear at its bar, or at the bar of its Commission. It may also send precise orders to particular presbyteries and sessions, prescribing the exact course of their procedure in special cases, and giving instructions or prohibitions at its pleasure, provided it keep within the laws and constitution of the church. But the spirit of those laws and that constitution clearly requires that such exercise of supreme authority be entered upon with great caution, and only when a clear necessity has arisen.

5.46 If any case of heresy, contumacy, or obvious and serious misconduct is forced by circumstances upon the attention of the Synod before it has reached any lower court having jurisdiction over the person, the Synod may either remit such a case to the lower court, or deal with it summarily by the direct exercise of its own authority.

### **5.47 CLOSE OF SYNOD**

The business being terminated, the moderator delivers an address, announces the time and place of the next Synod, and closes the Synod with prayer.

### **5.48 SYNOD STANDING ORDERS**

5.48 For the better conducting of its business Synod 1978 adopted standing orders (as amended from time to time) relating to the presentation of motions; time limits for speakers (20 minutes for Conveners/proposers of motions, 10 minutes for other speakers); procedure in dealing with letters addressed to the Moderator; and the conducting of causes [ie. appeals/complaints] (as far as possible a separate session on the last day of Synod; re voting by Synod members who have not heard pleadings; closed court matter).

## **CHAPTER SIX: COMMON PROCEDURE**

### **BEHAVIOUR/PARTICIPATION**

6.1 Business in church courts is to be conducted in an orderly and courteous fashion and in a Christian spirit with a view to the advancement of the Gospel of the Lord Jesus Christ.

Should a person use offensive words in a church court, whether in debate or otherwise, and not, when required by the court, explain, retract or apologise, to the satisfaction of the court, he is liable to the censure of the court. Allowance is made for those not well versed in procedures, but a member unnecessarily raising questions of order, or persisting in violating order, may be censured by the court.

6.2 A vote or decision is commonly taken on the voices or by show of hands, but if a number desire a secret ballot, this is usually allowed. The numbers voting on any question are recorded in the minutes where a ballot is taken or a count of votes requested.

6.3 Members of a court are expected to attend its meetings. Only a sufficient preventing cause notified to the court relieves from the blame of absence. A member desiring to leave a sitting of a court must seek leave of the court. It is appropriate in judicial cases that members be reminded that justice requires that the pleadings be heard by all who vote in the cause, and no member ought to vote against either side who has not heard the pleadings on that side (cf. Synod Standing Orders).

### **6.4 CITATION**

6.4 Citation is an official act of a court authoritatively and distinctly calling those cited to be present at a particular place and time for a specified purpose. A verbal citation to a person present in the court (i.e. *apud acta*) or a written citation along the following or similar lines, with proof of delivery, are the regular means of citation.

#### **CITATION**

*To ..... of ..... take notice that I ..... Clerk of the Session of the ..... (or of the ..... Presbytery or of the Synod) of the Presbyterian Church of Eastern Australia on behalf of the said court hereby cite you to be in attendance when the said court shall be in session at ..... on ..... at the hour of ..... for the purpose of ..... and further take notice that if you fail to attend at the*

*place and time specified the said court may proceed to determine the matter in your absence.*

*Dated the ..... day of ..... 20 ...*

*Clerk of .....*

Citation protects a court from a charge of failing to give an interested party an opportunity to be heard in a matter pending before the court. Censure for contumacy may proceed if two or more such citations are disobeyed.

In practice, in most cases, a verbal request without formal citation should suffice, but if disregarded, censure for non-attendance cannot arise from this less formal mode of citation.

### **6.5 OVERTURE**

6.5a An overture is a formal written proposal with reasons, submitted to a court for the enactment, repeal or amendment of a rule or regulation, or for the interpretation or declaration of any part of the law of the church, or more generally to have something done or declared which is within the competence of the court overtured.

Only matters of general interest to the church are brought by overture. It must be in proper and respectful language and if it relates to legislation, it must indicate the part of the law of the church affected, and state precisely, any changes or additions desired. The following is a specimen of an overture:

#### **OVERTURE**

*To the ..... Presbytery of the Presbyterian Church of Eastern Australia:*

*WHEREAS (here state the grounds on which the overture is made):*

*NOW THEREFORE the ..... Session respectfully overtures the ..... Presbytery to take these premises into consideration and ..... or do otherwise for this object as in its wisdom may seem best.*

An overture from a session is addressed, in the first instance, to the presbytery of the bounds. A session or presbytery transmits an overture with an accompanying certified extract minute and forwards it, with or without comment, and normally indicates who will state the overture.

6.5b Before an overture can be stated in the court to which it is addressed, it must be read and received. Reception deals with formality of documents and the legality or competency of the request. By receiving an overture, a court is saying that the business is properly before the court for its attention but is not committed to specific action in regard to it.

6.5c The overture is then stated (i.e. spoken to) by not more than two of the overturists, relevant questions are put to the overturists through the moderator, and a motion to sustain is called for. The overturists, if members of the court, have priority to move the same. Any motion may be approved, amended or disapproved by the court.

6.5d If the prayer of the overture is not granted, or is modified, right of appeal or complaint to the next higher court may be exercised.

6.5e The proceedings, in considering an overture, are not judicial, hence stating the overture does not bring parties to the bar of a court nor exclude any overturist who is a member of the court from discussing and voting on it.

## 6.6 REFERENCE

6.6 a) A Reference is a document containing the facts of a case which is stated and referred by resolution of an inferior court for the opinion, advice, direction or judgement of its superior court. A reference is transmitted in the form of a properly attested extract minute of the documents and, if there are parties in the case, they must be cited by the court referring so that they may appear for their interests.

### REFERENCE

*The ..... of ..... duly convened and constituted on ..... resolved inter alia to refer to the ..... for opinion, advice, decision, direction or judgement the matter contained in the following extract minute:*

*Extracted by me from the minutes of the ..... of ....., the ..... day of ....., 20... Clerk.*

b) A court refers a matter to its superior court when it is in doubt as to the correct procedure or the law of the church in relation to it, but it may refer other matters only for sufficient cause. Cases of particular difficulty or delicacy, the decision on which may establish an important precedent or on which the members of a court are much divided in opinion or on which, for any reason, it is desirable that a larger body should first decide, are proper subjects for reference. The matters mentioned in 7.26 must be referred.

c) A court may not state a reference merely to evade its proper and ordinary responsibility, and in any such case the superior court declines to enter into the substance of the reference and directs the inferior court to deal with the matter. It may censure the referring court for having referred the case without good cause.

d) The reference of a case either *simpliciter* or otherwise to a superior court stops procedure in the inferior court until the superior court has given its decision.

e) A reference is first received by the court. Reception relates solely to the formality of documents and the legality or competency of the request without entering into the justification in the particular case.

f) After a reference has been received it is presented, stated and questions answered by such of the members as may have been appointed by the inferior court for that purpose. In presenting and stating a reference it is necessary to show what the case is and why it has been referred. The reference is then either sustained or not sustained by the carrying of a motion to that effect. A reference does not place the inferior court at the bar, but only such of its members as may have been appointed by the inferior court to present and state the reference and then only until the reference is sustained, following which they, if members of the superior court, have full right to deliberate and vote on the case on its merits.

g) If it is sustained, any parties in the case are called and heard, after which the superior court considers the whole case and decides it, or gives such advice and directions as it deems necessary and sends the matter back to the inferior court that it may take such action as the case requires.

## 6.7 PETITION

6.7 a) A Petition is a written and signed request in approved form made to a court and usually relating only to the affairs of the petitioners. It must be in respectful language and should include a statement of the circumstances or reasons which are held by the petitioners to justify the specific request made. A court may decline to receive a petition containing improper or disrespectful expressions, but it grants to a petitioner through its clerk any advice necessary as to the drawing up of a document in the proper form, and directs that any approach to it which should properly take the form of a petition be put in that form before consenting to receive it. The form is important since it leads to (1) a clear

understanding of the issues and whether they are relevant, (2) correct decisions, and (3) avoids waste of time. The proviso, 'or to do otherwise...' is important lest, by sustaining a petition, the Court is left only the option of granting its prayer or dismissing it. The following is a specimen of a petition:

PETITION

*To the Synod of the Presbyterian Church of Eastern Australia:*

*This Petition of (name, position) respectfully shows: THAT WHEREAS (here state in logical progression the reasons advanced for the granting of the prayer). NOW THEREFORE*

*The ..... Presbytery prays the Synod to take these recitals into consideration and ..... or do otherwise as in their wisdom they may deem fit. And your petitioner/s will ever pray.*

*Dated the ..... day of ..... 20 .....*

When a petition is forwarded by a court of the Church to a superior court, the following words are added: "Mr ..... was appointed to present the petition" and the Petition is transmitted accompanied by an extract minute.

b) Any inferior court or any congregation, committee or organisation of the church or any person or group of persons within the jurisdiction of the courts of the church has the right of approach in proper circumstances to the appropriate court of the church by petition, and such court may at its discretion receive and deal with a petition from any person other than the aforesaid. The competent use of petitions to sessions is outlined in 2.19, 2.35 and 3.25 and to presbyteries in 4.29-4.30.

c) A petition is lodged with the clerk of the appropriate court, in reasonable time prior to its meeting, any fixed time laid down by Synod being always observed. When a petition affects the interests of other than the petitioner he must supply to them in reasonable time and by either personal delivery or certified mail - (i) a copy of the petition, and (ii) notice of the time and place of the meeting of the court at which he has asked or will ask that the petition be heard, and he must inform the clerk in writing that he has done so. If the court, after receiving the petition, is not satisfied that sufficient intimation has been given to others concerned it orders the petitioner to serve a copy of the petition on them with a citation to attend to which copy and citation is attached the relevant extract of the court.

d) A petitioner is a party at the bar. If a member of a court be a petitioner to it, singly or with others, he is at the bar during that business and until it is disposed

of. A member who is not a petitioner cannot present the petition of others, either in his place or at the bar.

e) When a petition is presented, the court:

i) reads the petition or sufficient of it to judge of its nature or character, or holds it as read;

ii) receives it, after satisfying itself that (a) the petitioner is at the bar of the court to support it, (b) it is the appropriate court to deal with the matter, (c) the matter should not have come forward by some other course, (d) the petition does not contain improper or disrespectful expressions, (e) the petitioner could not have appeared as a party in a case before an inferior court, (f) that the petition ought to be received either in the interests of the church or in justice to the petitioner; or

iii) decides not to receive it. However, except for obvious incompetency or impropriety discovered in the petition, a decision not to receive it should not be made unless the petitioner has first been heard on the question of its reception;

iv) having received it, determines what action is to be taken in answer to its prayer, usually hearing the petitioner, and allowing questions first.

f) A petition concerning the character of a minister is not served upon him, for this matter can be dealt with only by libel in a process of discipline; but he should be communicated with respecting it and is entitled, without being placed at the bar, to be heard upon it and to take his ordinary part in the discussion of it.

## **6.8 - 6.28 DISSATISFACTION WITH DECISION OF A COURT**

6.8 The right of dissent is open to persons who are, at the time, members of the court which made the decision. [Members at the bar have the right of non-acquiescence/appeal, not of dissent]. It is not absolutely necessary for a contrary motion/amendment to have been moved but the dissenter, in the nature of the case, ought to have tried to persuade the court of his views, especially if he contemplates a complaint to the next higher court.

A dissent may be simple, with or without reasons, or it may be a dissent with complaint to the next highest court. Dissent is a means of exoneration of individual conscience and frees the dissenter from responsibility for the decision dissented from and thus from any subsequent censure that might arise because of the decision. Dissent does not free the dissenter from any duty which the decision may impose upon him as an office-bearer of the church.

**6.9-6.11 SIMPLE DISSENT - WITH OR WITHOUT REASONS**

6.9 A dissent without stated reasons may be tendered against the decision of any church court by any member of the court present who has voted against the decision.

6.10 A dissent with reasons may be tendered against the decision of any church court by any member present who has voted against the decision. If the reasons are given in immediately, they are entered in the minutes, but otherwise the court is not obliged to record them, but instead may order them to be preserved with the papers of the court. A court may answer the reasons for dissent with a view to removal of any adverse reflection that may appear to rest upon the court.

6.11 When a member of a court has entered his dissent it is competent for other members who are present and have voted against the decision, to signify their adherence to such dissent and have their names recorded. There is no rule against such adherence being given in at the next meeting of the court, although this course is unusual.

**6.12 DISSENT AND COMPLAINT**

6.12 A dissent and complaint is a signed document, given in by a person who is, at the time, a member of the court and not at its bar, containing the reasons for dissenting and complaining against a decision of the court (not being the Synod) on which he has voted with the minority, and is designed to bring that decision under the review of the next higher court.

**6.13-6.14 NON-ACQUIESCENCE AND APPEAL**

6.13 When a person or court is at the bar of a court, whether in process of discipline or otherwise, he may register non-acquiescence in the judgement without appealing to a higher court. Such non-acquiescence exonerates the party's conscience but does not free him from any obligation the decision may lay upon him.

6.14 A person or court at the bar of a court (not being the Synod) may appeal to a higher court. An appeal is a signed document given in by the party containing the reasons which are the ground of his appeal against the decision of the court and is designed to bring the decision under review of the next higher court.

The party appealing must either give in his appeal at the time the decision appealed against is announced to him or else at that time "protest for leave to appeal", and the court concerned must inform any parties at its bar of this requirement when judgement is given.

**6.15-6.25 PROCEDURE IN COMPLAINTS AND APPEALS**

6.15 A court cannot refuse leave to appeal or to complain except as provided in 6.20 below, but such leave expires at the end of ten days (not including the day the decision was announced) and cannot be extended. An appeal or complaint is always held to have lapsed if, at the end of the ten days, the relevant document has not been lodged with the clerk of the court whose decision was appealed or complained against.

6.16 The person who appeals or complains may "crave extracts" from the minutes of the court relevant to the matter, and is entitled to full, but not to partial, extracts of the proceedings and to copies of all relevant papers certified by the clerk of the court. A court may decline to receive a disrespectful or improper appeal or complaint, but it grants through its clerk advice as to the drawing up of a document in proper form.

6.17 The party sends a copy of his reasons with all papers and extract minutes to the clerk of the superior court.

6.18 It ought to be remembered that the relative smallness of presbyteries, infrequency of meetings and long distances, place practical difficulties in the way of complainants and appellants, especially when only part of the case has been heard. It is difficult for substantial justice to be achieved if proceedings are drawn out. Accordingly, an appeal or complaint on a part of a case or on a point of procedure, unless expressly provided to the contrary, ought not stay procedure until the final judgement is reached, and if no appeal or complaint is taken against the final judgement, all previous appeals or complaints lapse. An appeal or complaint against the final judgement on a case stays execution of the decision or judgement until the appeal or complaint is disposed of by the superior court or it is fallen from. Complaint or appeal in a case of libel or possible libel of a minister is dealt with as in 7.29(g), and in the matter of a call to a minister as in 4.62.

6.19 An appellant or complainant may withdraw his appeal or complaint at any time and, having formed

the intention of withdrawing, he ought to do so without delay.

6.20 If a court against whose decision appeal or complaint is taken considers the action of the appellant or complainant frivolous or vexatious (ie. without valid grounds), it may proceed at its own risk to refuse leave to appeal or complain, but the appellant or complainant retains his right to prosecute his appeal or complaint by bringing a petition to the superior court against the refusal to allow it.

6.21 The court whose decision is appealed or complained against appoints certain of its members (usually two) to defend its decision in the superior court.

6.22 An appeal or a complaint places the parties to the case, namely the respondent court and the appellant or complainant, at the bar of the superior court, and they take no part in judging the case. Members of the court who dissented against the decision are, by virtue of their membership, at the bar also but to the degree appropriate in the particular case any censure which may be ordered does not infer fault in them. The appellants/complainants are duly advised by the clerk of the inferior court concerned of the time, date and place of the meeting of the superior court which will consider the matter.

6.23 In dealing with an appeal or complaint transmitted for its judgement, a court:

- a) calls the parties (i.e. appellants or complainants and the respondent court) to its bar;
- b) hears read the record of the case in the inferior court, and relative documents (copies of these being provided for members where appropriate);
- c) hears the appellants or complainants or, if there are more than two, their representatives to a number it determines;
- d) hears the respondents appointed by the inferior court;
- e) hears the appellants or complainants in reply;
- f) after removing all parties from the bar, deliberates on the case before it. When parties are removed from the bar, it is at the discretion of the court whether they are permitted to hear the discussion of the case. No document may be read or appear among the papers of the court (printed or written) unless it was before the court of first instance, or was offered to it and rejected, and has thence come up regularly. [Of course this does not preclude the preparation of a summary of the case prepared by request of the superior court from the documents before the inferior court.]

6.24 A court dismisses an appeal or a complaint if it finds the decision of the inferior court to have been one which was both lawful and open to that court upon the information before it, and its procedure not to have been such as to prejudice the right determination of the case.

6.25 When an appeal or a complaint is dismissed, the decision of the inferior court stands affirmed. Dismissal on the ground of incompetency is not permissible without the appellant or complainant being heard in respect of it.

6.26 A court sustains an appeal or a complaint (a) if it judges that the decision of the inferior court was not lawful or not open to it upon the information before that court, or (b) if it finds the procedure of the inferior court to have been prejudicial to the right determination of the case.

6.28 When an appeal or a complaint is sustained, the decision is not necessarily reversed, but may be altered in part or in whole, and the matter may be remitted back to the inferior court with instructions.

6.29 When the court has reached a decision, parties are recalled to the bar and the decision announced to them.

### **6.30 PROTEST**

6.30 In the nature of the case, appeal or dissent with complaint are not available in the highest court (Synod) but the right of written, formal protest is available in that court although it is only used in grave circumstances to preserve liberty of conscience subject to the constitution of the church.

A protest is stronger than dissent with reasons and is open to members of Synod in attendance at the time the decision was made who voted against it, and to parties in the case, and it may be adhered to by others subsequently. It must be submitted immediately following the decision objected to. Of itself, a protest does not imply a refusal to submit to the judicatories of the church or a renunciation of the jurisdiction of the court, since obedience under protest is still possible. Indeed, while the protester remains an office-bearer of the church he will submit himself to the government of the church in accordance with his ordination vows. Of course, a protest may be accompanied by statements which indicate withdrawal or separation from the church, or the protesters may conduct themselves in such a way as to incur the censures of the church, but separation or censurable conduct are not inevitable accompaniments of a protest.

## **CHAPTER SEVEN: CHURCH DISCIPLINE**

### **7.1-7.22 GENERAL PRINCIPLES**

7.1 Church discipline belongs to the government Christ has instituted in his church, and is distinct from the government of civil magistrates. The purpose of church discipline is to uphold the honour of Christ, to maintain the purity of the church and to restore the offender. It deals chiefly with church members (including office-bearers), but the adolescent children of members, and all adherents, are also subject to it when they fall into flagrant sin.

It admits of nothing as a ground for its action but what has been declared censurable by the word of God or by some act or practice of the church agreeable to the word of God.

Church discipline does not apply to every kind of sin but to those sins which occasion scandal, or tend, by their character, to bring open reproach upon the cause of Christ, or to interfere in a definite way with spiritual edification. Inquisitional watching of private conduct, meddling with family concerns, or attempts to drag secret sins into the light are discountenanced by the presbyterian system of action.

7.2 No discipline, other than private discussion, can be exercised for an offence committed, or alleged to have been committed, more than five years before the charge is made, unless it be of a most serious kind (e.g., bigamy), or becomes again flagrant.

7.3 No case of discipline, upon which a final decision has once been pronounced in regular form by a competent church court, can be renewed again by any process, unless it can be shown that new grounds of action have arisen which were not before that court.

7.4 Any member bringing a charge against a fellow member, lightly or maliciously, or without previous communication with the party charged, thereby becomes liable to censure, and is himself dealt with as an offender.

7.5 Censurable offences may be private or public. Private offences do not include every breach of God's law but those only which cause offence, or tend to bring reproach upon Christ's cause, or mar edification, and are known only to a few. In these cases, the offender is not instantly to be brought before the session but is to be dealt with in the

manner prescribed by the Lord Jesus Christ in Matthew 18.5. If the offender accepts a private admonition, no more mention is made of the matter. It is only when private admonition has not the desired effect that the offence is taken up in a formal way by the session.

7.6 Public offences are offences of a flagrant and open kind. These are dealt with in a judicial way for the offender's spiritual good, the purity of the church and the glory of its Head. The first object is to get at the truth, either by the person's own confession, or by credible witnesses. The ultimate object is to lead the guilty person to repentance by the use of Scriptural means to bring him to a sense of his sin.

7.7 It is competent and proper that a person against whom a *fama* (prejudicial report or rumour) prevails which has not yet been proved be suspended from church privileges, since it would not be for edification that such a person should partake of privileges while subject to a charge. But such a suspension is quite distinct from a suspension as a censure passed as a sentence at the close of a judicial investigation. An office bearer under preliminary suspension from privileges is also *ipso facto* suspended from the exercise of his office.

7.8 A court may proceed in a case of discipline on the ground of public report, but no judicial charge is made until it is ascertained that the *fama* is of a distinct character, and the offence to which it refers a fitting subject of discipline. Offences committed in the presence of a court or confessed to the court by the offender may be dealt with summarily, but in all other normal cases, no charge is proceeded with until it has been reduced to writing and the person charged has been cited. In case of refusal to appear after a second formal citation, the court may deal with the charge in his absence, and the offender also becomes liable to censure for contumacy (see 6.4). If the person charged is present, citation orally in the presence of the court is sufficient.

7.9 Discipline is exercised according to the nature and gravity of the offence by means of:

- a) admonition
- b) rebuke
- c) suspension from privileges
- d) deposition (if an office bearer)
- e) excommunication, either greater or lesser which are imposed according to the nature and gravity of the sin.

7.10 *Admonition* is administered either privately or before the court for any act manifestly inconsistent with Christian practice, and consists in solemnly addressing the person found guilty, placing his sin before him warning him of his danger, and exhorting him to greater circumspection.

7.11 *Rebuke* is administered in the court by the moderator, and consists of the solemn expression of reproof and censure in the name of the Lord Jesus Christ, and is administered when a person charged with a scandalous offence is either convicted, or has made confession of guilt.

7.12 *Suspension* or temporary deprivation of either church privileges or office is resorted to when the gravity of the offence demands it, and also when, after a profession of repentance and promise of amendment, the profession is not borne out and the promise not kept. The suspension may be removed as soon as the court sees sufficient ground for doing so.

7.13 *Deposition* refers to office bearers, and involves the judicial removal of the offender from his office, as well as the loss of all rights and privileges belonging to it. It is pronounced upon conviction or confession of some gross immorality, or of heresy or in consequence of contumacious resistance to the authority of church courts or serious inconsistency of conduct or departure from ordination vows. An offence necessitating deposition may not necessarily require suspension from privileges of membership (eg some departures from ordination vows).

7.14 *Excommunication* in its lesser and more usual sense is striking the offender off the roll and declaring him no longer a member of the church, and is applied in cases of peculiar aggravation as when the offence is obstinately denied although fully proved, or if acknowledged is defended, and when the individual continues impenitent. In this lesser sense of excommunication, one could also include those deletions from the membership roll which are made by resolution of session when a person has left the district without requesting a disjunction certificate, or has continued in absence from church services without proper cause for a period of at least one year. Where possible, such persons are to be communicated with and intention intimated before removing their names. Obviously, removal from the roll in these circumstances does not necessarily imply seriously censurable conduct.

7.15 *Excommunication* in its higher sense (I Cor 5:4-5; I Tim 1:20) is inflicted with the authority of the presbytery for grave and flagrant sins, and consists

in the pronouncing of the sentence of excommunication on the impenitent person, after due public intimation and public prayer for his repentance. Before the minister pronounces the sentence, he is to pray and desire all the congregation to join with him in it, that God would grant repentance to the obstinate person, would graciously bless his own ordinance and make the censure effectual, both to edify others, and to be a means to reclaim the obstinate sinner.

*“After the pronouncement of this sentence, the people are to be warned that they hold that person to be cast out of the communion of the Church, and that they shun all unnecessary converse with him or her; nevertheless, excommunication dissolveth not the bonds of civil or natural relations, nor exempts from the duties belonging to them.” [Form of Process, viii.17, General Assembly, 18 April, 1707].*

7.16 Confession, and an apparently sincere profession of repentance, when duly weighed by the court, and found to be satisfactory as far as man’s fallible judgement can reasonably go, form a sufficient ground for removing a sentence of suspension or excommunication and restoring the party to the full communion and fellowship of the church. Care should be taken to distinguish between sincere and false expressions of repentance.

The church makes no claim to absolve from sin in the sight of God. But assuming the genuineness of outward professions and appearances, she proceeds on the supposition that the offender has already sought and obtained forgiveness through the atoning blood of Christ. On this basis, the moderator of the court pronounces sentence of absolution in the name of the Lord Jesus.

A member who has been subject to discipline and is duly restored, is thereby entitled to be held in tender and brotherly regard by all his fellow members.

#### **7.17-7.22 TRIAL PROCEDURES - EVIDENCE ETC.**

7.17 The following order is observed in the trial of a case:

- a) the moderator states the case.
- b) the statement of charge is read and the accused heard in answer.
- c) when confession is not made and the case proceeds, the witnesses for the prosecution first, and afterwards those for the accused, are called, both being subject to cross-examination. Where, from any sufficient cause the personal attendance of a witness cannot be obtained, a

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statutory declaration or affidavit may be received.

- d) the parties having been heard, the accused is removed as also is the prosecutor (if not a member of the court - but see 7.18a)
- e) the court proceeds to consider the evidence and to make a decision in the case
- f) the decision is pronounced and the judgement entered upon the record. The accused is recalled to the bar and the decision intimated to him by the moderator.

7.18 The accused is entitled to a fair trial based on Christian standards. The following points indicate the principles involved in taking evidence:

- a) The testimony of more than one competent witness is necessary in order to establish any charge. Insane persons are not competent witnesses. Children apparently aware of the duty of telling the truth may testify, but their evidence may need corroboration by adults. Bad character does not disqualify a person from testifying, but does affect his credibility.

A member of a court is not disqualified from sitting as a judge by reason of having given testimony or acted as prosecutor in the case, but it is usual and desirable for a witness who is a member of a presbytery prosecuting a libel on its own initiative to abstain from judging the case, or for the presbytery, after taking the evidence, to refer the case to Synod for judgement (see 7.36). Professional counsel is not permitted as such to appear and plead in cases of process in any court. A next friend may be allowed in exceptional cases of mental or emotional disability to assist the accused.

Witnesses are examined on a solemn affirmation administered by the moderator, and in the presence of the accused or, if the accused is absent, after he has received due notice to attend. A witness ought not to be in court while previous witnesses are examined.

The solemn affirmation administered to witnesses is:

*“I solemnly affirm by Almighty God, and as I shall answer to God in the great day of judgement, that I will tell the truth, the whole truth, and nothing but the truth, so far as I know, or shall be asked.”*

Each witness is also required to give a negative answer to the following initial questions:

- i. Has any person told you what to say or promised/given you anything for your evidence?
- ii. Have you any malice or ill-will against any of the parties?

iii. Have you any personal benefit or advantage in the case?

b) The questions must be substantially pertinent to the case. A witness must give evidence not merely of what he knows but of the source of his knowledge. He must speak of what he himself knows not what he has heard or what a third party may have told him. Such is hearsay – not evidence – and is only permitted in reference to what he heard said by a deceased party, or by the accused or someone in the presence of the accused, if such words directly relate to the issue before the court. A witness may also be asked as to his knowledge of common rumour or reports at the time. Leading questions, e.g. asking a witness: Did he do or say so and so? rather than: What did he say or do? are not allowed, except in the introductory part of the examination of a witness or when he shows hostility or reluctance, or in cross examination. A witness examined on the facts, unless an expert, may not be asked his opinion of the facts but may be asked what belief or impression was produced at the time by the facts to which he testifies.

A witness may refer to writings of his own made at the time, to refresh his memory, but not to those of another. A witness need not answer incriminatory questions - and is advised he need not - but if he declines to answer, the circumstance is, of course, taken as an element of proof.

7.19 Members of the Presbyterian Church of Eastern Australia have a duty to appear as witness when duly cited. Aged persons or other witnesses unable to appear in person for valid reasons, may submit a statutory declaration, which may be received as evidence.

7.20 When a party is refractory or exhibits an improper spirit, the court may stay further procedure until he is brought to a better mind.

7.21 A member who during a process against him leaves the congregation, or who refuses to appear after having been duly cited, is regarded as a fugitive from discipline, and his name is erased from the roll.

7.22 In cases of discipline, as in other matters, the process may be brought before the next higher court by reference, complaint or appeal (see chapter 6).

### **7.23 - 7.26 DISCIPLINE BY SESSION**

7.23 The session has jurisdiction over the members of the congregation and all its office bearers other than the minister.

7.24 Many matters subject to discipline by the session can be dealt with in a firm but loving and tender way by discussion with the offender without a lengthy formal process. Care should be taken to ensure that a process is not begun where adequate proof is not available.

7.25 Should a prejudicial report or rumour arise or a charge be brought against an elder or deacon, the session, before proceeding with the case, institutes a preliminary enquiry, and gives the accused an opportunity of offering an explanation. Should satisfactory explanation be offered, the case ends. Great care is necessary to ensure the usefulness of office bearers is not imperilled by either hasty taking up of ill-founded allegations or failure to deal with the cause of allegations.

7.26 There are some cases of special offence, difficulty, or general concern that require to be referred to the presbytery. These cases include serious heresy or schism, as well as incest; adultery; fornication the third time; when a woman declares she does not know who is the father of her child; when it is desired to proceed to the greater excommunication (7.14); and other like matters, such as homosexual behaviour, child abuse and serious marriage breakdowns. In these cases the session deals with the offender with a view to confession, and then, confession or not, refers the case to the presbytery (6.6), citing the offender (6.4) to appear with session before the presbytery. As it is usual for the presbytery to send the case back to the session, with or without instructions, disregard of the citation by session is not considered censurable, yet it ought to be obeyed.

#### **7.27 - 7.28 DISCIPLINE BY PRESBYTERY**

7.27 As a court of review the presbytery judges of matters which come up by way of appeal, complaint or reference.

If the nature of the offence is one which does not require reference to presbytery in terms of 7.26, “the presbytery is to exercise great prudence, doing justice to the innocent, yet so as not to weaken the kirk session’s authority in that congregation, if in justice it can be avoided” (Form of Process, Assembly of 1707 v.7). The same authority also requires censure of appellants found malicious or litigious whose appeals are not sustained, and censure of appellants whose appeals are sustained but who are found to have been guilty of the offence dealt with by the session.

If the nature of the offence is one which requires reference to presbytery in terms of 7.26, the rights or wrongs of any appeal or complaint need not occupy much time, but the presbytery is warranted to enter at once upon the merits of the case.

7.28 Through its function of review or otherwise a presbytery may become aware of matters requiring discipline in a congregation, but in all ordinary cases the session concerned is first to be directed to attend to the matter.

#### **7.29-7.42 DISCIPLINE OF MINISTERS**

7.29 The presbytery has jurisdiction over ministers and licentiates residing within its bounds. A session may and should discuss concerns about the minister’s work with him, but it has no right of discipline over him.

In the case of prejudicial reports or allegations to the discredit of a minister or licentiate, the presbytery proceeds as follows:

- a) Ministers (and all presbytery members) ought to stir one another up in the common faith. Hence, friendly remonstrance with respect to their shortcomings and timely admonition can avert the necessity for more formal procedure at a future time.
- b) Allegations against a minister which do not involve unsoundness in doctrine or morals, or views or practices opposed to the order, unity and peace of the church, ought not to be rashly entertained. The knowledge and understanding of those who make allegations should be closely considered before the adoption of any action concerning them.
- c) If alleged errors are serious, striking at the vitals of religion, if they are strongly upheld or spreading among the people, a formal process by libel may be necessary.
- d) If the complaint against a minister involves a multitude of smaller things laid together, a special presbyterial visitation of the congregation is usual (4.44). In this case a careful investigation of the character and origin of the allegations must be made, whether they were ever made previously - if not, why not, and if so, why now brought up. The presbytery, if satisfied thus far, then seeks to discover what was done to acquaint the minister with the offence given by his conduct, and how far the offence has continued after such advice. The presbytery also seeks to discover if any of the complainants, in a prudent and private way, had first sought assistance from one of the

neighbouring ministers before their complaints had reached a stage demanding the involvement of presbytery.

- e) If by visitation or otherwise the presbytery find a prima facie case of acts of carelessness or passion on the part of the minister which can be resolved without continued hindrance to the ministry of the word, then all prudent steps are taken to satisfy all parties, rebuke their respective errors, and so do away with the offence.

A minister who considers himself aggrieved by the raising of any question regarding his conduct, or if he object to any investigation without regular trial, is entitled to demand that a libel be drawn up and served upon him before he will discuss the subject of the allegations with his co-presbyters.

Circumstances may occur which would justify him taking this ground, hence it may be sometimes necessary to proceed by libel with respect to charges which do not of necessity involve a great penalty. However, it is generally more consistent with the spirit of the Gospel that he should, at the very first, speak frankly and directly with those who propose to deal with him.

It ought to be carefully noted that no appeal or complaint at any stage of presbyterial action in a case or charge or *fama* which involves a libel of a minister or which may lead to the necessity of serving a libel against a minister, has the effect of staying procedure until the libel has been both served and found relevant.

7.30 A libel is the name given to a form of process consisting of two propositions, a major and a minor, with a conclusion.

The major proposition states that certain teachings or practices are contrary to or inconsistent with the standards of the church. The establishing of this, together with the logical coherence of the minor proposition and the major proposition, is known as relevancy. The minor proposition states that the accused has taught or done so (and specifies the leading particulars). The establishing this is known as probation.

After due hearings the church court must state the conclusion, the action to be taken with the accused.

As a written, regularly arranged statement of charge a libel must be signed by the party or parties prosecuting, and a list of witnesses and documents adduced in support of the charge embodied in it must

be appended. It is of great importance that care be taken to frame a libel with accuracy, so as to avoid grounds for questioning its relevancy. A libel against a minister cannot be adopted until it has been submitted for revision to the Synod Law and Advisory Committee (5.9).

7.31 The grounds that may warrant or require a presbytery to entertain or frame a libel against a minister or licentiate are three only:

- a) a person (or court) giving in a written complaint against the life or doctrine of the minister with some account of its probability, and undertaking to make out a libel;
- b) a person (or court) undertaking to make out a libel containing a charge as in (a), under the penalty of being censured as a slanderer if he fails to do so;
- c) a prejudicial report being so great that a presbytery, for their own vindication, find it necessary to begin a process without any particular accuser.

7.32 The principles in 7.29 are to be observed. In particular, since allegations against a minister, once raised, are not easily cleared away, a presbytery must weigh well the measure of credit due to the quarter from which the allegation proceeds, and must also ensure that a charge likely to be incapable of proof is not proceeded with. Also, the presbytery ought to do what it can, in the spirit of love and faithfulness, to bring a man against whom it finds good ground for entertaining or framing a libel to confess.

7.33 When a presbytery finds it necessary to be the libeller of an ordained minister it proceeds in this way:

- a) A libel is drawn up and revised (7.30).
- b) The accused is summoned, with 10 clear day's notice, to attend a meeting of presbytery at which the propriety of serving the libel is to be considered. A copy of the proposed libel must accompany the summons.
- c) At the meeting the presbytery considers carefully the relevancy of the libel - that the offence specified in the major proposition is truly such and that the libel is logically sound. The accused, if a member of presbytery, remains such during this stage and is entitled to participate. If the presbytery judge the libel to be irrelevant the proceedings cease, unless the irrelevancy is corrected by complaint, appeal or reference to Synod. If only part of it is found irrelevant the case may proceed on the part that has been found relevant.

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- d) After a libel against a minister has been found relevant, the presbytery ought to deal with him anew as to whether or not he is prepared to confess the truth of the charge or charges. For every reasonable consideration ought to be urged in order to persuade a Christian minister that, if an accusation against him is well-founded, it is his duty, both for his own sake and the sake of Christ's cause, to save his brethren or other parties the trouble of adducing proof against him either by witnesses or documents.
- e) If the accused minister persist in his denial of the charge or charges after the libel has been found relevant, the presbytery, if prepared to carry on the case without reference to Synod, must proceed to take the proof, after hearing the libel read over again, and after hearing also any answers that may have been given in on the part of the minister. A formal motion to serve the libel is requisite at this point.
- f) In every case in which a presbytery has resolved to order a libel served on a minister of the church, he ceases by that act to exercise the functions of his office, both ministerial and judicial, until the libel has been disposed of. If a minister objects to the resolution to serve the libel his remedy is by appeal not dissent and complaint.
- g) The whole procedure must be carefully minuted. It is expedient that it should be kept in a special minute book, lest from any proper cause the Synod should order the whole or any part of it to be deleted or destroyed. But it must be considered in the meantime as an integral part of the presbytery's minutes.

7.34 A libel against a licentiate is served before its relevancy is judged upon by the presbytery, but in other respects the procedure in 7.33 applies.

7.35 When a libel against a minister or licentiate is prepared and prosecuted by any other party than the presbytery, it must be presented to the presbytery, and can only be served by their authority. In this case its relevancy cannot be considered judicially until it has been served.

7.36 When a libel has been both served and found relevant it is competent for the presbytery, if it see cause, to refer the case to the Synod, either on the ground that it does not appear expedient in the circumstances for the presbytery to act both as prosecutors and judges, or on the ground that it does not appear expedient for the proof to be taken, except in the presence of those who have the power of giving a final deliverance as to its effect.

7.37 If a minister or licentiate confess himself guilty of any serious offence, such as flagrant or habitual intemperance, or of violating the seventh commandment, it is the duty of the presbytery to depose a minister immediately from his office, or to deprive a licentiate of his licence, and to deal with him otherwise as the ordinary discipline of the church requires, and as may be most for edification.

Where an offence by a minister has not been very flagrant or aggravated, suspension from office sine die - that is, indefinitely as to time - has sometimes been considered sufficient censure. But such a suspension is always accompanied by a sentence which looses the suspended minister from his pastoral charge, so that even if he is restored to the status of a minister, he is not restored to that charge.

A minister is a member of a congregation with jurisdiction over him in his Presbytery, discipline appropriate to a man as a minister may not necessarily affect his status as a member; in particular, the deposition of a minister does not remove him from membership of the church unless the deposition is accompanied by excommunication.

7.38 In inflicting censures upon ministers and licentiates a presbytery may either be called upon to execute its own judgements, when there is no appeal or complaint against them, or when they are confirmed by Synod, or it may be instructed to execute the judgements of the Synod.

7.39 If an accused minister, when duly cited, does not appear, and either leaves the locality or shows himself contumacious in some other way, without furnishing any relevant excuse, the Presbytery is required to hold him to have confessed, and to depose and censure him immediately with the lesser excommunication. If, after some time, he does not return and subject himself to discipline, he may be proceeded against so as to be censured with the greater excommunication, if the presbytery sees cause.

7.40 The full citation of a minister who does not obey an ordinary citation is a public citation from the pulpit of his church.

7.41 A tendered resignation of his office by a minister cannot stop procedure by libel against him for no resignation can be accepted unless the presbytery is satisfied no scandal or heresy can be justly brought against him.

7.42 It is competent for a minister to be restored to his status, and for a licentiate to have his licence

restored, upon profession of repentance which seems to be borne out by a course of consistent conduct. But great caution is necessary in entertaining the question of such restoration. Such restoration may be granted either by the presbytery which pronounced the sentence or by the presbytery having jurisdiction over him at the time when application for restoration is made, but the case is first referred to the Synod for advice and direction.

#### **7.43 - 7.49 DISCIPLINE BY THE SYNOD**

7.43 The chief action of the Synod in reference to discipline lies in the exercise of its powers as a court of review. Very serious questions as to the relevancy of libels, as to the competency and effect of evidence in cases of libel, and as to the procedure of presbyteries in judges of matters before sessions, may come up to the Synod by appeal, complaint or reference.

7.44 In dealing with questions of evidence duly brought before it, the Synod cannot have the witnesses personally before it so as to judge of their statements by seeing and hearing them while they give oral testimony. The Synod must form the best judgement it can from the recorded evidence transmitted to it by the presbytery, and from the pleadings of the parties at the bar of Synod. When the papers in a case are considerable in number they should be put in an orderly form and reproduced for the use of members of the court in judging the case.

7.45 If the examination of a presbytery's records by the Synod reveals what it regards as an irregularity or neglect on the subject of discipline, it is the function of the Synod to correct such irregularity or neglect according to the nature of the case. Thus it may reverse a judgement, or reverse a judgement and instruct the presbytery how to proceed, or it may call the presbytery's attention to a matter as requiring investigation, or as requiring more investigation than the presbytery has given it.

7.46 If any case of obvious scandal, or heresy, or contumacy is forced by circumstances on the attention of the Synod before it has reached any lower court having jurisdiction over the party, the Synod may either remit such a case to the lower court, or deal with it summarily by the direct exercise of its own authority.

7.47 In the event of a reference coming to Synod in terms of 7.36, the Synod may either differ from the presbytery as to the question of expediency, dismiss the reference, and require the presbytery to try the case themselves; or, secondly it may sustain the

reference, and resolve itself to try the case, or appoint a Special Commission to do so.

7.48 The Synod is the supreme court of the church beyond which there is no formal power of appeal and a matter there rests for the judgement of the Most High. At any stage of procedure brought constitutionally under its view, the Synod may either give special instructions to a presbytery, or appoint assessors to assist a presbytery, or appoint a Special Commission to deal with a matter for the right conduct of which the presbytery may be disabled by any peculiarity of circumstances. But, notwithstanding the general principle which would justify such interference by the Synod in extraordinary emergencies, it is held that without an extraordinary emergency special legislation is necessary to warrant any disturbance of the ordinary course of discipline, even by the authority of the Synod.

7.49 If a libel involving a charge or charges of scandal or heresy is found proved by the Synod, the sentence following upon such a judgement may either be pronounced by the Synod, or reserved for the action of the lower court in following out the Synod's instructions.

#### **7.50 INTERVIEWING WOMEN, CHILDREN AND VULNERABLE ADULTS [Act 1, Class 1 Synod 2012]**

1. Whereas the Synod reaffirms the need to have clearly defined procedures available for all Church Courts to follow; and

2. Whereas it is imperative that the Church meets the standards set out in civil regulations for best practice in modern society, particularly with regard to the interviewing of women, children and vulnerable persons, and in so far as these standards do not involve principles or practices in conflict with Scripture; and

3. Whereas sensitivity applies in all situations where women appear before an all-male Court, especially in relation to breaches of the seventh commandment or in any matter where questions of an intimate nature are raised; and

4. Whereas the Free Church of Scotland enacted under Barrier Act with the consent of all Presbyteries identical legislation to that now proposed except for the necessary modifications to relate it to this Church; WHEREFORE it is hereby enacted and ordained that:

1. Where judgment is announced with information that a complaint has been lodged by a member of the Church court, parties before the court should be informed of the possibility that the complaint may be abandoned so that the decision complained against stands. This possibility may be a factor in whether or not a party before the court decides to appeal.

2. It is open to anyone who appears before a Church court to be accompanied by a friend or support person. Depending on the circumstances of the case, the support person may be legally qualified. On such occasions, the Church court itself should arrange to have a legal assessor present. The court should receive no less than seven days notice of such attendance in order to make its own arrangements, if required.

3. Sensitivities apply in all situations where females appear before an all-male court, especially in relation to breaches of the seventh commandment or in any matter where questions of an intimate nature arise. If a female is a potential witness in a matter which could lead to the disciplining of a Church member, another female should, where practicable, conduct the initial interview of the female, for the purposes of obtaining a precognition, which could inform the decision whether to institute disciplinary process. In any such situation, the following regulations shall apply:

- a) The female who provides such assistance should be a mature believer, preferably a communicant member of the Presbyterian Church of Eastern Australia, or, where this is not possible, a professing Christian in another denomination. Such a female should possess appropriate professional qualifications and experience of the procedures and issues involved in interviewing females, whether from a legal, social work or similar background.
- b) The female must be appointed by the Church court involved. No interviews should be conducted by individuals who are not so appointed.
- c) The principal questions should be prepared in advance by the relevant Church court in liaison with the female who is to undertake the interview. At the discretion of the interviewer, supplementary questions may be asked in the light of answers received.
- d) Presbyteries are responsible to keep a list of suitably qualified females to undertake such interviews.
- e) Interviewers' reasonable expenses shall be paid by the appropriate court.

4. In the event that, having considered the precognition obtained, the Church court considers that a disciplinary process should be instituted, the general procedures applicable in all Church courts, as set out in the Handbook of Practice and Procedure shall be followed. In the event that it is deemed necessary to have a female give evidence to a Church court the court should consider in advance whether or not any special measures – such as giving evidence from behind a screen or via live video link or by a prior written statement or with a supporter - are practicable and appropriate. Before reaching a decision on whether such measures are appropriate, parties to the disciplinary process should have an opportunity to be heard.

5. In circumstances in which a minister or elder requires to interview a female in confidence, for example in connection with a pastoral matter, he should carefully consider the most appropriate venue for such an interview so as to ensure, so far as possible, that others are in close proximity.

6. Church courts should ensure that in all instances of the interview of a child (being a person under the age of sixteen) or other vulnerable witness (being a person who is not a child but in respect of whom there is a significant risk that the quality of his evidence would be diminished by reason of mental disorder or by reason of fear or distress in connection with giving evidence), the interview is conducted in a skilled manner and in a low-key environment, with questions being simple and nonleading, and with the child or other vulnerable witness being given a break or rest period at any time requested. Careful reflection is necessary, having regard to the whole circumstances of the case including the welfare of the child or other vulnerable witness, before any Church court seeks to have such a witness give evidence on a matter involving Church discipline.

7. If it is deemed necessary to have a child or other vulnerable witness give evidence to a Church court the court should consider in advance whether or not any special measures - such as giving evidence from behind a screen or via live video link or by a prior written statement or with a supporter - would be practicable and appropriate. If there is a significant risk that the quality of the witness's evidence would be diminished through mental disorder, fear or distress, or if it is felt that the giving of evidence without such special measures would be detrimental to welfare of the witness, an appropriate measure from such measures should be introduced where practicable provided its introduction, in the particular circumstances of the case, would not prejudice the legitimate rights of the party who is the

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subject of the disciplinary process. Before reaching a decision on whether any such standard or special measures are appropriate, parties to the disciplinary process should have an opportunity to be heard.

8. An individual who is the subject of a disciplinary process in connection with an allegation of sexual misconduct shall be prohibited from conducting his own defence. In such circumstances, a representative shall be appointed to conduct his defence.

## **CHAPTER EIGHT: SAFE CHURCH**

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### **8.1 INTRODUCTION & OVERVIEW**

Following revelations of unacceptable incidences of historic child abuse in churches and other institutions, the 2017 report of the Royal Commission into Institutional Responses to Child Sexual Abuse highlighted the need for institutions in Australia to improve their preventative measures, and to ensure that they have clear and understandable procedures to safeguard against abuse and to deal effectively with cases that may arise.

In 2018 Synod adopted a comprehensive Safe Church Policy and Code of Conduct as a further step towards ensuring a safe church for all who attend our ministries. The ongoing development of these standards is guided by the key recommendations of the Royal Commission, including its 10 Child Safe Standards, and the resolve to maintain a clear biblical basis.

The addition of this chapter to the Handbook is intended to ensure that information about the Church's policies and procedures is collected in one place to be easily accessed by church courts, office-bearers, other leaders and church members alike.

Relevant PCEA legislation is found in the following documents:

- 2019, Act 1, Class 1 – *Adoption of Safe Church Policy and Code of Conduct.*
- 2022, Act 1, Class 1 - *Safe Church Policy Amendment Act 2022*
- 2021, Act 5, Class 2 - *Complaints Handling Procedures*
- 2004, Act 1, Class 2 – *Guidelines for Church Workers*

### **8.2 COMPLAINTS HANDLING PROCEDURES**

(This section is Act 5, Class 2, 2021 – *Complaints Handling Procedures*)

#### **1. MAKING A COMPLAINT**

If you are a child, young person or vulnerable adult who has been abused then it is important that you tell someone about it. Anyone who has reasonable grounds to believe that a child or other vulnerable person has been abused or is at risk of abuse should also report this.

**1.1 Who should you speak to?** You can speak directly to the minister or one of the elders, or you can speak to any leader of a church activity such as a Sunday school teacher or youth leader. All our leaders have been trained to listen to your complaint, to take it seriously, and to report it to the session. You also have the right to go directly to the police or relevant government agency to report abuse.

**1.2 What if the abuser is one of the church leaders?** As a Church we try to be very careful about who we appoint to leadership positions but it is a sad reality that sometimes even a person who was trusted to be a suitable leader may use that position of trust wrongly to abuse others. This is unacceptable and it is important that it is reported to another leader in the Church, or directly to the police or relevant government agency.

**1.3 What if the abuse happened somewhere else?** Even if the abuse happened somewhere else, such as at school, or at a friend's house, you can still speak to the leaders at your church about this. They will listen to you and seek to help you.

**1.4 What if the victim is now an adult?** Abuse by a church leader should be reported even if it happened a long time ago. It may not be easy for a victim to speak about the abuse they experienced but the Church should seek to ensure that help and support are provided to the victim, who should be encouraged to bring a report to police.

**1.5 What is abuse?** Children and vulnerable people have a right to be safe, protected, and looked after in their family, daily life and at church activities. Abuse is when a leader, adult, or even another young

person, uses their power or position of trust in a wrong way to hurt or exploit by doing things to a child or vulnerable person, or making them do things, that are inappropriate or distressing. It can take many forms, including physical, sexual and emotional abuse, as well as neglect and exploitation.

## **2. OUR RESPONSE TO A COMPLAINT OR DISCLOSURE OF ABUSE**

**2.1 We will treat all disclosures seriously and record the details** - Our Church is committed to processes that strive for truth and confidentiality and will treat all allegations seriously and act upon them. A child or young person may disclose, deliberately or inadvertently, that he/she is a victim of abuse. Alternatively there may be reasonable grounds to suspect that a child or young person has been or is being abused. 'Reasonable grounds' is a subjective concept, but this does not remove responsibility from a person to act. In all cases, details will be recorded of what happened, when and where it happened, details of persons present or witnesses, using the complainant's own words as far as possible.

**2.2 We will be compassionate** - We are to ensure as far as possible that a compassionate response is a priority in all reported allegations especially at the time when details are sketchy and it is not yet certain that the allegations are accurate. At these times, when emotions may run high, leaders are not to pass judgment but to offer care and support to the aggrieved person(s) and, if practicable, to the alleged offender.

**2.3 We will report abuse to the relevant church body and the proper civil authorities** - Leaders and any others in the congregation who hear such disclosures or have reasonable grounds for concern should report the matter to the minister or an elder. You also have the right to go directly to the police or relevant government agency yourself and can ask advice from the congregational Protection Officer. From that time the session (or the presbytery if the allegation is against a minister), will appoint a suitable elder who will be the only one to have carriage of the matter for reportable conduct and will become the liaison person with the police and/or relevant government agency. This procedure shall also apply if a child discloses that the abuse has occurred somewhere else other than the church.

**2.4 We will not let fear of being wrong prevent us from reporting abuse** - The fear of being wrong is not sufficient ground for not reporting the concerns.

**2.5 We will take immediate steps to minimise the risk of further harm** – As soon as the session becomes aware of a complaint of abuse they must carry out a risk assessment to identify risks of harm that exist and they must take steps to ensure that those risks are minimised in order to protect the safety of children and vulnerable.

**2.6 We will keep careful and confidential records** – Confidential records (as a record apart) will be kept by the session clerk and controlled under the privacy legislation of the Church. These records will contain the details of any alleged abuse and the steps taken to process the alleged abuse with the resolution of the process and any conditions placed on the parties involved with all relevant supporting documents (or attested copies) attached. Copies will be kept with the session records for 50 years and then archived at the direction of Synod. A duplicate certified copy of the above records will be lodged with the presbytery clerk.

## **3. INVESTIGATING A COMPLAINT**

**3.1 Initial stage** - At the initial stage, allegations of child sexual abuse when the alleged victim is still under 18 years of age must not be further investigated by the Church, and neither should the child/young person or the accused be questioned by the Church. When the matter involves criminal behaviour, this must be investigated first by the police.

**3.2 Confidentiality** - There will be no disclosure to any interested parties connected with allegedly abused child to avoid contamination of evidence and prejudice of investigations. Although the Church minister and session are to be advised, at this stage it will not become a matter for session to act upon nor of presbytery involvement (unless a minister of the Church is the accused).

**3.3 Precautionary suspension** - Any church leader or worker who is accused will be stood down by the session or presbytery from his/her position until the police investigations and Church investigations are concluded.

**3.5 Investigation according to Biblical standards** – When any police investigation is concluded the Church will conduct its own investigation. It is possible that charges arising from the police investigation may not be proved to the satisfaction of the civil court. Nevertheless, the standards of conduct required by the Word of God are to be maintained by the Church. Irrespective of any other action that may be taken, the Church reserves the

right to exercise its own powers of discipline over adherents, members and office-bearers.

**3.6 Disciplinary action** – Following investigation by the Church, any minister, office-bearer or other leader found guilty of the sexual abuse of a child, young person, or other vulnerable person, will be immediately removed from office and from all other positions or roles they may hold within the Church.

#### **4. PROVIDING SUPPORT AND ASSISTANCE**

**4.1 We will seek to provide appropriate support to victims** - Appropriate sensitive pastoral care will be extended to any child, young person or vulnerable adult who has made a disclosure of abuse, by the following protocols:

- not pushing the child or young person to disclose details of the alleged assault
- not attempting to investigate the allegation
- assuring the person that they are understood; that their disclosure is being taken seriously; that what has happened is not their fault and that they are correct in disclosing the incident.
- not making contact with the alleged offender to discuss the case.
- maintaining confidentiality by speaking only to those parties recommended by the police (or delegates), even though this may cause emotional tension.

**4.2 We will provide ongoing care and support for victims and their families** – This is the responsibility of the session and will normally be carried out by the minister or an elder. The Church should also assist victims and families to find information and obtain help from sources outside the Church if desired.

### **5. REVIEW OF PROCEDURES**

#### **5.1 Commitment to review**

We are committed to regularly reviewing and improving our Safe Church standards to ensure that our Safe Church Policy, Code of Conduct and procedures are effective in protecting children and the vulnerable from harm. We also want our stated procedures to be clear, accessible and easy to follow for all.

An internal review is to be carried out after a complaint process has been concluded. Any causes of systemic failure should be identified and the views of leaders, complainants, and the victim or their family should be sought wherever possible.

Details of the review are to be retained as confidential records.

Safe Church training events may provide a regular opportunity for presbyteries to review, with leaders, how well they are able to understand and implement the Safe Church standards in their congregations.

Observations, comments and suggestions should be forwarded to the relevant Synod committee to facilitate improvements to the Church's policies and procedures.

#### **5.2 Review with leaders**

Questions to leaders who were involved in reporting or investigating a complaint may be along the following lines:

- a. Was there some inadequacy or systemic failure in the Church's procedures, or in the implementation of these procedures, that resulted in harm to a child or other vulnerable person under your care?
- b. Were you as a leader/session clear about your duties?
- c. Was the complaint process easy to understand and follow?
- d. Was there anything unclear in the Safe Church Policy, Code of Conduct or complaints procedure, or anything in these documents that requires to be clarified or to be updated?

#### **5.3 Review with complainants, victims or their families**

The views of complainants, victims or their families should be sought wherever possible in the review process. This will require particular care and sensitivity depending on the nature of the case. They may wish to submit responses in writing or prefer to meet with an appropriate person who has been appointed by the Church to talk with them and record their views. If it has not been possible to obtain these views then the reasons for this should be stated in the report. Questions may be along the following lines:

- a. Was the complaint process easy to understand and follow?
- b. Did you feel listened to and was your complaint taken seriously?
- c. Did you feel the Church handled the complaint appropriately?
- d. Did the Church take proper steps to protect children and the vulnerable from harm?

### **8.3 DUTIES OF SESSION**

The particular duties of the session in regard to Safe Church matters are:

#### **1. Actively minimising risks of harm to children and the vulnerable** (*Safe Church Policy 2, 10 & 13*)

The Bible requires us (as per the principle in Deuteronomy 22:8) to do our best to foresee possible sources of danger and put in place reasonable safeguards. We also recognise the need in doing this to strike a sensible balance between taking precautions on the one hand and, on the other, not being unreasonably oppressive when it comes to guarding against possible scenarios.

If the session becomes aware of a complaint of abuse they must carry out a risk assessment to identify risks of harm that exist and they must take steps to ensure that those risks are minimised in order to protect the safety of children and vulnerable.

If the minister, elders or other leaders become aware that any person attending any of its services or activities is the subject of a substantiated complaint of child sexual abuse, or has been convicted of an offence relating to child sexual abuse, they must make this known to the session. On receiving such information the session must assess the level of risk posed to children by such a person's ongoing involvement in church activities and take appropriate steps to manage that risk. Such steps may require that the known offender always attend all meetings under the supervision of a responsible individual named by session.

#### **2. Carefully selecting and appointing church workers** (*Safe Church Policy 9*)

This is a critical aspect in preventing harm and requires care and patience, with prayer. The most important thing is to appoint godly leaders who are well known members of the congregation. When Paul chose Timothy to be his assistant ministry worker he obtained the opinions of the local church members at Lystra/Iconium (Acts 16:2). The session should also be encouraging those who have the gifts for service and leadership.

For those who will be working with children and young people, the following protocols apply:

- applicants must be members of the congregation for at least one year (less time approved only if they are well attested from another congregation of the PCEA with at least two referees' reports)
- applicants for leadership positions must be approved by the local session

- before they commence working as a leader they must have a WWCC clearance
- they must undertake initial and follow-up training as prescribed by presbytery
- they must continue regularly at the public worship in the congregation
- they must have ongoing supervision and mentoring by an elder

#### **3. Working with Children Checks** (*Safe Church Policy 9*)

The following guidance is believed to be correct as at July 2024:

##### **New South Wales** – [www.ocg.nsw.gov.au](http://www.ocg.nsw.gov.au)

The session (as 'employer') must ensure their congregation is registered with the Office of the Children's Guardian. Two names of session members have to be supplied for notification if a leader ('employee') subsequently offends and is barred. All who have a role in working with children must obtain a Working with Children Check number which they must supply to the Church along with their date of birth. The session through its clerk or congregational Protection Officer will use this information to verify that the person is cleared to work with children.

##### **Queensland** - [www.bluecard.qld.gov.au](http://www.bluecard.qld.gov.au)

Church employees and volunteers who work with children and young people must hold a blue card. The session through its clerk or congregational Protection Officer must notify Blue Card Services that the individual is commencing regulated child-related work with the Church by submitting the relevant form available from the website.

##### **Tasmania** – [www.cbos.tas.gov.au/topics/licensing-and-registration](http://www.cbos.tas.gov.au/topics/licensing-and-registration)

Individuals who will be working with children, whether as employees or volunteers, must register with the Tasmanian government.

The session through its clerk or congregational Protection Officer must check the status of employees and volunteers online before they start working or volunteering with the church. The registration card alone is not to be accepted as proof. It is important that the Church's details are linked to a registration so that it can be notified if there has been a change to the status e.g. suspended or cancelled registration.

##### **Victoria** - [www.workingwithchildren.vic.gov.au](http://www.workingwithchildren.vic.gov.au)

Individuals who engage in child-related work in Victoria must apply for a Working with Children Check either as an employee or volunteer.

The session through its clerk or congregational Protection Officer must check the status of a worker's Working with Children Check card before engaging them. It's not enough to just see a worker's card. The individual must update their details to include the congregation's name via their MyCheck account and a letter of confirmation will be sent to the Church.

#### **4. Appointing a protection officer** (*Safe Church Policy 7*)

The session of each congregation will appoint a suitable protection officer (or officers) who will be responsible for the following:

- promoting to the congregation the details and importance of the Safe Church Policy including the Code of Conduct
- being readily available to answer queries and to provide information to the congregation and others (e.g. parents) when required
- keeping the non-confidential records such as the WWCC documentation and training records for each leader (and other records as outlined below)
- checking on the training of all leaders and liaising with the clerk of presbytery concerning training courses
- providing a report to the clerk of session annually, or as required

#### **5. Maintaining proper documentation** (*Safe Church Policy 8*)

Within each congregation there will be two sets of records kept in books or folders.

*Non-confidential records* showing the list of approved workers, dates of appointment to positions, Working with Children Check approval numbers and dates and training programmes attended; also to be recorded here are the training course programmes delivered to the congregation with name of the providers, objectives, content, dates of delivery and attendees. Registers are also to be kept showing attendance records of all those participating in youth activities, and these are to be retained for 25 years. These records are kept by the congregational protection officer.

*Confidential records (as a record apart)* are kept by the session clerk and controlled under the privacy legislation of the Church. These records are to contain the details of any alleged abuse and the steps taken to process the alleged abuse with the resolution of the process and any conditions placed on the parties involved with all relevant supporting documents (or attested copies) to be attached. Copies are to be kept with the session records for 50

years and then archived at the direction of Synod, in accordance with the provisions of the Privacy Policy. A duplicate certified copy of the above records should be lodged with the presbytery clerk. Session clerks are authorised to release relevant confidential information for insurance purposes upon receipt of a written request from the person or committee that organises the Church's insurance renewal. Confidential records are not to be stored or communicated electronically except where there is a statutory requirement to do so.

#### **6. Receiving and responding to allegations of abuse** (*Safe Church Policy 10*)

Leaders and any others in the congregation who hear disclosures of abuse or have reasonable grounds for concern may go directly to the police and/or report the matter to the minister/interim-moderator or an elder. From that time the session will appoint a suitable elder who will be the only one to have carriage of the matter for reportable conduct and will become the liaison person with the police and/or relevant government agency. This procedure shall also apply if a child discloses that the abuse has occurred somewhere else other than the Church.

Allegations against a minister or licentiate must be dealt with by his presbytery. The allegation should go immediately to the clerk of presbytery, (or to the moderator if the clerk is the one accused).

Full details of the procedures for responding to and investigating allegations can be found in the Handbook 8.2 (*See also Safe Church Policy 10*)

#### **7. Determining exceptions to the Code of Conduct in specific cases** (*Code of Conduct 3(l)*)

Where a minor protocol cannot be followed due to an emergency or unexpected situation, the session (or supervising body) must be notified in writing as soon as practicable. A temporary variation may also be approved in advance. In both cases the session must determine whether or not the circumstances justify the departure from protocol and must carefully document its finding.

#### **8. Review** (*Safe Church Policy 3*)

The Church is committed to regularly reviewing and improving its Safe Church standards. Comments and suggestions may be forwarded to the Law and Advisory committee at any time to facilitate improvements to the Church's policies and procedures. In particular, sessions are required to carry out an internal review after a complaint process has been concluded. Further details can be found in Handbook 8.3 section 5.

## **8.4 DUTIES OF PRESBYTERY**

The presbytery has a responsibility to promote Safe Church matters throughout its bounds and oversee the implementation of the Safe Church Policy and procedures within its jurisdiction. The particular duties of presbytery in regard to Safe Church matters are:

### **1. Careful selection and appointment of ministers, licentiates and other workers**

In processing a call to a minister or licentiate, and before licensing, ordination and induction, the presbytery has a duty to ensure that background checks have been carried out and that the individual concerned is of good character and reputation and has a Working With Children Check (WWCC) clearance.

If the call is to a minister outside the PCEA, including from another country, who is eligible for call, the appropriate credentials must be sought including a fully completed application form, criminal/sexual abuse checks and at least two appropriate referees' reports.

Other workers appointed by presbytery to particular roles should be well known within the church, having been members of a PCEA congregation for at least 12 months and well attested by that congregation. If they have not been members for 12 months then they should be well attested by their previous congregation, with a minimum of two referees' reports being required.

### **2. Organising training for leaders (*Safe Church Policy 15*)**

It is required that those working with children and the vulnerable be given appropriate training in Safe Church matters. The clerk of presbytery is to organise approved initial and ongoing training for all leaders and office-bearers in the congregations of their jurisdictions. Records will be kept and details provided to government agencies as required. Records also are to be kept by the congregational Protection Officers.

### **3. Maintaining proper documentation (*Safe Church Policy 8*)**

The presbytery clerk will maintain two sets of records kept in books or folders.

*Non-confidential records* showing the list of ministers, licentiates and other workers, dates of appointment to positions, Working With Children Check approval numbers and dates and training

programmes attended; also to be recorded here are the training course programmes delivered with name of the providers, objectives, content, dates of delivery and attendees. Registers are to be kept showing attendance records of all young people participating in youth events organised by the presbytery, and these are to be retained for at least 25 years.

*Confidential records (as a record apart)* These records are to contain the details of any alleged abuse and the steps taken to process the alleged abuse with the resolution of the process and any conditions placed on the parties involved with all relevant supporting documents (or attested copies) to be attached. Copies are to be kept with the presbytery records for 50 years and then archived at the direction of Synod. Similar records are also kept by session clerks relating to cases within their congregation. A duplicate certified copy of such session records should also be lodged with the presbytery clerk. These records are to be kept by the presbytery clerk and controlled under the privacy legislation of the Church. Presbytery clerks are authorised to release relevant confidential information for insurance purposes upon receipt of a written request from the person or committee that organises the Church's insurance renewal. Confidential records are not to be stored or communicated electronically except where there is a statutory requirement to do so.

### **4. Receiving and responding to allegations of abuse (*Safe Church Policy 10*)**

Leaders and any others who hear disclosures of abuse or have reasonable grounds for concern must report it immediately. They may go directly to the police and/or report the matter to the minister/interim-moderator or an elder.

Allegations against a minister or licentiate must be dealt with by his presbytery. The allegation should go immediately to the clerk of presbytery, (or to the moderator if the clerk is the one accused). From that time the presbytery will appoint a suitable minister or elder who will be the only one to have carriage of the matter for reportable conduct and will become the liaison person with the police and/or relevant government agency. This procedure shall also apply if a child discloses that the abuse has occurred somewhere else other than the church.

When presbytery becomes aware of a complaint of abuse it must immediately assess the risks of harm that exist and take steps to ensure that those risks are minimised in order to protect the safety of children and vulnerable.

Full details of the procedures for responding to and investigating allegations can be found in the Handbook 8.2 (*See also Safe Church Policy section 10*)

**5. Approving temporary exceptions to the Code of Conduct in specific cases** (*Code of Conduct 3(l)*)

Where a minor protocol cannot be followed due to an emergency or unexpected situation, the session (or supervising body) must be notified in writing as soon as practicable. A temporary variation may also be approved in advance. In both cases the supervising body must determine whether or not the circumstances justify the departure from protocol and must carefully document its finding.

**6. Work with a body external to the Church** (*Safe Church Policy 13*)

Decisions to enter into agreements with other churches or organisations for the provision of advice on child protection issues or to conduct appropriate training for church workers will be made by presbyteries.

Using the services of other organisations in child related ministries (e.g. at camping, conference and other sites) is allowed if that organisation agrees to uphold this Church's Safe Church Policy and Code of Conduct.

**7. Review** (*Safe Church Policy 3*)

Presbytery should regularly review the implementation and effectiveness of Safe Church matters within its bounds. Comments and suggestions for improvement should be forwarded to the Law and Advisory committee. In particular, presbyteries are required to carry out an internal review after a complaint process has been concluded. Further details can be found in Handbook 8.2 section 5.

Safe Church training events may provide a regular opportunity for presbyteries to review, with leaders, how well they are able to understand and implement the Safe Church standards in their congregations.

**8.5 DUTIES OF SYNOD**

The particular duties of Synod in regard to Safe Church matters are:

**1. Legislating for a clear PCEA-wide approach to Safe Church matters**

Synod is ultimately responsible for ensuring that the Church has effective and clear policies and

procedures in place for the prevention of abuse, and for the processing of complaints about abuse should they arise. The Royal Commission recommended that each denomination have a unified national approach. It is the responsibility of Synod to put in place policies and procedures which apply throughout the PCEA, Australia-wide, that take into account relevant state legislation and the examples of best practice from other similar institutions. Synod should be advised in this by its Law and Advisory Committee.

**2. Reviewing and updating Safe Church legislation** (*Safe Church Policy 3*)

Synod should ensure that the review of its current Safe Church standards be ongoing through its Law and Advisory Committee. Observations of difficulties in implementing or using the Safe Church standards, as well as suggestions for improvements, may be submitted by individuals, sessions and presbyteries to the Law and Advisory Committee at any time but especially following an incident or complaint. Standard questionnaires may be made available to church courts to facilitate feedback. Identification of systemic failures or recommendations for improvement should be made to Synod through the Law and Advisory Committee.

**3. Insurance**

Synod maintains Australia-wide Public Liability insurance in respect of the activities of the Church but there is no cover for sexual molestation arising from persons known to have been previous offenders or against whom a complaint has been made which has not been appropriately investigated.

It is necessary that certain confidential information be disclosed to insurers to maintain cover. Presbytery clerks and session clerks are required and authorised to release such information upon receipt of a signed request from the person or committee that organises the insurance renewal. Such information is to be used only for insurance purposes and is not to be retained longer than is necessary for these purposes nor is it to be retained electronically by either party.

**4. Record Keeping by Youth and Fellowship Committee**

The Youth and Fellowship committee must keep a register showing attendance records of all those participating in the camps and other activities which it organises. These are to be retained for at least 25 years.

## **8.6 SAFE CHURCH POLICY**

### **1. Introduction**

Christians are required by the Lord of the Church to think, speak and act in ways that are God-honouring, biblically obedient and motivated by the Christian values of love, mercy and justice. Unfortunately, perpetrators of crimes often seek out churches because they are welcoming, while Christians can also backslide into serious sin. Accordingly, the Presbyterian Church of Eastern Australia, in applying the principles of God's Word, has adopted this fuller Safe Church Policy and the associated Code of Conduct for Church Workers.

This policy is a public document highlighting our resolve to maintain a safe church for all who attend our ministries. It is a privilege to serve Christ in working with all those who entrust themselves to our care, particularly children, young people, and the vulnerable as we help them to become and to mature as disciples of Jesus Christ.

However with this privilege comes responsibility. We have a high calling to protect the vulnerable among us, especially the young, and it comes from the Lord Jesus Himself. *“Let the little children come to me, and do not forbid them; for of such is the kingdom of God. Assuredly, I say unto you, whoever does not receive the kingdom of God as a little child will by no means enter in.” And He blessed them.* Mark 10: 14-16. Just as those first century children felt safe and secure with Jesus, so all children should feel safe and secure in our care. Their parents should also feel confident in leaving their children with us, knowing that we shall protect them from harm, whilst sharing the love of Christ in word and deed.

Parents have the primary responsibility to teach and to protect their children and they need to be assured that church leaders will similarly teach good things and protect their children. Church leaders undertake their task with responsibility towards parents and towards God. This policy seeks to fulfil the expectations of parents as well as society in these matters. These are set down in state laws but biblical standards are even higher, particularly when it comes to the care of children (including the unborn), the disabled and the elderly.

### **2. A Biblical Perspective**

Firstly, we recognise that sin not only affects our relationship to God but also our relationships with one another. The Bible identifies sin as the root cause of the abuse and miseries we see in society. The institutional church is not free from such abuse

as it is comprised of sinful people at varying levels of Christian commitment as well as the unregenerate. But the church should be conforming to God's standards.

In His teaching summarising the Ten Commandments, Jesus said, 'You shall love your neighbour as yourself' (Luke 10:27). Jesus pronounced severe punishment upon anyone bringing offence or harm to 'one of these little ones' (Luke 17:2). The church therefore should always be ready to help the poor, the young and the vulnerable and to defend them from harm and exploitation. This teaching underlies our Safe Church practices.

In the law given through Moses there were many regulations designed to provide for, and to protect, 'the stranger, the fatherless and the widow' (Deuteronomy 14:29, 24:17-22, 26:12-13, 27:19, Psalm 82:3-4, Isaiah 1:17, Jeremiah 7:5-7, 22:3, Zechariah 7:9,10). This law reflected the heart of God himself, and Jesus reflected the same heart of love. He was moved with compassion for the widow of Nain (Luke 7:13), and for little children (Matthew 19:14). James writes, 'Pure and undefiled religion before God and the Father is this: to visit orphans and widows in their trouble, and to keep himself unspotted from the world.' (James 1:27).

Biblical standards include those of justice as well as mercy. These standards make provision for false allegations of abuse, either mistaken or deliberate, which may arise in the Church. This is also a serious offence (Deuteronomy 19:16-21) as persons falsely accused in public can suffer loss of reputation and health. Therefore, when an accusation is made it is important that we, as a church, judge with righteous judgment (Proverbs 17:15). 'The house of God, which is the church of the living God, (is) the pillar and ground of truth' (1 Timothy 3:15).

The Bible requires us (as per the principle in Deuteronomy 22:8) to do our best to foresee possible sources of danger and put in place reasonable safeguards. We also recognise the need in doing this to strike a sensible balance between taking precautions on the one hand and, on the other, not being unreasonably oppressive when it comes to guarding against possible scenarios.

### **3. Outline of Principles and Practices by the PCEA and its Congregations**

As a national organisation, the Presbyterian Church of Eastern Australia is committed to safe ministry by the following principles and practices:

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- advocating Biblical principles which value children, young people and the vulnerable. We believe this will result in a safe, friendly and nurturing environment
- complying with Government requirements concerning all vulnerable people
- carefully appointing and monitoring leaders who oversee church ministries
- appointing a 'Protection Officer' in each congregation to promote safe church matters and to keep records
- providing initial and regular follow-up training on safe church matters
- delivering (reporting) to the civil authorities any whose conduct infringe criminal codes
- disciplining (by documented procedures) and counselling any who exploit children, young people, the vulnerable or those who make false accusations
- regularly reviewing the implementation and effectiveness of this policy and updating as required.

### **4. Definitions**

**4.1 Child:** A person under the age of 16 years (some laws, under 18 years of age)

**4.2 Young Person:** A person from 16 to 18 years of age

**4.3 Vulnerable Person:** A child or someone who by reason of mental incapacity or other disability, age or illnesses may be unable to take care of or protect themselves against harm or exploitation by another person

**4.4 Abuse categories:** Each of the following constitutes a reportable offence

**(Serious) physical abuse** occurs when a child or vulnerable person is severely and/or persistently hurt or injured. It can occur in the context of domestic violence.

**Sexual abuse** occurs when a child or vulnerable person is exposed or subjected to sexual behaviours or threat to commit such behaviours that are exploitative or inappropriate. It usually occurs when a person uses their power and authority to take advantage of another's trust to involve them in sexual activity. Sexual abuse does not necessarily involve physical contact. It includes any act which erodes the sexual boundary between two persons. It may appear to be consensual, but the validity of consent is negated by the power differential.

**Emotional (psychological) abuse** occurs when a child or vulnerable person is repeatedly treated in ways that damage their ability to feel, express their feelings and develop self-esteem.

**Neglect** is a legally defined term and occurs when a child or vulnerable person is deprived of the basic physical and emotional necessities of life (such as freedom of movement, food, medical care, clothing, housing, education).

**4.5 WWCC:** A Working With Children Check is carried out by State Governments, using a national database, to provide a clearance to work with children based on police records.

### **5. Positions for Ministry**

These include the minister and any other paid employees, elders, deacons, carers (including the crèche), Sunday School teachers and helpers, Kid's Club leaders and helpers, Youth Group leaders and helpers and Scripture Teachers (SRE). Most of these positions are voluntary.

### **6. Code of Conduct for Church Workers 2021**

This is an associated document to be followed by all leaders and office-bearers. This Code may be updated from time to time by the Synod.

### **7. Protection Officer**

The session of each congregation will appoint a suitable Protection Officer (or Officers) who will be responsible for the following:

- promoting to the congregation the details and importance of the Safe Church Policy including the Code of Conduct
- being readily available to answer queries and to provide information to the congregation and others (e.g. parents) when required
- keeping the non-confidential records such as the WWCC documentation and training records for each leader (and other records as outlined below)
- checking on the training of all leaders and liaising with the clerk of presbytery concerning training courses
- providing a report to the clerk of session annually, or as required

### **8. Record-Keeping**

Within each congregation there will be two sets of Records kept in books or folders

**8.1 Non-Confidential records** showing the list of approved workers, dates of appointment to positions, Working With Children Check approval numbers and dates and training programmes

attended; also to be recorded here are the training course programmes delivered to the congregation with name of the providers, objectives, content, dates of delivery and attendees. Registers are also to be kept showing attendance records of all those participating in youth activities, and these are to be retained for at least 25 years. These records are kept by the congregational Protection Officer.

**8.2 Confidential records (as a Record Apart)** kept by the session clerk and controlled under the privacy legislation of the Church. These records are to contain the details of any alleged abuse and the steps taken to process the alleged abuse with the resolution of the process and any conditions placed on the parties involved with all relevant supporting documents (or attested copies) to be attached. Copies are to be kept with the session records for 50 years and then archived at the direction of Synod. A duplicate certified copy of the above records should be lodged with the presbytery clerk. Presbytery clerks and session clerks are authorised to release relevant confidential information for insurance purposes upon receipt of a written request from the person or committee that organises the Church's insurance renewal. Confidential records are not to be stored or communicated electronically.

### **9. Selection Process for Church Workers**

This is a critical aspect in preventing harm and requires care and patience, with prayer. The most important thing is to appoint godly leaders who are well known members of the congregation. When Paul chose Timothy to be his assistant ministry worker he obtained the opinions of the local church members at Lystra/Iconium (Acts 16:2). We also should be encouraging those who have the gifts for service and leadership.

For those who will be working with children and young people, the following protocols apply:

- applicants must be members of the congregation for at least one year (less time approved only if they are well attested from another approved congregation, with at least two referees' reports)
- applicants for leadership positions must be approved by the local session
- before they commence working as a leader they must have a WWCC clearance
- they must undertake initial and follow-up training as prescribed by presbytery
- they must continue regularly at the public worship in the congregation
- they must have ongoing supervision and mentoring by an elder

### **10. Procedures for Dealing with Alleged Abuse**

Our Church is committed to processes that strive for truth and confidentiality and will treat all allegations seriously and act upon them. Information about how to make a complaint can be found in our COMPLAINTS HANDLING PROCEDURES (Act 5, Synod 2021), which also sets out how the Church will respond and investigate the complaint.

A child may disclose, deliberately or inadvertently, that he/she is a victim of abuse. Alternatively there may be reasonable grounds to suspect that a child has been or is being abused. 'Reasonable grounds' is a subjective concept, but this does not remove responsibility from a person to act.

We are to ensure as far as possible that a compassionate response is a priority in all reported allegations especially at the time when details are sketchy and it is not yet certain that the allegations are accurate. At these times, when emotions may run high, leaders are not to pass judgment but to offer care and support to the aggrieved person(s) and, if practicable, to the alleged offender. Pastoral care at all stages is very important (see further under Item 11).

Leaders and any others in the congregation who hear such disclosures or have reasonable grounds for concern may go directly to the Police and/or report the matter to the Minister/Interim Moderator or an elder. From that time the session will appoint a suitable elder who will be the only one to have carriage of the matter for reportable conduct and will become the liaison person with the Police and/or relevant Government agency. This procedure shall also apply if a child discloses that the abuse has occurred somewhere else other than the church.

When session becomes aware of a complaint of abuse it must immediately assess the risks of harm that exist and take steps to ensure that those risks are minimised in order to protect the safety of children and the vulnerable.

At this stage, allegations of child sexual abuse when the alleged victim is still under 18 years of age must not be further investigated by the Church, and neither should the child/young person or the accused be questioned by the Church. When the matter involves criminal behaviour, this must be investigated first by the police.

There will be no disclosure to any interested parties connected with allegedly abused child to avoid contamination of evidence and prejudice of investigations. Although the church minister (or

interim moderator) and session are to be advised, at this stage it will not become a matter for session to act upon nor of presbytery involvement (unless a minister of the Church is the accused).

Any church leader or worker who is accused will be stood down by the session from his/her position until the investigations are concluded. Irrespective of any other action taken by bodies outside the Church, the PCEA church discipline procedures, if necessary, will apply according to the Handbook of Practice and Procedure following the conclusion of Police investigations and the outcome of any Court or other legal proceedings.

Following investigation by the Church, any leader found guilty of sexual abuse will be immediately removed from office and from all other positions or roles they may hold within the Church.

### **11. Pastoral Care for Children & Young People who are Alleged Victims of Abuse**

Appropriate sensitive pastoral care will be extended to any child, young person or vulnerable person who has made a disclosure of abuse, by the following protocols:

- not pushing the child or young person to disclose details of the alleged assault
- not attempting to investigate the allegation
- assuring the person that they are understood; that their disclosure is being taken seriously; that what has happened is not their fault and that they are correct in disclosing the incident.
- not making contact with the alleged offender to discuss the case
- maintaining confidentiality by speaking only to those parties recommended by the Police (or delegates), even though this may cause emotional tension.

### **12. False Allegations**

Accusations of abuse raised due to ignorance, by unwarranted suspicion or malice may prove to be false. Reputations can be irrevocably tarnished by a false accusation which is clearly forbidden under the ninth commandment, "You shall not bear false witness against your neighbour." Exodus 20:16.

False accusations may themselves constitute criminal behaviour and as such, redress may be contemplated by the aggrieved. But it is preferable that false accusations should be dealt with by the session with counselling and seeking of forgiveness.

However, the fear of being wrong in reporting situations where it is believed that abuse has

occurred is not sufficient ground for not reporting the concerns.

### **13. Managing Known Offenders**

If the minister, elders or other leaders become aware that any person attending any of its services or activities is the subject of a substantiated complaint of child sexual abuse, or has been convicted of an offence relating to child sexual abuse, they must make this known to the session.

On receiving such information the session must assess the level of risk posed to children by such a person's ongoing involvement in church activities and take appropriate steps to manage that risk. Such steps may require that the known offender always attend meetings under the supervision of a responsible individual named by session.

### **14. Working with a Body External to the Church**

Using the services of other organisations in child related ministries (e.g. at camping, conference and other sites) is allowed if that organisation agrees to uphold the policies contained in this document.

Decisions to enter into agreements with other churches or organisations for the provision of advice on child protection issues or to conduct appropriate training for church workers will be made by Presbyteries.

### **15. Training**

It is required that those working with children and the vulnerable be given appropriate training in Safe Church matters. The clerk of presbytery will organise approved initial and ongoing training for all leaders and office bearers in the congregations of their jurisdictions. Records will be kept and details provided to Government agencies as required. Records also are to be kept by the congregational Protection Officers (see item 8.1 above).

## **8.7 SAFE CHURCH CODE OF CONDUCT**

**1.** As a person in a position of leadership within the church you must always be concerned about the integrity of your position and remember that you are representing the church of the Lord Jesus Christ.

**2.** You should avoid situations where you will be vulnerable to temptation and where your conduct may be construed to be a breach of God's holy standards.

3. With regard to young people and children, appropriate conduct includes the following protocols:
    - a. When visiting children in their homes, leaders will only do so if a parent or another appropriate adult is present.
    - b. When transporting children or young people in vehicles, no leader is to be alone in a vehicle with a single child or young person.
    - c. There shall always be at least two approved leaders at any activity (except for crèche where a sole female carer is acceptable). Preferably there should be male and female leaders for mixed groups with male leaders for boys groups and female leaders for girls groups. It is recognised that there may be occasions where there is a sole leader when breaking up into small groups; but in such cases, the small groups will not be out of eyesight or earshot of others.
    - d. A camp or other activity involving overnight accommodation should include “camp parents” (ideally a married couple over the age of 25 years, of known maturity and Christian commitment) approved by the church. In such overnight accommodation there will be a strict segregation by sex, with the exception of married couples and families. Supervision of children and young people must be provided by a person of the same sex.
    - e. A biblical pattern of behaviour is to be observed with respect to modesty and standards of morality. Adults and children are to respect the privacy of others during activities that require undressing and changing clothes. Leaders are to set an example by protecting their own privacy in similar situations.
    - f. Initiations and secret ceremonies are forbidden.
    - g. Any activity involving children or young people is open to observation by parents and other adults with a legitimate reason.
    - h. Leaders have the right to ask persons who do not have a valid reason to be present at child related activities to leave. Police may be contacted if such persons refuse to comply with any such reasonable request.
    - i. If any personal counselling is required, it shall be carried out within the sight of other people (preferably another leader).
    - j. The consumption of alcohol during a church or youth activity is forbidden with the exception of communion services where wine is ordinarily used. Any young person found under the influence of alcohol or illegal drugs is to be counselled and removed from the activity. Any such drugs found on the church grounds are to be witnessed (by a second person) and removed. Where appropriate, police should be informed.
  - k. In any physical contact with young people or children, leaders will respect the feelings and privacy of those persons. Physical violence of any kind is forbidden.
    1. Where a protocol cannot be followed due to an emergency or unexpected situation, the session (or supervising body) must be notified in writing as soon as practicable. A temporary variation may also be approved in advance. In both cases the supervising body must determine whether or not the circumstances justify the departure from protocol and must carefully document its finding.
  4. The Bible commands us very clearly on purity of body and mind, for example in Ephesians 5:3,4, Matthew 5:27-29 and Job 31:1. This is expanded in our Larger Catechism (Nos 138 and 139). All leaders should be familiar with these standards and be prepared to uphold and encourage these values in their personal lives and in all their dealings with others. Any sexualised behaviour (apart from that within marriage as defined by the Word of God) is to be carefully avoided. What is forbidden includes, but is not limited to, the following:
    - a. inappropriate conversation, remarks and jokes of a sexual nature, coarse language, suggestive gestures and impure look.
    - b. pornographic literature or media of any kind (from books, magazines, newspapers, posters, videos, movies, DVDs, internet sites, photographs, etc)
  5. Leaders are to the best of their ability to take reasonable action to maintain the safety of all persons in their care. This particularly applies to the young, the elderly and other vulnerable persons.
  6. State Governments from time to time legislate for reportable offences in the realm of child abuse. These standards vary from state to state. When any such abuse of children and young people is seen or reported to you, these must be notified to the minister or an elder of the congregation for reporting to the Police or Government agency. You also have the right to go directly to the Police yourself and can ask advice from the congregational Protection Officer. The church’s own disciplinary procedures may also apply.
- You, in your position of leadership, are required to report any of the following (which are defined in the Safe Church Policy):
- physical or sexual child abuse,
  - a child or young person at risk of significant harm,
  - a child suffering neglect, and
  - any sexual misconduct by leaders (per 4 above)

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**7.** Before you commence working with children and young people in your position of leadership in the church, you will undertake the Government Working With Children Check (WWCC) and provide a copy of the documentation and approval

number to the congregational Protection Officer, together with your date of birth.

**8.** Initial training and regular follow-up training in Safe Church matters must be undertaken if you are in any position of leadership. Approved training sessions will be organised by the clerk of presbytery.

## **CHAPTER NINE: PRINCIPAL CONSTITUTIONAL ENACTMENTS**

### **(A) ENACTMENTS OF THE GENERAL ASSEMBLY OF THE CHURCH OF SCOTLAND**

#### **1647: ACT APPROVING THE CONFESSION OF FAITH [August 27, 1647]**

A confession of Faith for the Kirks of God in the three kingdoms, being the chiefest part of that uniformity in religion which, by the Solemn League and Covenant, we are bound to endeavour:

And there being accordingly a Confession of Faith agreed upon by the Assembly of Divines sitting at Westminster, with the assistance of Commissioners from the Kirk of Scotland; which Confession was sent from our Commissioners at London to the Commissioners of the Kirk met at Edinburgh in January last, and hath been in this Assembly twice publicly read over, examined, and considered; copies thereof being also printed, that it might be particularly perused by all the members of this assembly, unto whom frequent intimation was publicly made, to put in their doubts and objections, if they had any:

And the said Confession being, upon due examination thereof, found by the assembly to be most agreeable to the word of God, and in nothing contrary to the received doctrine, worship, discipline, and government of the Kirk.

And, lastly, It being so necessary, and so much longed for, that the said Confession be, with all possible diligence and expedition, approved and established in both kingdoms, as a principal part of the intended uniformity in religion, and as a special means for the more effectual suppressing of the many dangerous errors and heresies of these times;

THE GENERAL ASSEMBLY DOTH THEREFORE, after mature deliberation, agree unto, and approve the said Confession, as to the truth of the matter; (judging it to be most orthodox, and grounded upon the word of God;) and also, as to the point of uniformity, agreeing for our part, that it be a common Confession of Faith for the three kingdoms.

THE ASSEMBLY DOTH ALSO bless the Lord, and thankfully acknowledge his great mercy, in that so excellent a Confession of Faith is prepared, and thus far agreed upon in both kingdoms; which we look upon as a great strengthening of the true

reformed religion against the common enemies thereof.

BUT, lest our intention and meaning be in some particulars misunderstood, it is hereby expressly declared and provided,

That the not mentioning in this Confession the several sorts of ecclesiastical officers and assemblies, shall be no prejudice to the truth of Christ in these particulars, to be expressed fully in the Directory of Government.

IT IS FURTHER DECLARED, That the Assembly understandeth some parts of the second article of the thirty-one chapter only of kirks not settled, or constituted in point of government: And that although, in such kirks, a synod of Ministers, and other fit persons, may be called by the Magistrate's authority and nomination, without any other call, to consult and advise with about matters of religion; and although, likewise, the Ministers of Christ, without delegation from their churches, may of themselves, and by virtue of their office, meet together synodically in such kirks not yet constituted, yet neither of these ought to be done in kirks constituted and settled; it being always free to the Magistrate to advise with synods of Ministers and Ruling Elders, meeting upon delegation from their churches, either ordinarily, or, being indicted by his authority, occasionally, and pro re nata; it being also free to assemble together synodically, as well pro re nata as at the ordinary times, upon delegation from the churches, by the intrinsic power received from Christ, as often as it is necessary for the good of the Church so to assemble, in case the Magistrate, to the detriment of the Church, withhold or deny his consent; the necessity of occasional assemblies being first remonstrate unto him by humble supplication.

*[Following the Revolution, on June 6, 1690 the Scottish Parliament anew ratified the Confession of Faith and restored Presbyterian church government as in the Act of 1592 (James VI, Parl 12, Act 114). The further Act for Settling the Quiet and Peace of the Church (Wm & Mary, Parl 1, Sess 4, Act 23) required subscription by ministers and preachers to the Confession of Faith and Presbyterian government in the terms in the Formula following, and also required 'uniformity of worship, and of the administration of public ordinances within this church...as at present performed and allowed, or shall hereafter be declared by authority of the same'.]*

**1694: FORMULA OF SUBSCRIPTION FOR  
PREACHERS [April 13, 1694]**

I, , do sincerely own and declare the above Confession of Faith, approved by former General Assemblies of this Church, and ratified by law in the year 1690, to be the Confession of my faith; and that I own the doctrine therein contained to be the true doctrine, which I will constantly adhere to; as likewise, that I own and acknowledge the Presbyterian Church government of this Church, now settled by law, by Kirk-sessions, Presbyteries, Provincial Synods and General Assemblies, to be the only government of this Church, and that I will submit thereto, concur therewith, and never endeavour, directly or indirectly, the prejudice or subversion thereof; and that I shall observe uniformity of worship, and of the administration of all public ordinances within this Church, as the same are at present performed and allowed.

*[From c.1700 subscribed also by elders and from 1711 by them only, as a more explicit formula was introduced for preachers in that year (see below). The office of Deacon was revived by the unendowed Free Church of Scotland, and in 1846 a common Formula was introduced for all office-bearers, being that of 1711 adjusted to the position of the Free Church.]*

**1697: ACT ANENT THE METHOD OF  
PASSING ACTS OF ASSEMBLY OF  
GENERAL CONCERN TO THE CHURCH,  
AND FOR PREVENTING OF INNOVATIONS  
[COMMONLY CALLED THE BARRIER  
ACT]**

The General Assembly, taking into their consideration the Overture and Act made in the last Assembly concerning innovations, and having heard the report of the several commissioners from Presbyteries to whom the consideration of the same was recommended, in order to its being more ripely advised and determined in this Assembly; and considering the frequent practice of former Assemblies of this Church, and that it will mightily conduce to the exact obedience of the Acts of Assemblies, that General Assemblies be very deliberate in making of the same, and that the whole Church have a previous knowledge thereof, and their opinion be had therein, and for preventing any sudden alteration or innovation, or other prejudice to the Church, in either doctrine or worship or discipline, or government thereof, now happily established;

do, therefore, appoint, enact, and declare, that before any General Assembly of this Church shall pass any Acts, which are to be binding Rules and Constitutions to the Church, the same Acts be first proposed as overtures to the Assembly, and, being by them passed as such, be remitted to the consideration of the several Presbyteries of this Church, and their opinions and consent reported by their commissioners to the next General Assembly following, who may then pass the same in Acts, if the more general opinion of the Church thus had agreed thereunto.

**1736: ACT CONCERNING RESCINDING ACTS  
PASSED UNDER THE BARRIER ACT (Act 8,  
Assembly 1736)**

Enacted: That no acts rescissory of any standing acts of the General Assembly be passed, until such acts rescissory be first transmitted to presbyteries, and their general opinion had for rescinding the same.

**1711: FORMULA, TO BE SUBSCRIBED BY  
ALL SUCH AS SHALL PASS TRIALS, IN  
ORDER TO BE LICENSED, AND THAT  
SHALL BE ORDAINED MINISTERS, OR  
ADMITTED TO PARISHES [May 22, 1711]**

I do hereby declare, that I do sincerely own and believe the whole doctrine contained in the Confession of Faith, approved by the General Assemblies of this National Church, and ratified by law in the year 1690, and frequently confirmed by divers Acts of Parliament since that time, to be the truths of God; and I do own the same as the confession of my faith: As likewise, I do own the purity of worship presently authorised and practised in this Church, and also the Presbyterian government and discipline now so happily established therein; which doctrine, worship, and Church government, I am persuaded are founded on the Word of God, and agreeable thereto: And I promise, that, through the grace of God, I shall firmly and constantly adhere to the same, and to the utmost of my power, shall, in my station, assert, maintain, and defend the said doctrine, worship, discipline, and government of this Church, by Kirk-sessions, Presbyteries, Provincial Synods and General Assemblies; and that I shall in my practice conform myself to the said worship, and submit to the said discipline and government, and never endeavour, directly nor indirectly, the prejudice or subversion of the same; and I promise, that I shall follow no divisive courses from the present establishment in this Church; renouncing all doctrines, tenets, and opinions whatsoever, contrary to, or inconsistent with, the said doctrine worship, discipline, or government of this Church.

*[Questions were also prescribed for preachers in 1711. PCEA questions of 1952 are substantially the same]*

**1833: DECLARATORY ENACTMENT AND RECOMMENDATION REGARDING COLONIAL CHURCHES [May 24, 1833]**

The General Assembly of the Church of Scotland did, and hereby do, enact and declare, That it is proper and expedient for ordained ministers of the Church of Scotland connected with fixed congregations in any of the British Colonies, to form themselves, where circumstances permit, into Presbyteries and Synods, adhering to the Standards of this Church, and maintaining her form of worship and government.

That no minister should be received as a member of any such Presbytery or Synod, when first formed, who has not been ordained by a Presbytery of this Church; that no minister of this Church should be afterwards received as a member who does not come specially recommended from the Presbytery by which he was ordained, or in which he has last resided; and that no probationer of this Church should receive ordination from any such Presbytery, except on his producing extract of licence, with a testimonial of his good character, from the Presbytery or Presbyteries within whose bounds he has resided, down to the time of his leaving Scotland.

That it is not expedient for such Presbyteries, in the present state of education in the Colonies, to exercise the power of licensing Probationers; but that licentiates of the Church of Scotland, who shall be ordained by any such Presbytery to particular charges in the manner above described, shall remain in full communion with the Church of Scotland and retain all the rights and privileges which belong to licentiates or ministers of this Church; and that members of congregations, under the charge of ministers so ordained, shall, on coming to Scotland, be admitted to Church privileges, on the production of satisfactory certificates of their religious and moral character, from the minister and session of the congregation to which they have severally belonged.

And the Assembly earnestly recommended to all ministers and probationers of this Church, who remove to those Colonies in which such Presbyteries are constituted, to put themselves under the inspection of the Presbytery of the bounds within which they may reside; and, in the event of their returning to this country, to produce testimonials from such Presbytery or Presbyteries of their

character and conduct during their absence. The General Assembly further named a standing committee to correspond with such Churches in the Colonies, for the purpose of giving advice on any question with regard to which they may choose to consult the Church of Scotland, and affording them such aid as it may be in the power of the committee to give in all matters affecting their rights and interests.

**1839: ACT ANENT RE-UNION WITH SECEDERS [May 25, 1839]**

The General Assembly, on the Report of the Committee for classing Returns to Overtures, having found that the Overture anent Re-union with Seceders has received the approbation of a majority of the Presbyteries of the Church, did, and hereby do, enact the said Overture into a Standing Law of the Church, as follows:-

Whereas proposals have been made by the Associate Synod for a re-union with the Church of Scotland, and a considerable number of overtures have been sent at the same General Assembly, that the course of study required for a long time past of students in divinity in connection with said Synod is quite satisfactory, and that their ministers and elders do firmly adhere to the Westminster Confession of Faith, the Larger and Shorter Catechisms, and other Standards of our Church;

and whereas the members of the Associate Synod do heartily concur with us in holding the great principle of an Ecclesiastical Establishment, and the duty of acknowledging God in our national as well as our individual capacity; and we, on the other hand, do heartily concur with the members of the Associate Synod in confessing the great obligations under which we lie to our forefathers in the year 1638, and several years of that century immediately following, and the duty, in particular circumstances, of uniting together in public solemn engagement in defence of the Church, and its doctrine, discipline, and form of worship and government;

and whereas our brethren of the Associate Synod have declared their willingness, in the event of a re-union, to submit to all the laws and judicatories of this Church, reserving only to themselves the right which the members of the Established Church enjoy of endeavouring to correct in a lawful manner what may appear to them to be faulty in its constitution and government.

The General Assembly, with the consent of the Presbyteries of this Church, enact and ordain, that all

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the ministers of the Associate Synod, and their congregations, in Scotland, desirous of being admitted into connection and full communion with the Church of Scotland, be received accordingly, and that the following rules be strictly observed by the Presbyteries of this Church relative to this subject:-

1. Ministers of the Associate Synod and their congregations shall be received into connection with the Presbyteries in whose bounds their churches are situated, on their laying before the said Presbyteries respectively a representation or memorial, subscribed in name of the kirk-sessions of said congregations, by their moderator, or other person appointed by them; and if there be managers of said congregations, by the preses [chairman] of said managers, or other person in their name and by their authority, as also by the preses of a meeting of the members of the congregation, setting forth the desire of said ministers and congregations to be received into connection with the Church of Scotland. On such representation or memorial being presented, the Presbytery shall, subject to the condition after specified, receive and admit the memorialists; and in the event of the presbytery's refusing to do so, it shall be competent to the memorialists to appeal to the General Assembly.

2. On the reception of a minister and congregation of the Associate Synod into connection with a Presbytery of this Church, the managers of said congregation, or the kirk-session and deacons, if managers, shall forthwith take the steps necessary for procuring a constitution for the newly admitted church, and having a territorial district assigned thereto.

3. Every minister of the Associate Synod, at his admission as a member of Presbytery, and every ruling elder of said Synod, before taking his seat as a member of Presbytery, or Synod, or General Assembly, shall subscribe the Westminster Confession of Faith, and the Formula of the Church of Scotland, and shall enjoy all the rights and privileges of ordained ministers and elders of the Church of Scotland.

4. The integrity of the kirk-sessions and existing congregations of the Associate Synod admitted into the Church of Scotland, and the right of said kirk-sessions to grant sealing ordinances to the present members of their said congregations, though not residing within the bounds of the parish which may be allotted to them, shall be distinctly and practically recognised by the other kirk-sessions and the Presbyteries of this Church;-

provided always, that this provision shall in no respect apply to non-residents who are not at the date of this Act members of the existing congregations as aforesaid.

5. Presbyteries shall not, at or after the admission of ministers of the Associate Synod and their congregations into connection with the Church of Scotland, require any provision to be made for the said ministers by the managers of said congregations different from existing arrangements; but the laws now in force in this Church or hereafter to be enacted, shall be observed with regard to all future intrants.

6. The licentiates or probationers of the Associate Synod shall be received and treated as other probationers within the bounds of the Presbytery, on their making application to the Presbytery to that effect, and on their subscribing the Westminster Confession of Faith, and Formula of the Church of Scotland, and shall be held equally capable with them of receiving a presentation, or of being elected and called to a vacant congregation within the bounds of this Church.

7. The students of divinity of the Associate Synod at the time of the passing of this Act shall, on producing certificates of their having finished their theological course, under the Professor of the Associate Synod, be taken on trials for licence by the Presbytery of the bounds. Those of the existing students of said Synod who have commenced, but have not finished their theological studies, shall complete their curriculum with him or in the Divinity Halls of the Scottish Universities; and their sessions of regular attendance on the lectures of the Professor of Theology of the Associate Synod shall be counted as sessions of regular attendance in the Divinity Hall.

8. Ministers and their congregations out of Scotland, belonging to the Associate Synod, and expressing their desire of being recognised by the Church of Scotland as connected with her, shall be held as standing in the same relative position as ministers and congregations in England, Ireland, and the Colonies, whose connection with this Church has been acknowledged.

*[A noteworthy enactment not least for its reference to the Covenanting period.]*

### **(B) THE SYNOD OF AUSTRALIA IN CONNECTION WITH THE ESTABLISHED CHURCH OF SCOTLAND**

**1840: BOND OF UNION CONSTITUTING  
THE SYNOD OF AUSTRALIA IN  
CONNECTION WITH THE ESTABLISHED  
CHURCH OF SCOTLAND OCTOBER 5, 1840.**

We ministers and elders, whose names are undersigned, uniting ourselves together in the Synod of Australia, in connection with the Established Church of Scotland, do bind and oblige ourselves to pass over and bury in oblivion, all matters which, in times past, have been the subject of mutual complaint and accusation, and engage in every part of our future conduct towards each other to act in strict conformity to the laws of Christ and of the Scottish Church. We declare anew our adherence to the doctrines of the Scottish Church.

We declare anew our adherence to the doctrines of the Confession of Faith, and to the other standards and formularies of the Established Church of Scotland, and promise that, in the exercise of discipline, we shall follow the laws of that Church so far as applicable in this colony; and whatever may be our individual opinions, will, so long as we remain members of the court, submit ourselves to the judgements and determinations of the majority of our number regularly met, and sitting in Presbyteries and Synod.

**1843: NOTE REGARDING DISRUPTION  
AND FORMING OF THE FREE CHURCH OF  
SCOTLAND**

*As a consequence of actions by the civil authorities which reinterpreted the relation of Church and State so that the State intruded into the spiritual jurisdiction of the Church, the General Assembly of 1842 adopted a CLAIM, DECLARATION AND PROTEST and sent it to Parliament. The CLAIM values the relationship with the State as calculated to enable the Gospel to be brought to all the people, it recognises the jurisdiction of the State in civil matters, but claims as of right that the Church shall enjoy her privileges according to law and be protected from illegal encroachments. Its DECLARATION is that the Church will refuse to intrude ministers on congregations, even at the risk of losing the State's financial support, and it goes on to PROTEST that all acts in derogation of the rights and privileges of the Church are null and void. This 'Claim of Right' (the short title) was passed by the Assembly 241 to 111, but Parliament rejected it 211 to 76. When the Assembly met on May 18, 1843, a PROTEST was read by the retiring Moderator, and 120 ministers and 73 elders filed out to constitute the first General Assembly of the Church of Scotland Free. Nearly 40% of the about 1,200 ministers eventually adhered to the new church which in fact*

*maintained the original position although it had to depend on voluntary support. This "Disruption" of the Scottish Church had repercussions in the colonies. Three of the 22 ministerial members of the Synod of Australia formed the PCEA while another, James Forbes in far-off Melbourne, formed the Free Presbyterian Church of Victoria.*

**1846: PROTEST READ IN THE SYNOD OF  
AUSTRALIA IN CONNECTION WITH THE  
ESTABLISHED CHURCH OF SCOTLAND  
OCTOBER 10, 1846**

We, the undersigned ministers and elders, members of the Synod of Australia in connection with the Established Church of Scotland - Considering that the Synod, having resolved to remain in its present connection with the Established Church of Scotland, and to retain its present designation unchanged, does thereby declare its approval of the submission of the said Church to the encroachments of the Civil power on her spiritual independence and the liberties of her constitution, and thus concurs in the renunciation of the doctrine of Christ's sole and sovereign Headship, which that submission involves.

And further considering that, in virtue of the connection with the Established Church of Scotland, which the Synod has resolved to maintain, (asserted as that connection is, not only in the designation of the Synod, but in the Bond of Union entered into by the ministers and elders who united in forming the said Synod, wherein it is set forth, that they engaged, in every part of their future conduct towards each other to act in strict, conformity to the laws of Christ, and of the Scottish Church, declared anew their adherence to the doctrines of the Confession of Faith, and promised that in the exercise of discipline they should follow the laws of that Church, as far as applicable in this colony), the unscriptural principles on which the government of the Established Church of Scotland is now administered, according to which the civil courts are invested with power to coerce the judicatories and individual members of that Church in the exercise of their spiritual functions and duties, and otherwise to interfere authoritatively in spiritual matters, and Presbyteries are authorised and empowered to disregard and overbear the voice of the people in the formation of the pastoral relation, are virtually adopted by the Synod: and the government and discipline of the Colonial Presbyterian Church under its superintendence are liable to be subjected to the operation of these principles.

We, therefore, the ministers and elders aforesaid, do protest, that the Synod, by its concurrence in the

renunciation of the doctrine of Christ's Headship as aforesaid, has placed itself in a position at variance with the word of God, and with the standards of the Church of Scotland in their true and original import, and incompatible with the discharge of its great duty as a witness to Christ.

And we protest further, that, by the adoption of the principles aforesaid, the constitution of the Synod has been so changed, that the government of the church cannot be conducted in accordance with it, without violating the laws of God, dishonouring the Great King and Head of the Church, and invading the rights of the Christian people.

And finally, while we reserve any right, we, or any of us, or of such as may adhere to us, possess to the whole, or any portion of the property, held in behalf of the Synod of Australia in connexion with the Established Church of Scotland, we protest that, the Synod occupying such a position, and having adopted such principles, it is and shall be lawful for us, and such other ministers and elders as may concur with us, to withdraw from the Synod, and take such steps as may be competent to us and necessary for dispensing the ordinances of the Gospel, and administering the affairs of the Church in this land, agreeable to the mind of Christ and to the standards and constitution of our Church; and we do now withdraw accordingly.

(Signed) William McIntyre, John Tait, Colin Stewart, ministers; Samuel Martin, elder.

**(C) ENACTMENTS OF THE SYNOD OF  
EASTERN AUSTRALIA**

**1846: FIRST MINUTE OF THE  
PRESBYTERIAN CHURCH OF EASTERN  
AUSTRALIA [October 10, 1846]**

The ministers and elders of the Synod of Australia in connexion with the Established Church of Scotland being assembled in Synod this day in St Andrew's Church, the ministers and elders members of that Synod whose names are appended to the Protest then and there taken and hereinafter inserted, having withdrawn from that place, and having convened in an upper room in Hunter St and having duly Constituted themselves in the name of the Head of the Church, the Revd William McIntyre was chosen to be their Moderator, and the Protest above mentioned, being produced, was read and thereafter ordered to be recorded as follows: (see text above) Mr Tait was appointed Clerk. It was then resolved that this court should be called the Synod of Eastern Australia and that the ministers and elders constituting the court should renew and they do hereby renew their adherence to the Westminster

Confession of Faith, the Directory for Public Worship, and the Form of Church Government, together with the Second Book of Discipline as the standards of this Church.

**1864: NOTE RE THE UNION OF  
PRESBYTERIANS IN NEW SOUTH WALES**

*In order to unite the several branches of Presbyterianism it was found necessary to compromise the various positions on Church and State, leaving these open questions. The unwillingness of the Synod of Australia to acknowledge Dr Lang's Synod of New South Wales led to a preliminary union being formed on November 15, 1864 by 15 serving PCEA ministers with 4 Synod of NSW ministers and 2 United Presbyterian ministers to form a General Synod. On September 8, 1865 the General Synod, then numbering 24 ministers joined the 23 serving ministers of the Synod of Australia to form the General Assembly of the Presbyterian Church of New South Wales. On the same day that the first stage of Presbyterian re-union was accomplished, five ministers and an elder constituted a meeting of the Synod of Eastern Australia in terms of Protests they had lodged, of which the most fundamental follows. The final position after the union of September 1865 was that 5 of the 22 PCEA ministers continued the PCEA (William McIntyre, Allan McIntyre, James McCulloch, John Locke McSkimming and Colin Rogers Greig), with William Scott Donald (formally associated later) bringing the number to 6 or about 27% of the 1864 PCEA ministerial strength.*

**1864: THE PROTEST OF THE REV  
WILLIAM McINTYRE AND THE REV  
JAMES McCULLOCH, ON TUESDAY,  
NOVEMBER 15, 1864, TO THE UNION OF  
THE PRESBYTERIAN CHURCH OF  
EASTERN AUSTRALIA WITH THE SYNOD  
OF NEW SOUTH WALES AND SOME  
UNATTACHED MINISTERS**

We, the undersigned ministers, members of the Synod of Eastern Australia, considering that, by the admission of the Rev. William Ridley to deliberate and vote as a member of this Synod, while he is neither a settled minister nor an acting ordained missionary, and only such ought to be so admitted, the constitution of this court has been vitiated.

And considering that inasmuch as while the basis prepared by the conference on union, conveys, with the exception of the last article of it, an antierastian testimony, that article and certain resolutions which

accompany the basis and are hereto appended, have the effect, by placing as they do, the Established Church of Scotland, charged by this Church with Erastianism, on precisely the same footing with the Free Church of Scotland, whose protest against the Erastianism of the Established Church of Scotland, this Church has deliberately adopted, of neutralizing and contradicting that testimony; the Synod, by resolving that this Church shall unite on said Basis and Resolution in the first instance with the Church under the spiritual superintendence of the Synod of New South Wales, and with certain Presbyterian ministers not attached to any Colonial Church, and that the United body thus preliminarily formed shall unite on the same Basis and Resolutions with the Synod of Australia in connection with the Established Church of Scotland, has removed this Church from the position which it occupied as testifying against the Erastianism of the Established Church of Scotland, and has involved it in connivance with that Erastianism.

And further considering, by refusing to endeavour by further conference to obtain such change of the Articles and Resolutions objected to above, that the anti-erastian testimony which, with the exception of the last article, conveys, should remain uncontradicted; and also such explanations, if such could be given, as might evince that notwithstanding that the Synod of Australia in connection with the Established Church of Scotland still regards the position of the Established Church of Scotland with approval, which its connection with that Church implies, the concurrence of the said Synod in an anti-erastian testimony might be held to be satisfactory; the Synod has necessitated a disruption which might otherwise have been averted, and has thus pursued a virtually schismatic course:

We, therefore, the ministers aforesaid, do protest, on the grounds now set forth, that the majority have forfeited their rights, powers, and privileges as members of the Synod of Eastern Australia; and that all ministers, elders, and congregations who shall enter into the proposed Union, or either of them, shall forfeit all rights powers, and privileges as ministers, elders, and congregations of the Presbyterian Church of Eastern Australia. And we protest further, that it is and shall be lawful for us, and such as may concur with us, to exercise all the rights powers, and privileges of officebearers and congregations of the Presbyterian Church of Eastern Australia to administer the affairs of that Church, and to take all necessary and legitimate steps to maintain and extend in the land the dispensations of Gospel ordinances.

**1952: ACT ANENT QUESTIONS AND FORMULA [Class 1, April 2, 1952]**

WHEREAS the Synod of Eastern Australia early approved the use by the Courts of the Church when licensing probationers and when ordaining and inducting elders and deacons of questions adopted by the General Assembly of the Free Church of Scotland in 1846 subject to the necessary modifications as were required to relate these questions to this Church.

AND WHEREAS additions have subsequently been made to such questions as used in this Church and they have at times appeared in print in an incomplete form.

AND WHEREAS the Synod of Eastern Australia desires that the questions lawfully to be used in this Church be as heretofore those of the Free Church of Scotland adopted in the year 1846 subject to the aforesaid modifications and to the omission of certain unnecessary words at the end of the question numbered nine to be put to probationers but apart therefrom without addition variation or omission.

AND WHEREAS it is also deemed desirable to remove the possibility of confusion by setting out the text of the said questions and of the formula and to make certain declarations of the position adopted by this Church.

NOW therefore the Synod of Eastern Australia with the consent of a majority of Presbyteries enacts and ordain as follows: -

DECLARATIONS

(1) THE SYNOD declare that while the Church firmly maintains the scriptural principles as to the duties of nations and their rulers in reference to true religion and the Church of Christ, for which she has hitherto contended, she disclaims intolerant and persecuting principles, and does not regard her Confession of Faith, or any portion thereof, when fairly interpreted, as favouring intolerance or persecution, or consider that her office-bearers, by subscribing it, profess any principles inconsistent with liberty of conscience and the right of private judgement.

(2) THE SYNOD declare that the expression "purity of worship presently authorised and practised in the Presbyterian Church of Eastern Australia" used in the formula of this Church is held to require, inter alia, the exclusion from public worship of instrumental music, and from the praise portion thereof, of all compositions other than the Psalms of the Word of God.

(3) THE questions herein set out, are, according to their respective designation, the questions which the Courts of this Church shall put when ordaining

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elders and deacons, licensing probationers and when ordaining and inducting ministers, and the said Courts are enjoined to see that the formula of this Church (which for the more convenient knowledge and use thereof is set out immediately following the said questions) is subscribed by all probationers of the Church before receiving licence to preach the gospel and by all office-bearers at the time of their admission.

### (I) ELDERS AND DEACONS BEFORE ORDINATION QUESTIONS:

- (1) Do you believe the Scriptures of the Old and New Testaments to be the Word of God, and the only rule of faith and manners?
- (2) Do you sincerely own and declare the Confession of Faith approved by General Assemblies of the Church of Scotland to be the confession of your faith; and do you own the doctrine therein contained to be the true doctrine, which you will constantly adhere to?
- (3) Do you sincerely own the purity of worship presently authorised and practised in this Church, and also own the Presbyterian government and discipline; and are you persuaded that the said doctrine, worship, and discipline, and Church government, are founded upon the Holy Scriptures, and agreeable thereto?
- (4) Do you believe that the Lord Jesus Christ, as King and Head of the Church, has therein appointed a government in the hands of Church officers, distinct from, and not subordinate in its own province to civil government, and that the Civil Magistrate does not possess jurisdiction, or authoritative control over the regulation of the affairs of Christ's Church; and do you approve of the general principles embodied in 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 the presence of the Royal Commissioner on 18th May 1843, as declaring the views which are sanctioned by the Word of God, and the standards of the 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?
- (5) Do you promise to observe uniformity of worship and of the administration of all public ordinances within this Church as the same are at present performed and allowed?
- (6) Do you accept of the office of an Elder (deacon) of this congregation and promise, through grace, faithfully, diligently, and cheerfully, to discharge all the duties thereof?

### (II) PROBATIONERS BEFORE THEY ARE LICENSED TO PREACH THE GOSPEL

#### QUESTIONS:

- (1) Do you believe the Scriptures of the Old and New Testaments to be the Word of God, and the only rule of faith and manners?
- (2) Do you sincerely own and believe the whole doctrine of the Confession of Faith, approved by General Assemblies of the Church of Scotland, to be the truths of God, contained in the Scriptures of the Old and New Testaments; and do you own the doctrine therein contained as the confession of your faith?
- (3) Do you sincerely own the purity of worship presently authorised and practised in this Church, and also own the Presbyterian government and discipline; and are you persuaded that the said doctrine, worship, and discipline, and Church government, are founded upon the Holy Scriptures, and agreeable thereto?
- (4) Do you believe that the Lord Jesus Christ, as King and Head of the Church, has therein appointed a government in the hands of Church officers, distinct from, and not subordinate in its own province to civil government, and that the Civil Magistrate does not possess jurisdiction, or authoritative control over the regulation of the affairs of Christ's Church; and do you approve of the general principles embodied in 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 the presence of the Royal Commissioner on 18th May 1843, as declaring the views which are sanctioned by the Word of God, and the standards of the 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?
- (5) Do you promise that, through the grace of God, you will firmly and constantly adhere to, and in your station, to the utmost of your power, assert, maintain and defend the said doctrine, worship, and discipline, and the government of this Church by Kirk Sessions, Presbyteries, Provincial Synods and General Assemblies?
- (6) Do you promise that, in your practice you will conform yourself to the said worship, and submit yourself to the said discipline and government of this Church, and not endeavour, directly or indirectly, the prejudice or subversion of the same?
- (7) Do you promise that you will follow no divisive courses from the doctrine, worship, discipline, and government of this Church?

(8) Do you renounce all doctrines, tenets, or opinions whatsoever contrary to, or inconsistent with, the said doctrine, worship, discipline, and government of this Church?

(9) Do you promise that you will submit yourself to the several judicatories of this Church?

(III) PROBATIONERS AFTER BEING CALLED  
BY A CONGREGATION

*QUESTIONS to be put to Probationers before ordination (and also to a Minister already ordained, at his admission to a Pastoral Charge).*

(1) Do you believe the Scriptures of the Old and New Testaments to be the Word of God, and the only rule of faith and manners?

(2) Do you sincerely own and believe the whole doctrine contained in the Confession of Faith, approved by General Assemblies of the Church of Scotland, to be founded upon the Word of God; and do you acknowledge the same as a confession of your own faith; and will you firmly and constantly adhere thereto, and to the utmost of your power assert, maintain, and defend the same, and the purity of worship as presently practised in this Church?

(3) Do you disown all Popish, Arian, Socinian, Arminian, Erastian, and other doctrines, tenets and opinions whatsoever contrary to, and inconsistent with, the foresaid Confession of Faith?

(4) Are you persuaded that the Presbyterian government and discipline of this Church are founded upon the Word of God, and agreeable thereto; and do you promise to submit to the said government and discipline, and to concur with the same, and not to endeavour, directly or indirectly, the prejudice or subversion thereof, but to the utmost of your power, in your station, to maintain, support and defend the said discipline and Presbyterian government, by Kirk Sessions, Presbyteries, Provincial Synods, and General Assemblies?

(5) Do you believe that the Lord Jesus Christ, as King and Head of the Church, has therein appointed a government in the hands of Church officers, distinct from, and not subordinate in its own province to civil government, and that the Civil Magistrate does not possess jurisdiction, or authoritative control over the regulation of the affairs of Christ's Church; and do you approve of the general principles embodied in 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 the presence of the Royal Commissioner on 18th May 1843, as declaring the views which are sanctioned by the Word of God, and the standards of the 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 submit yourself willingly and humbly, in the spirit of meekness, unto the admonitions of the brethren of this Presbytery, and to be subject to them, and all other Presbyteries and superior judicatories of this Church, where God in His providence shall cast your lot; and that according to your power, you shall maintain the unity and peace of this Church against error and schism, notwithstanding of whatsoever trouble or persecution may arise, and that you shall follow no divisive courses from the doctrine, worship, discipline, and government of this Church?

(7) Are not zeal for the honour of God, love to Jesus Christ, and the desire of saving souls, your great motives and chief enducements to enter into the functions of the holy ministry and not worldly designs and interests?

(8) Have you used any undue methods, either by yourself or others, in procuring this call?

(9) Do you engage, in the strength and grace of Jesus Christ our Lord and Master, to rule well your own family, to live a holy and circumspect life, and faithfully, diligently, and cheerfully to discharge all the parts of the ministerial work, to the edification of the body of Christ?

(10) Do you accept of and close with the call to be pastor of this congregation, and promise, through grace, to perform all the duties of a faithful minister of the gospel among this people?

FORMULA

*[To be subscribed by Probationers before receiving a Licence, and by all Office-bearers at the time of their admission.]*

I ..... do hereby declare, that I do sincerely own and believe the whole doctrine contained in the Confession of Faith, approved by the General Assemblies of the Church of Scotland, to be the truths of God; and I do own the same as the confession of my faith; as likewise, I do own the purity of worship presently authorised and practised in the Presbyterian Church of Eastern Australia, and also the Presbyterian government and discipline thereof; which doctrine, worship, and church government, I am persuaded, are founded upon the Word of God, and agreeable thereto; I also approve of the general principles respecting the jurisdiction of the Church and her subjection to Christ as her only Head, which are contained in the Claim of Right, and in the Protest, referred to in the questions already put to me; and I promise, that, through the grace of God, I shall firmly and constantly adhere to the same, and to the utmost of my power, shall in my

station, assert, maintain, and defend the said doctrine, worship, discipline, and government of this Church, by Kirk-sessions, Presbyteries, Provincial Synods and General Assemblies, together with the liberty and exclusive jurisdiction thereof; and that I shall, in my practice, conform myself to the said worship, and submit to the said discipline and government, and exclusive jurisdiction, and not endeavour, directly nor indirectly, the prejudice or subversion of the same; 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 said doctrine worship, discipline, government, or jurisdiction of the same.

**1952: ACT ANENT UNION WITH FREE PRESBYTERIAN CHURCH OF VICTORIA**

*[Class 2, April 2, 1952: the union referred to occurred on November 25, 1953]*

The Synod of Eastern Australia enacts and ordain as follows:

1. The Synod approve a union of the Free Presbyterian Church of Victoria and the Presbyterian Church of Eastern Australia on the basis of the principles held by the Free Church of Scotland following the Disruption.
2. The Synod declare that the principles of the Presbyterian Church of Eastern Australia are identical with those of the Free Church of Scotland in 1843 following the Disruption and on this understanding approve the implementation of the above mentioned union by the Free Presbyterian Church of Victoria being received into the Presbyterian Church of Eastern Australia.
3. That upon the Free Presbyterian Church of Victoria agreeing to be received into the Presbyterian Church of Eastern Australia, legislation be sought from the Parliament of Victoria to vary the trusts upon which the real and personal property of the Free Presbyterian Church of Victoria is held so such property can be held in connection with the Presbyterian Church of Eastern Australia and for this purpose be vested in corporate trustees.
4. That upon the said legislation coming into operation the Synod of Eastern Australia will receive the ministers, elders, deacons and congregations of the Free Presbyterian Church of Victoria as ministers, elders, deacons and congregations of the Presbyterian Church of Eastern Australia, maintaining such pastoral relationships between ministers and congregations and such jurisdictions

of sessions and deacons' courts as shall immediately prior to such reception by the Synod of Eastern Australia have subsisted within the Free Presbyterian Church of Victoria, but subject thereafter to the law of the Presbyterian Church of Eastern Australia.

**1954: FEDERAL RELATIONS WITH THE FREE CHURCH OF SCOTLAND**

*[Act of Synod April 12, 1954 Class 1 as corrected by Act 1 Class 1 Synod 1984; a similar Act was passed by the Free Church of Scotland Assembly in May 1952 and remains in force for both Free Church and Free Church (Continuing). The PCEA Act was rescinded in 2004, and a new mutual relationship was formalised with the Free Church in 2005 and with the Free Church (Continuing) in 2019.]*

The Synod of Eastern Australia does now enact that there shall be established between this Church and the Free Church of Scotland such a relationship as shall maintain and manifest the unity of the Churches, their separate and independent jurisdictions being always preserved. This relationship shall be carried out as follows:-

- a) This Church shall henceforth recognise the status of the office-bearers and members of the Free Church of Scotland as if they were its own, and the ministers and probationers of the Free Church of Scotland shall be eligible for calls by any congregation of this Church.
- b) In the event of a Theological College being established by this Church, Students of the Free Church of Scotland attending such a Theological College shall be recognised as students of this Church under regulations to be framed by the Training of Ministry Committee, and approved by the Synod of Eastern Australia.
- c) In the event of a Mission Field being established by this Church, Missionaries of the Free Church of Scotland in such a Mission Field shall be recognised as if they were our own.
- d) A corresponding member appointed by the Supreme Court of the Free Church of Scotland shall be admitted to the Synod of Eastern Australia to attend its meetings with a right to deliberate but not to vote, and the Synod of Eastern Australia shall appoint a corresponding member to the Supreme Court of the Free Church of Scotland on similar terms, but any failure in the appointment or attendance of these Commissioners shall not invalidate the proceedings of these Courts.

**APPENDIX 1 – SPECIMEN MINUTES**

**SOME SPECIMENS OF THE WAY MINUTES MAY BE WRITTEN**

**(1) CONGREGATIONAL MEETING**

The Annual Congregational meeting as authorized by the Session on ..... was held on ..... , the Minister occupying the chair and constituting the meeting with worship at 8pm.

**Present:** ..... (communicant members) together with .....

**Apologies:** Apologies from ..... were tendered and accepted.

*Business:*

1. The minutes of the last congregational meeting on ....were read and it was moved, seconded and agreed to that they be confirmed.

2. The Session Clerk reported on the spiritual condition of the congregation, and answered one or two questions.

3. The Treasurer presented the duly attested annual accounts, copies of which had been distributed the previous week, and answered questions. It was resolved that the meeting receive the Annual Accounts and express its gratitude for the work of the Treasurer and the Auditor.

4. The Convener of the Session's Outreach Committee then presented an outline of the extension work proposed to be initiated in the new housing estate, and answered questions.

There being no other business, the meeting was closed with prayer at ... .

**(2) SESSION**

The Session of the ..... Congregation met at..... on .....(Date) and was constituted with prayer at .... a.m./p.m.

**Present:**

**Apologies:**

*Business:*

**1. Confirmation of Minutes**

The minutes of the meeting on were read and confirmed.

**2. Commissioner to Presbytery**

This being the first meeting since the rising of the annual Synod, it was resolved that Mr be the commissioner to presbytery and Synod for the current ecclesiastical year, and that a Commission in the form prescribed in the Handbook 2.39 be furnished to the Clerk of Presbytery accordingly.

**3. Letter from Mr Jones**

A letter dated had been received from the above on (date) requesting that..... The letter was read and

received. It was resolved to advise the writer by letter that....

**4. Observance of Lord's Supper**

The Session resolved that the sacrament of the Lord's Supper be observed at the morning service on the first Lord's Day next month.

**5. Applicant for membership**

The minister reported that had approached him about communicant membership. The other elders having also spoken with the applicant, it was resolved that she be admitted on profession of faith at the morning service next Lord's Day.

**6. Review of roll**

The Clerk read through the names on the roll and it was noted that and were irregular while had left the district. It was resolved that the minister in company with elder John Smith would follow up the irregular attenders by personal visit, and that the member who had left the district would be written to with a view to a disjunction certificate being provided in order that membership might be transferred to our congregation.

**7. Annual Congregational Meeting**

It was resolved that the Annual Congregational meeting be held on and that the required intimation be made in the Congregation; and that as well as the usual reports and the presentation of the annual accounts, the Session also present a report on the proposed outreach to the new housing estate.

**8. Next meeting**

It was agreed to hold the next meeting at ..... on.....

**Closing**

The meeting was closed with prayer at a.m./p.m.

**(3) DEACONS' COURT**

The Deacons' Court of the .....Congregation met according to circular on ..... at the home of .....and was constituted at am/pm by John Brown, who occupied the chair in the absence of the minister.

**Present:**

**Apologies:** Rev John Jones

*Business*

1. The minutes of the meeting on ..... were read and confirmed.

2. Keith Brown reported that the new bath had been satisfactorily installed at the quoted price and the plumber paid.

3. The Court received the report from the Estate Agent on the value of the existing manse. The Court resolved unanimously to approve the sale at not less than \$.... and to seek concurrence of the Session accordingly in order that a meeting of the Congregation might be held to give approval to the proposed sale, subject to the approval of Presbytery.
4. It was agreed that at the ..... preaching place one of those attending should assist in counting the offering as there was only one office-bearer at the service at present.
5. It was agreed to allocate the provisional sum of \$.... for needy cases during the coming year, the minister and Bruce Brown to administer.
6. The Treasurer submitted an estimated budget for the coming year showing a likely surplus of \$.... This was approved.
7. It was agreed to advise the congregation that it was proposed in the coming year that 10% of all ordinary offerings would be applied to Synod Stipend Assistance and Mission funds according as the need was greatest, but that occasional opportunities would be given for special giving over and above this, while members were free at anytime to designate a special gift for a particular need.

It was agreed that the next meeting be held on the first Friday of next month at the same time and place.

There being no other business the meeting was closed with prayer at a.m./p.m.

#### **(4) PRESBYTERY**

The ..... Presbytery of the Presbyterian Church of Eastern Australia met for ordinary business at the ..... Church on .... and was constituted at ....a.m./p.m.

**Present:**

**Apologies:**

##### **1. Commissions**

Commissions in favour of Messrs Smith, Jones and Brown from the North, South and East congregations respectively were received and sustained.

##### **2. Election of Moderator**

It was resolved that Rev Mr ..... be the Moderator for the ensuing ecclesiastical year.

##### **3. Confirmation of Minutes**

The minutes of the meeting on ..... as circulated were confirmed after two corrections had been made and initialled.

##### **4. Congregational Reports**

a. The North Congregation reported that attendances were being maintained at the level reported at the last meeting, the youth fellowship was operating satisfactorily and that Mr ..... had been ordained and inducted to the eldership on .....

b. The Interim-Moderator of the East Congregation reported that at a duly constituted meeting of the congregation on .... Mr John Jones had been elected as minister by a vote of 24 to 4. There were 30 members on the roll which had been purged prior to the election.

There was no doubt of the financial capacity of the congregation to support a minister, and every prospect of harmony. Relevant extracts of the congregational meeting were laid on the table.

It was resolved that a special (in hunc effectum) meeting of Presbytery be held at the East Church on ..... at 7.45pm to moderate a call to Mr Jones, and that an edict in the form prescribed in the Handbook (4.60) be read in the congregation by the Interim-Moderator.

##### **5. Statistical return**

The statistics of the congregations were given in and were as follows:

##### **6. Remit under Barrier Act - "Act concerning leases"**

The Presbytery took up the remit from Synod under the Barrier Act and resolved 6 votes to 1 in favour of the proposed "Act concerning leases."

##### **7. Request to sell the West Church manse**

Extract minutes from Session dated ....., Deacons' Court dated .....and Congregational meeting dated ..... supported an overture of the Deacons' Court seeking permission to sell the manse and apply the proceeds to the erection of a new manse on the site owned by the congregation. The Presbytery heard the overture and granted its request in the following terms:

The Presbytery in its own name and on behalf of Synod (as authorised by the Synod resolution of 1988) grant the Deacons' Court permission to sell the manse situated at ..... for the fair market value, not to be less than \$.....; authorises the erection of a new manse on the site at ..... in accordance with the tender of ..... for \$.....; and directs and authorises the Trustees to sign and seal necessary documents accordingly. This permission is subject to the unconditional sale of the old manse before the contract for the new is signed and to the location of the new manse being altered by about 3 metres to the east so as to maintain the option of future subdivision of the remaining land.

##### **8. Spiritual Conference**

The Presbytery now resolved itself into a spiritual conference on the theme of "Pastoral Care" as

appointed by the last meeting. A paper was given by Mr ..... and a Book Review by Mr ..... After questions and discussion the conference was closed with prayer by several of the members.

**9. Treasurer's Report/Presbytery Levy**

The Treasurer reported a balance of \$ and that a levy would be required. It was resolved to raise a levy of \$ apportioned thus:

**10. Expenses**

It was resolved that the travel expenses of members be paid - total \$....., and that the Clerk's expenses of \$ be paid together with catering costs of \$....

**11. Next meeting**

It was resolved that the next meeting be in the South Church on ..... at 2pm and that the Spiritual Conference segment be on the topic of .....

The meeting was closed with prayer at ....

**SOME EXAMPLES OF MINUTES IN MATTERS OF DISCIPLINE OF MINISTERS**

A petition was presented by ..... and signed by sixteen members of the Middle Congregation, requesting the Presbytery to inquire into certain prejudicial reports now prevalent against their minister, Mr B. The minister of the Congregation being not present at the Presbytery, but the petitioners assuring the Presbytery that they had given to him a copy of their petition 2 weeks ago, and several Presbytery members affirming they had privately discussed matters with Mr B but to no avail, it was agreed to hold a special (in hunc effectum) meeting of the presbytery on ..... and to cite Mr B to appear to answer the allegations.

The minister of the Middle Church being present acknowledged that the allegations of repeated public drunkenness were true, expressed his repentance as well as his sorrow and regret for the dishonour done to Christ and his cause, and placed himself in the hands of the ....Presbytery. The Presbytery, after discussion and prayer, resolved in the name of the Lord Jesus Christ to depose Mr J B from the office of the holy ministry, dissolve the pastoral tie and appoint Mr John White Interim Moderator from today. The Presbytery recommended that the Deacons' Court pay a severance allowance of 3 months stipend in addition to any outstanding stipend and annual leave entitlement, and that report be made on this point at the next meeting of Presbytery. The Presbytery further appointed Messrs and to provide special pastoral care to Mr B in conjunction with the Middle Church elders.

Mr B being present expressed himself aggrieved that questions about his conduct should be raised and declined to discuss same unless a libel was made out. The Presbytery thereupon resolved to proceed to a libel in the name of the Presbytery, and appointed a committee consisting of Messrs L, M & N to prepare same in conjunction with the Synod's Law and Advisory Committee, and further appointed a meeting of the Presbytery for (date) to consider the relevancy of the libel and the propriety of serving it.

The Presbytery took up the case of the proposed libel against Mr J B. It was moved and second that the libel be found relevant. It was moved and seconded that the libel be found not relevant. The first motion was preferred and became the finding of the court. Mr B dissented and protested for leave to complain to Synod promising to give in reasons within 10 days. Leave was granted but not to stay Presbytery's procedure. It was moved and seconded that the libel be served on Mr B as one found relevant. The motion was carried. Mr B dissented and protested for leave to complain to Synod, promising to give in reasons within 10 days. In accordance with the law of the church, the Presbytery ordered the libel served notwithstanding the dissent and complaint, and find that Mr B now ceases, ipso facto, to exercise the functions of his office until the matter is disposed of. Mr White was appointed Interim- Moderator. The Presbytery, finding that the complaint now stays further procedure, resolves to request the Moderator to call a special meeting of Synod in order to a final decision on the complaint, should the complaint be supported by receipt of reasons within the prescribed 10 days.

**(5) SYNOD**

**Barrier Act procedure**

The Synod transmit the following overture to Presbyteries under the Barrier Act,\*

WHEREAS...

AND WHEREAS...

NOW THEREFORE the Synod with consent of presbyteries enact and ordain as follows: ....

[\*If the matter is of such urgency that it should provisionally operate, add the words, "and meantime pass the same as an Interim Act in force until next Synod."]

## **APPENDIX 2 - DATES AND OFFICIALS OF PREVIOUS SYNODS**

**VENUE OF ANNUAL MEETING:** 1846: 4 Hunter Street, Sydney (William Buyers' home); 1847-1854 PCEA Pitt Street, Sydney; 1855 PCEA, Free Church Street, Maitland; 1856-1860 PCEA Macquarie Street, Sydney (the iron church); 1861-1976 PCEA Castlereagh Street, Sydney (St George's); thereafter as below.

### **OFFICERS OF SYNOD**

**Synod Clerk**

|           |                        |
|-----------|------------------------|
| 1846-1847 | Rev John Tait          |
| 1847-1849 | Rev Colin Stewart      |
| 1849-1850 | Rev George Mackie      |
| 1850-1864 | Rev Arthur M. Sherriff |
| 1864-1867 | Rev John L. McSkimming |
| 1867-1885 | Rev Duncan McInnes     |
| 1885-1900 | Rev Isaac Mackay       |
| 1900-1904 | Rev William Archibald  |
| 1905      | Rev Samuel P. Stewart  |
| 1906-1922 | Rev William N. Wilson  |
| 1922-1936 | Rev Herbert W. Ramsay  |
| 1936-1941 | Rev Malcolm C. Ramsay  |
| 1941-1966 | Rev Joseph A. Harman   |
| 1966-1982 | Rev Stewart N. Ramsay  |
| 1982-1992 | Rev W. Peter Gadsby    |
| 1992-1993 | Rev Rowland S. Ward    |
| 1993-2005 | Rev W.J. Wesley Hanna  |
| 2005-2021 | Rev Trevor I. Leggott  |
| 2021-     | Rev David Kerridge     |

**Synod Treasurer**

|           |                                  |
|-----------|----------------------------------|
| 1846-1875 | William Buyers                   |
| 1875-1877 | James Buyers                     |
| 1877-1900 | Edward A. Rennie                 |
| 1900-1905 | Rev Samuel P. Stewart            |
| 1905-1920 | Rev William McDonald             |
| 1920-1921 | William H. Reid                  |
| 1921-1925 | Alex Gunn                        |
| 1925-1940 | James Ross                       |
| 1940-1949 | Harald C. Nicolson               |
| 1949-1952 | Neil A. McPherson                |
| 1953-1971 | Harald C. Nicolson               |
| 1971-1991 | Neil A. McPherson                |
| 1991-2018 | Alex H. Steel                    |
| 2018-2019 | D. Peter Smith                   |
| 2019-2021 | Alex H. Steel                    |
| 2021-2023 | John Audet                       |
| 2023-2025 | Alex H. Steel with Donald Ramsay |
| 2025-     | Donald Ramsay                    |

**Moderator of Synod since 1977**

*(see A Witness for Christ page 120 for earlier years).*

| <b>Date</b>      | <b>Place</b>    | <b>Moderator</b> |
|------------------|-----------------|------------------|
| 1977.05.10-17    | Collaroy        | D.R.Nibbs        |
| 1978.05.09-15    | Collaroy        | A.R.Beaton       |
| 1979.05.12-18    | Carlton, Vic.   | R.W.Murray       |
| 1980             | not held        |                  |
| 1981.05.09-15    | Taree           | E.R. Lee         |
| 1982.05.08-14    | Taree           | R.S. Ward        |
| 1983.05.07-13    | Taree           | J.M. Cromarty    |
| 1984.05.05-11    | Maclean         | A.L.Tripovich    |
| 1985.05.11-17    | Taree           | K.MacLeod        |
| 1986.05.17-22    | Taree           | E.R. Lee         |
| 1987.04.20-24    | Taree           | R.W. Murray      |
| 1988.07.02-06    | Taree           | P.J. Bloomfield  |
| 1989.03.28-31    | Taree           | W.P. Gadsby      |
| 1990.04.17-20    | Taree           | J.S. Graham      |
| 1991.04.02-05    | Taree           | J.A. McCallum    |
| 1992.04.27-05.01 | Taree           | J.A. Cromarty    |
| 1993.04.19-22    | Taree           | W.M. Mackay      |
| 1994.04.08-12    | Taree           | T.I. Leggott     |
| 1995.04.07-11    | Taree           | T.I. Leggott     |
| 1996.03.27-04.02 | Armidale        | R.S.Ward         |
| 1997.04.17-22    | Armidale        | J.M.Cromarty     |
| 1998.04.20-24    | Armidale        | W.P.Gadsby       |
| 1999.04.19-22    | Collaroy        | J.A.McCallum     |
| 2000.05.01-04    | Collaroy        | T.J.McGlynn      |
| 2001.05.07-10    | Geelong         | G.D.Ball         |
| 2002.05.06-09    | Maclean         | R.W.Murray       |
| 2003.05.05-08    | Maclean         | G.Kinder         |
| 2004.05.03-06    | Elanora Heights | T.I. Leggott     |
| 2005.05.02-05    | Elanora Heights | S.R. Tamata      |
| 2006.05.08-11    | Cardiff         | D. Peter Smith   |
| 2007.05.07-10    | Cardiff         | R.S. Ward        |
| 2008.05.12-15    | Cardiff         | D.K. Muldoon     |
| 2009.05.11-14    | Wantirna        | J.A.McCallum     |
| 2010.05.03-05    | Wantirna        | G.D.Ball         |
| 2011.05.02-04    | Wantirna        | M. Gavin Smith   |
| 2012.05.08-10    | Wauchope        | S. Bajema        |
| 2013.05.07-09    | Wauchope        | A.A.Miranda      |
| 2014.05.08-06    | Wauchope        | R.S.Ward         |
| 2015.05.05-07    | Mt Druitt       | J.D.Klazinga     |
| 2016.05.03-05    | Mt Druitt       | D. Kerridge      |
| 2017.05.02-04    | Mt Druitt       | D.K.Muldoon      |
| 2018.05.01-03    | Taree           | T.W. Yoa         |
| 2019.05.07-10    | Taree           | R.Tso            |
| 2020             | not held        |                  |
| 2021.05.04-07    | Raymond Terrace | G.D. Ball        |
| 2022.05.03-05    | Raymond Terrace | T.I. Leggott     |
| 2023.05.02-05    | Raymond Terrace | A.A. Miranda     |
| 2024.05.07-10    | Raymond Terrace | J.C.A. Forbes    |
| 2025.05.06-09    | Wauchope        | J.D. Klazinga    |

## **APPENDIX 3 - SYNOD STANDING ORDERS**

*[Act of Synod 1978 as amended 1984 and 1991, and by Act 2, Synod 2008; Act 1, Synod 2024; and Act 1, Synod 2025]*

The Synod adopted the following Standing Orders, while reserving the right to suspend Standing Orders upon a resolution of the court, and any motion to do so shall take precedence over other business that may be before the house.

### **I – MOTIONS**

1. Every motion, whether original or amended, if not already in the hands of the Clerk shall be given in writing to the Clerk as soon as it shall have been made to the house.
2. Every such motion shall be legibly written in ink, and any alterations or deletions shall be initialled by the mover of the motion.
3. When a motion has been duly seconded, it shall not be competent to make any alteration upon it without the permission of Synod, excepting in the shape of an amendment, or second or third or subsequent motion as the case may be, regularly proposed to Synod.
4. The person who makes the first motion shall be entitled to the privilege of giving a reply, in which new matter may not be introduced; and thereafter the debate shall be held to be definitely closed, and no other person shall be entitled to speak except with regard to the manner of putting the vote.
5. Where an amendment, or second or third or subsequent motion is involved, the manner of taking the vote is to put the amendment against the motion or the second and third motions against each other in the first instance. The one of these which is carried by a majority is then put against the first motion. When only one motion remains, or if an amendment has become the motion, the vote shall then be taken for or against that motion.
6. When the recommendations of Standing Committees are in the hands of members as prescribed by Synod, any competent amendments, alternative proposals or additional motions relevant to the business of that Committee shall be given in writing to the Clerk not later than the session preceding that in which the business of that Committee is to be taken up by Synod, and shall be read to the court before the close of that session.

7. To ensure careful consideration and wise decision making, copies of correspondence for transmission to Synod shall be supplied with the Reports. Any non-procedural proposal that arises from late correspondence or on the floor of the Synod that is not already anticipated in the prayer of an overture or petition regularly before the Synod, or the subject of a notice of motion in terms of clause 6 of this Act, shall be held over until the next session and, if contentious or of complexity, referred to a representative ad hoc committee for report to the next or later session, before being debated.

### **II – LENGTH OF SPEECHES**

1. In the discussion of any question the proposer of each motion may address the house for not longer than 20 minutes in proposing his motion, and the seconder for 10 minutes; And no subsequent speaker including the proposer shall address the house for no longer than 10 minutes; and that these limits shall only be exceeded when the Moderator shall have ascertained that the house desires any speaker to continue, and shall intimate the ascertained desire to that effect.
2. When a Convener not being a member of Synod is permitted to present his Committee's Report, the Convener and the mover of the Deliverance shall be required to come to an arrangement by which their combined speeches shall not exceed the time normally granted to the mover of a motion in terms of Standing Order II (1) or as that Order may be amended by this or any subsequent Synod.
3. A member of Synod in moving or seconding an Amendment shall confine himself to the matter of the Amendment and shall have the right to speak at a later stage to matters in the Report and other amendments, provided that the total time taken in speaking shall conform to Standing Order 2.1.

### **III – DISSENTS**

No dissents against any Deliverance of the Synod shall be given in until the minute in which it is pronounced is, for that sederunt, disposed of, the minutes are completed and adjusted, and the house is ready to proceed to other business.

#### **IV - LETTERS ADDRESSED TO THE MODERATOR**

All letters addressed to the Moderator for the purpose of being communicated to the Synod shall, in the first instance, be laid by him before the Bills and Overtures Committee who shall advise the Moderator as to the way of disposing of them.

#### **V - THE CONDUCTING OF CAUSES**

It was resolved that:

1. That as far as may be possible, a separate sederunt shall be set apart for Causes, and it shall be understood that Friday forenoon [i.e., the last day of Synod] shall be mainly devoted to that purpose.

2. That in no case shall there be more than two speeches for each party at the Bar, including the reply to which the appellant or complainant shall be entitled: and where there are more than two parties, there shall be only one speaker, and one speech for each, besides the reply - it being understood that where there is more than one complainant, each shall be considered as a different party only in case of it appearing to Synod that the complaints rest upon distinctly different grounds.

3. That previously to hearing the parties in any Cause, the Clerk shall read the following announcement, viz.:

The members are reminded that justice requires that the pleadings at the Bar be heard by all those who vote in the Cause, and that, in particular, no member ought to vote against either side of the Bar who has not heard the pleadings on that side.

That the Clerk of Synod shall not issue papers to the members of Synod with reference to cases which he thinks require to be conducted with closed doors until specially instructed by the Synod to do so; but he shall report such cases to the Synod Administration Committee for its information.

That the Synod Administration Committee shall, in their first Report, specify any case which, in their judgement, requires to be conducted with closed doors; and any case which does not appear to them of that character, though the Clerk may have reported it as such.

That in every case which the Synod appoints to be conducted with closed doors, any instruction to issue the papers shall be accompanied by a special exhortation to the members to keep them private.

#### **VI – SYNOD ARRANGEMENTS**

1. The Synod Treasurer forwards his report and annual accounts to Synod members at least 50 days prior to the scheduled opening of Synod.

2. All documents and Committee Reports for transmission to Synod are to be lodged with the Clerk of Synod at least 45 days prior to Synod. Any document or report presented after that date must be accompanied by a letter showing cause why it could not be presented by the due date. The Administration Committee shall judge whether the reasons advanced are sufficient, and if there are extenuating circumstances shall transmit the same to Synod, reporting accordingly. If the Committee refuse to transmit any document it states reasons to those concerned, who, if aggrieved with the decision, may petition Synod in the usual way without conforming to the above mentioned deadline.

3. Requests for finance from Synod funds are to be forwarded by presbyteries direct to the Finance Committee to reach the Convener at least 60 days prior to Synod.

4. The Clerk of Synod shall arrange for Committee Reports and Recommendations together with Correspondence to be circulated so that they are in the hands of members not later than 21 days before the opening of Synod. Correspondence with the potential to impugn the character or reputation of any person is not to be circulated to persons other than Synod members prior to Synod considering the same.

5. At the annual meeting of Synod participation by phone or video conference will not normally be allowed. In exceptional circumstances request should be made to the Administration Committee in reasonable time before Synod, which may approve the request if it sees fit.

## **APPENDIX 4 - DEVELOPMENT OF THE HANDBOOK**

### **DEVELOPMENT**

From the early days of the Presbyterian Church of Eastern Australia there was a desire to have a book of church practice and procedure that specifically addressed the needs of the Australian church. This was evidenced in 1871 when Synod appointed the Revs. James McCulloch and W.S. Donald to ‘draw up a digest of rules and procedure for the Church Courts.’ McCulloch’s ill-health and death in 1873 prevented this project being completed. In 1879 an overture from the Presbytery of Grafton asked Synod to draw up “a code of rules” but the work proved difficult due to the small number of ministers. In 1928 Synod adopted the Practice of the Free Church of Scotland “as authority for the procedure of the Church as far as possible”. Differences between the relative circumstances of the church in Scotland and that in Australia meant that the Scottish Practice could not always be uniformly applied. In 1964 the Victorian Presbytery overtured Synod ‘to take steps to produce over a period of years a Practice for our own Church.’ Synod approved the overture and remitted it to the Law and Advisory committee, but it was not until 1982 that work began in earnest when Synod urged the Committee to press on with the task.

The Clerk of Synod, the Rev W.P. Gadsby, convened the Law and Advisory Committee from 1982 to 1985. A complete draft *Practice* was submitted to Synod in 1983. This was an adaptation of the Scottish Practice carried out largely by Rev R.S. Ward. It was commended by Synod as ‘a useful adjunct’ pending careful revision by the Committee and Synod. The Rev. R.S. Ward was appointed Convener in 1985 serving to 1995. In 1985, the Rev. R.W. Murray made significant contribution to the

arrangement of the early chapters. The work subsequently profited from the scrutiny of all members of the Committee and of the Synod.

Chapters 1-3 were adopted by Synod on 30th March 1989. Chapters 4 – 5 were adopted on 4th April 1991. Chapters 6 -7 were adopted on 29th April 1992, at which time Synod resolved to “affirm the completed practice Chapters 1 to 7 as its *Handbook of Practice and Procedure* in succession to the Free Church of Scotland *Practice* of 1964” and to “commend the study and careful use of the Handbook to office-bearers and others, reminding users of the provisions of Chapter 1.10 and 1.11.”

The first edition, published in August 1992, included three sections in addition to the chapters approved by Synod. These were - “Principal enactments bearing on the constitution”, “Time lines showing origin of the Presbyterian Church of Eastern Australia”, and “Some specimens of the way minutes may be written”.

### **UPDATES**

Successive editions of the *Handbook* incorporated amendments authorised by Synod from time to time. A chapter 8 relating to child protection was approved in 2022. Over the years it also became apparent that the *Handbook* had accumulated editorial changes that, however well intentioned, were not duly sanctioned. A careful review was carried out from 2022 - 2024 to produce an edition that would include only what had been approved by Synod and necessary editorial corrections such as updating of references. Henceforth all changes from the original 1992 Handbook to be recorded in the table below:

### **AUTHORISED AMENDMENTS**

| Ref. | Description  | Date | Authorisation                        |
|------|--|------|--------------------------------------|
| 1.11 | Replace “regulate” with “guide the conduct of”                 | 2024 | Synod Minutes 24.2.8.3 (Act 2, 2024) |
| 2.5  | Addition “An elder who wishes... [this para vide Synod 2016].” | 2016 | Synod Minutes 16.24.3 (Act 4, 2016)  |
| 2.6  | Addition “(Note also 4.55d)”                                   | 2024 | Synod Minutes 24.2.8.3 (Act 2, 2024) |

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|             |   |      |   |
|-------------|---|------|---|
| 2.9         | Add note “Disturbance in a church service. From time to time there may be serious incidents of disturbance in a church service. A caring Christian approach is usually able to resolve the issue without recourse to legal measures. The legal position is understood to be that there is an implied licence to enter a church for the purpose of public worship. If a person acts in a manner that is contrary to this purpose the licence can be revoked by words spoken to him, and he can be asked to leave or the police will be called. One must not use physical restraint to remove a person unless the physical safety of congregants is at risk. If needed one can seek a court order.” | 2024 | Synod Minutes 24.2.8.3 (Act 2, 2024)  |
| 2.10        | Addition “and his name added to the communion roll.”  | 2007 | Synod Minutes 07.14 (Act 1, 2007)   |
| 2.10 & 2.11 | For ease of reference add heading “Relationship to Minister” at 2.10 and “Jurisdiction” at 2.11   | 2024 | Synod Minutes 24.2.8.3 (Act 2, 2024)  |
| 2.13        | Add “Minister are members...Act of Synod 2007.14)”  | 2010 | Synod minutes 10.14.2   |
| 2.19        | Add sample disjunction certificate  | 2024 | Synod Minutes 24.2.8.3 (Act 2, 2024)  |
| 2.25        | Addition “Discussion by the session...edification of the church.”   | 1996 | Synod Minutes 96.35.8 (Act 7, 1996)   |
| 2.38        | Necessary editorial to amend an incorrect reference from “see 7.26” to “see chapter 7”  | 2024 | Synod Minutes 24.2.8.3 (Act 2, 2024)  |
| 2.42        | Addition “...and particularly for the pulpit...period of supply ends”   | 2013 | Synod minutes 13.17.6a  |
| 2.42        | Additional wording to second paragraph “...full time supply or...” and “In the case of residential supply...” (Also amended 4.53)   | 2022 | Synod minutes 22.2.14   |
| 3.14a       | Add all of section 3.14a  | 2018 | Synod Minutes 18.16.2 (Act 2, 2018)   |
| 3.15        | Addition of entire section “CONGREGATIONAL FINANCIAL MANAGEMENT”  | 2017 | Synod Minutes 17.36.5   |
| 3.15        | ACNC charity classification updated to current.   | 2024 | Synod Minutes 24.2.8.3 (Act 2, 2024)  |
| 3.15        | Delete “While ACNC does not...for attestation (see 2.33).”<br>Replace with “Congregations classified as Small Charities are required by Synod to have their annual Financial Statement examined. They may obtain a professional Review or Audit or they may appoint as examiner a competent independent person who is not a member of the court.”   | 2025 | Synod Minutes 25.15 (Act 10, 2025)  |
| 3.16a       | Addition “Non-Cash Benefits are to be limited to 40% of minimum stipend (Synod 2017)” Minutes 17.36.3, (Act 8, 2017)  | 2024 | Synod Minutes 24.2.8.3 (Act 2, 2024)  |
| 3.16b       | Change to “Five weeks annual leave”. Supersedes previous amendment by Act 6, 2003.  | 2024 | Synod Minutes 24.2.13.1 (Act 8, 2024)                                       |
| 3.16g       | Add new section “g. Long Service Leave (Synod 2024)”  | 2024 | Synod Minutes 24.2.13.1 (Act 8, 2024)                                       |
| 3.16        | Add wording for Annual Leave and Long Service Leave per Act 8, 2024   | 2024 | Synod Minutes 24.2.13.1 (Act 8, 2024)                                       |
| 3.16        | Addition “Deacons’ Courts are to keep a close eye on the minister’s leave entitlement to ensure he does not suffer burnout through failure to take it. Recording of entitlement in the minutes should occur once a year to avoid misunderstanding and facilitate Presbytery’s role when examining records.”   | 2024 | Synod Minutes 24.2.8.3 (Act 2, 2024)<br>Wording per Synod Minutes 22.2.39.4 |
| 3.17a       | After “Synod's Superannuation Levy” delete the words “and Long Service Leave”. Amend “half-yearly” to read “quarterly”. (Per Synod Minutes 03.41.1)   | 2024 | Synod Minutes 24.2.8.3 (Act 2, 2024)  |

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|         |  |      |   |
|---------|--|------|---|
| 3.17d   | After “from time to time.” replace with alternative wording “Requests for financial... (see 4.79)”   | 2016 | Synod Minutes 16.54 (Not listed as Act)                             |
| 3.17d   | Replace “Stipend Relief” with “Financial Assistance”   | 2023 | Synod Minutes 23.2.9  |
| 3.19b   | After “...1989 Act 13, Class 2]” add words “but Synod 1994...for report to ensuing Synod.”   | 1994 | Editorial for compatibility with Synod Minutes 94.35 (Act 12, 1994) |
| 3.20    | Addition “Purchase or capital...Act of Synod 2014”   | 2014 | Synod Minutes 14.41.4 (Act 8, 2014)                                 |
| 3.21    | Replace “3.21b-c is Act of Synod 1991” with “See Act 16, 1991, and Act 3, 2016”  | 2024 | Synod Minutes 24.2.8.3 (Act 2, 2024)                                |
| 3.21a-b | Replacement of paragraphs a and b  | 2016 | Synod Minutes 16.24.2 (Act 3, 2016)                                 |
| 3.21a-b | Delete insurance renewal date as unnecessary and may change.   | 2024 | Synod Minutes 24.2.8.3 (Act 2, 2024)                                |
| 3.22    | Replace whole section from “Where mortgage...re NSW Act]”  | 1996 | Synod Minutes 96.35.7 (Act 7, 1996)                                 |
| 3.22    | Insert actual wording of Act 10, 1988 to clarify the conditions upon which Presbytery can approve the sale of property.  | 2024 | Synod Minutes 24.2.8.3 (Act 2, 2024)                                |
| 3.22    | Add paragraph, “Should it be impracticable to wait until the annual Synod, a congregation desiring to mortgage property (other than church buildings) may submit a Presbytery-approved proposal to the Finance Committee in terms of the existing Capital Assistance Fund procedure and the Administration Committee is authorised to make a decision after receiving recommendation or otherwise from the Finance Committee. (Act 9, 2008)” Synod Minutes 08.46 | 2024 | Synod Minutes 24.2.8.3 (Act 2, 2024)                                |
| 3.23    | Addition – Full wording of SPECIMEN FORM OF BEQUEST  | 2014 | Synod Minutes 14.18.5 (Act 3, 2014)                                 |
| 3.26a   | Addition "and amended by The Synod of Eastern Australia Property Amendment Act 2004 No. 6/2004" Per Synod minutes 03.46 (Act 8, 2003)  | 2024 | Synod Minutes 24.2.8.3 (Act 2, 2024)                                |
| 3.26b   | Addition “and amended by the Free Presbyterian Church Property Amendment Act 2012, No. 67/2012.” Per Synod minutes 11.17 (Act 3, 2011)   | 2024 | Synod Minutes 24.2.8.3 (Act 2, 2024)                                |
| 4.3d    | Editorial correction. Original Handbook incorrectly stated “1983 [Act 19 Class 2]”. Replace with 1986 [Act 18, Class 2]  | 2024 | Synod Minutes 24.2.8.3 (Act 2, 2024)                                |
| 4.3d    | Add as note the full wording of Act 18, 1986, Seats on Presbyteries for Ministers not Inducted   |      | Synod Minutes 24.2.8.3 Act 18, 1986                                 |
| 4.12    | Addition “To obviate the necessity...if desired).”   | 2017 | Synod minutes 17.13.1 (Act 1, 2017)                                 |
| 4.26c   | Add “including student training and allowances and licensing procedure 4.46-4.50” Previously Licensing of students was item d). Re-letter subsequent headings accordingly.   | 2024 | Synod Minutes 24.2.8.3 (Act 2, 2024)                                |
| 4.26i   | Add “i) Minister without charge and resigned/retired ministers 4.88”   | 2024 | Synod Minutes 24.2.8.3 (Act 2, 2024)                                |
| 4.41d   | Addition per Synod minutes 22.2.39.4 “d. Ensures a record of the minister’s outstanding leave entitlement is entered in the deacons’ court or session minutes at least annually.”  | 2024 | Synod Minutes 24.2.8.3 (Act 2, 2024)                                |
| 4.41e   | Addition per Synod minutes 12.22.6, “e. sees to it that congregations under their care include a fair value of their assets in their annual financial statement as well as detail of any liabilities”  | 2024 | Synod Minutes 24.2.8.3 (Act 2, 2024)                                |

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|             |   |              |   |
|-------------|---|--------------|---|
| 4.41f       | Addition “ensures minutes appear...satisfactorily answered”<br>The requirement was repealed in 2022 so now deleted again.   | 2016<br>2022 | Synod minutes 16.24.1<br>Repealed 22.2.13.2 |
| 4.48        | Addition “No minister may be...the Presbytery minutes”  | 2004         | Synod Minutes 04.47.5<br>(Act 6, 2004)      |
| 4.49(c)     | Addition “c. The candidate...contact with minors.” Renumber.  | 2004         | Synod Minutes 04.47.3<br>(Act 6, 2004)      |
| 4.49(d).vi  | Addition "a written medical report should be provided as to his state of health and fitness for the ministry. “   | 2012         | Synod Minutes 2012.22.7a                    |
| 4.49A       | Add full wording of Act 16, 1983 as amended 1991 and 2013 - Student Training & Allowances.  | 2024         | Synod Minutes 24.2.8.3<br>(Act 2, 2024)     |
| 4.50        | Amend dates of relevant Acts in heading. Delete “The current (1991) regulations as last amended in 1983 are as follows” Replace with “The current regulations are as follows” | 2024         | Synod Minutes 24.2.8.3<br>(Act 2, 2024)     |
| 4.50 3d     | Addition to 3d) “As part of this assurance...Presbytery Minutes”  | 2004         | Synod Minutes 04.47.4<br>(Act 6, 2004)      |
| 4.50 5      | Addition “In view of the importance...examination is concluded.”  | 2013         | Synod Minutes 13.17.5a<br>(Act 4, 2013)     |
| 4.50 5f     | Addition after “The Presbytery must be assured...hearing of the Presbytery”   | 2013         | Synod Minutes 13.17.5b<br>(Act 4, 2013)     |
| 4.51        | Insert heading “4.51 ADMISSION OF MINISTERS FROM CHURCHES WITH WHOM THERE IS MUTUAL ELGIBILITY” followed by relevant wording of current Synod Acts for mutual eligibility.    | 2024         | Synod Minutes 24.2.8.3<br>(Act 2, 2024)     |
| 4.51(e)     | Addition “e. his suitability...take up residence.”  | 2004         | Synod Minutes 04.47.2<br>(Act 6, 2004)      |
| 4.52        | Renumber so that original 4.51 & 4.52 are now all under 4.52  | 2024         | Synod Minutes 24.2.8.3<br>(Act 2, 2024)     |
| 4.52(f)     | Addition “f. a written medical report should be provided as to his state of health and fitness for the ministry.”   | 2012         | Synod minutes 12.22.7b                      |
| 4.53        | Addition “...and particularly for the pulpit...period of supply ends”   | 2013         | Synod minutes 13.17.6a                      |
| 4.53        | Additional wording to second paragraph “...full time supply or...” and “In the case of residential supply...”   | 2022         | Synod minutes 22.2.14                       |
| 4.53        | Addition “To assist the congregation as it enters the vacancy it may be desirable that a presbyterial visitation be held”   | 2013         | Synod minutes 13.17.6b                      |
| 4.55        | Whole section was replaced with Act 2, 2013 (13.17.3) but this was repealed again by Act 7, 2024 (24.2.8.9) and the original wording reinstated.                              | 2024         | Synod minutes 24.2.8.9<br>(Act 7, 2024)     |
| 4.55a       | Necessary editorial. Update reference to read Handbook 4.3  | 2024         | Synod Minutes 24.2.8.3<br>(Act 2, 2024)     |
| 4.60        | Addition “When a presbytery has satisfactory...viability in its minutes”  | 2013         | Synod minutes 13.17.7<br>(Act 6, 2013)      |
| 4.63        | Addition of fourth paragraph "If the minister under call ...to a minister overseas.”  | 2018         | Synod Minutes 18.16.1<br>(Act 1, 2018)      |
| 4.65        | Delete “ORDAINED” so that heading reads “4.65 CALL TO MINISTER IN A CHARGE IN ANOTHER PRESBYTERY”   | 2024         | Synod Minutes 24.2.8.3<br>(Act 2, 2024)     |
| 4.76 - 4.83 | Heading - add reference “4.76-4.83 PRESBYTERY IN RELATION TO SYNOD, &c.”  | 2024         | Synod Minutes 24.2.8.3<br>(Act 2, 2024)     |
| 4.76        | Update reference to “(see 5.3)” due to changed numbering.   | 2024         | Synod Minutes 24.2.8.3<br>(Act 2, 2024)     |

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|-----------|---|--------------|---|
| 4.79      | Replace “See Act of Synod 1990” with “See Act 11, 1990 as amended 2008”. Necessary editorial addition per Synod minutes 2008.17.2 (not listed as an Act).   | 2024         | Synod Minutes 24.2.8.3 (Act 2, 2024)  |
| 4.88      | Addition of full wording of Act 5, 2012 (Synod minutes 12.22.4)   | 2024         | Synod Minutes 24.2.8.3 (Act 2, 2024)  |
| 5         | Numbering updated throughout chapter 5. All references update to match new numbering.   | 2024         | Synod Minutes 24.2.8.3 (Act 2, 2024)  |
| 5.4       | Added “At the annual Synod participation by video conference or phone will not normally be permitted”   | 2025         | Synod Minutes 25.7.2 (Act 1, 2025)  |
| 5.15      | Added “Live-streaming of open-court proceedings may be allowed at the discretion of the court.”   | 2025         | Synod Minutes 25.7.2 (Act 1, 2025)  |
| 5.16      | Originally 5.14 amended to “It is the normal practice to record...it can be made in public”   | 1996         | Act 7, 1996   |
| 5.17      | Originally 5.15 amended to “Where minutes are taken down...extracts in presbyteries apply (see 4.25)”   | 1998         | Synod Minutes 98.10.4. (Act 3, 1998)  |
| 5.19      | Replace "Since Synod 2013 standing committees have been arranged as follows:" with “Standing committees are arranged as follows:” and update current committee names.<br>2025 – Delete Psalmody from list   | 2024<br>2025 | Synod Minutes 24.2.8.3 (Act 2, 2024)<br>Synod Minutes 25.32 (Act 13, 2025)                      |
| 5.24      | Include reference to Act 5, class 2, 1984 at beginning of paragraph rather than end.  | 2024         | Synod Minutes 24.2.8.3 (Act 2, 2024)  |
| 5.24      | Add "Synod 2008 (minute 08.17.1) requested any who frame proposals for Synod’s consideration to take care to make provision for specifying previous enactments that are varied or rescinded by such proposals.”   | 2024         | Synod Minutes 24.2.8.3 (Act 2, 2024)  |
| 5.24      | Add “Synod 2008 (Act 2, Class 2): ‘To ensure careful consideration and wise decision making, copies of correspondence for transmission to Synod shall be supplied with the Reports. Any non-procedural proposal that arises from late correspondence or on the floor of the Synod that is not already anticipated in the prayer of an overture or petition regularly before the Synod, or the subject of a notice of motion in terms of clause 6 of this Act, shall be held over until the next session and, if contentious or of complexity, referred to a representative ad hoc committee for report to the next or later session, before being debated.” | 2024         | Synod Minutes 24.2.8.3 (Act 2, 2024)  |
| 5.25      | Add heading “5.25 TIME LIMITS RE REPORTS & CORRESPONDENCE TO SYNOD [See Act 1, Class 2 Synod 1983]”<br><br>In 2025 the Act of 1983 was repealed. Heading amended to “[See Appendix 3 – Synod Standing Orders]”  | 2024<br>2025 | Synod Minutes 24.2.8.3 (Act 2, 2024)<br>Synod Minutes 25.7.2 (Act 1, 2025)                      |
| 5.25      | Delete sentence from original wording “Synod committees are generally composed on a regional basis with up to 5 members who are to serve for at least three years.” and add “to reach the Finance Committee at least 60 days before the Synod.”   | 2024         | Synod Minutes 24.2.8.3 (Act 2, 2024)  |
| 5.32      | After “records of presbyteries,” Delete “and to compare the scroll minutes of Synod with the permanent record” as out-of-date   | 2024         | Synod Minutes 24.2.8.3 (Act 8, 2024)  |
| 5.34      | Delete “The Committee’s resolution for or against transmission may be brought under review of the Synod by appeal or complaint.”<br>Replace with “If aggrieved with the Committee’s decision the person/s concerned may petition Synod in the usual way without conforming to the above mentioned deadline.”  | 2025         | Synod Minutes 25.7.2 (Act 1, 2025 amended Act 1, 1983 and incorporated it into Standing Orders) |
| 5.35-5.36 | Revised wording   | 2019         | Synod minutes 19.14.  |
| 5.37      | Remove “that is laws” incorporated as explanatory footnote in 2015.<br>Repealed 2024.   | 2024         | Synod Minutes 24.2.8.3 (Act 2, 2024)  |

## *Handbook of Practice and Procedure 2025*

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| 5.38       | Addition of historical detail “(Act 8, Assembly 1736).”  | 2024 | Synod Minutes 24.2.8.3 (Act 2, 2024)                            |
| 5.39-5.40  | Wording was replaced with Act 5, 2016. Proved to be unclear and confusing. Act rescinded and reverted to original wording.   | 2024 | Synod Minutes 24.2.8.3 (Act 2, 2024)                            |
| 5.42       | Delete “Copies of the Decision Book are made available at a suitable charge to members and other interested persons.” Now out-of-date.   | 2024 | Synod Minutes 24.2.8.3 (Act 2, 2024)                            |
| 5.48       | Delete dates “1979, 1984, 1991” and replace with “from time to time”   | 2024 | Synod Minutes 24.2.8.3 (Act 2, 2024)                            |
| 6.7a       | Addition "The form is important since...prayer or dismissing it." In specimen petition “(here state in logical progression the reasons advanced for the granting of the prayer)” AND “And your petitioner/s will every pray.”                                      | 2008 | Synod minutes 08.17.4. Full wording outlined in L&A report 2008 |
| 6.15       | Amend reference to 6.20  | 2024 | Editorial for accuracy  |
| 7.16       | Addition "Care should be taken to distinguish between sincere and false expressions of repentance.”  | 2005 | Synod Minutes 05.54.3 (Act 4, 2015)                             |
| 7.26       | Addition “such as homosexual behaviour, child abuse and serious marriage breakdowns.” From 2008 L&A Report (minutes 08.17.4) with deletion of some inappropriate words 2024.   | 2024 | Synod Minutes 24.2.8.3 (Act 2, 2024)                            |
| 7.37       | Add “As by decision...accompanied by excommunication”  | 2010 | Synod minutes 10.14.2   |
| 7.50       | Insert “7.50 INTERVIEWING WOMEN, CHILDREN AND VULNERABLE ADULTS [Act 1, Class 1, Synod 2012]” followed by full wording of the act.   | 2024 | Synod Minutes 24.2.8.3 (Act 2, 2024)                            |
| 8          | Addition of entire new chapter “SAFE CHURCH MATTERS”   | 2022 | Synod minutes 22.2.13.3 (Act 4, 2022)                           |
| 9          | Designate this as Chapter 9 “PRINCIPAL ENACTMENTS BEARING ON THE CONSTITUTION OF THE PRESBYTERIAN CHURCH OF EASTERN AUSTRALIA”   | 2024 | Synod Minutes 24.2.8.3 (Act 2, 2024)                            |
| 9          | 1697 - Add “COMMONLY CALLED THE BARRIER ACT”   | 2024 | Synod Minutes 24.2.8.3 (Act 2, 2024)                            |
| 9          | 1736 - Add as a Principal Enactment - 1736 ACT CONCERNING RESCINDING ACTS PASSED UNDER THE BARRIER ACT (Act 8, Assembly 1736)  | 2024 | Synod Minutes 24.2.8.3 (Act 2, 2024)                            |
| 9          | 1954 - Add additional note “and remains in force for both Free Church and Free Church (Continuing). The PCEA Act was rescinded in 2004, and a new mutual relationship was formalised with the Free Church in 2005 and with the Free Church (Continuing) in 2019.]” | 2024 | Synod Minutes 24.2.8.3 (Act 2, 2024)                            |
| Appendix 3 | Add entire new section “VI – SYNOD ARRANGEMENTS”   | 2025 | Synod Minutes 25.7.2 (Act 1, 2025)                              |
| Appendix 4 | Add new APPENDIX - DEVELOPMENT OF THE HANDBOOK with table of authorised amendments   | 2024 | Synod Minutes 24.2.8.3 (Act 2, 2024)                            |

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**The list is not exhaustive (see also Table of Contents)**

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