

ACTS OF SYNOD 2003

Class 1 (Barrier Act Procedure)

No	Act	Reference
1	Act to Rescind Federal Relations Act – INTERIM ACT and OVERTURE	03.30

Class 2 (Others)

No	Act	Reference
1	The Rev. G. Kinder appointed Assistant Editor of <i>The Presbyterian Banner</i>	03.25.7
2	The Rev. S.R Tamata's appointment as missionary in Fiji	03.32.2
3	Increase Minimum Stipend	03.33.2
4	Adjustments to Minimum Stipend	03.33.3
5	Phasing out of Child Allowance	03.33.6
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CLASS 1 – ACTS WHICH HAVE PASSED THE BARRIER ACT

ACT 1 – Act to Rescind Federal Relations Act – INTERIM ACT and OVERTURE

Wednesday 7th May 2003

Minutes 03.30

The proposal to rescind the Federal Relations Act of Synod April 12, 1954 Class 1, as corrected by Act 1 Class 1 Synod 1984, be remitted to Presbyteries in terms of Barrier Act Procedure, and meantime that the same be passed as an interim act; and that the Free Church of Scotland be informed of this decision.

CLASS 2 – ACTS OF SYNOD OF GENERAL INTEREST TO THE CHURCH

ACT 1 – The Rev. G. Kinder appointed Assistant Editor of *The Presbyterian Banner*

Tuesday 6th May 2003

Minutes 03.25.7

Synod approve the appointment of the Rev. Graham Kinder as Assistant Editor of *The Presbyterian Banner*.

ACT 2 – The Rev. S.R Tamata's appointment as missionary in Fiji

Wednesday 7th May 2003

Minutes 03.32.2

The three year appointment of Rev Sam Tamata to Fiji, approved by Synod 2002, commence on 1 April 2003 and continue to 31 March 2006.

ACT 3 – Increase Minimum Stipend

Wednesday 7th May 2003

Minutes 03.33.2

The current Minimum Stipend of \$605 per week be increased by 6.00% (\$33.00 per week) 1/7/03 in terms of Synod 2002 resolution (Minutes 02.44/2)

ACT 4 – Adjustments to Minimum Stipend

Wednesday 7th May 2003

Minutes 03.33.3

Adjustment of Minimum Stipend (Excluding Manse, Car and Telephone) for 2003/2004 be made on 1st January and 1st July in line with the movement in *the Average Weekly Ordinary Time Earnings (AWOTE)* as published by the Australian Bureau of Statistics. In the event of a negative movement in any six monthly review period, no adjustment be made.

ACT 5 – Phasing out of Child Allowance

Wednesday 7th May 2003

Minutes 03.33.4

The Child Allowance of \$5 per dependent child per week, payable while the child continues at school i.e., to the completion of their secondary education, be phased out. Payments to ministers currently receiving the allowance to continue at the same rate until their children complete their schooling.

ACT 6 – Amendments to Provident Fund Regulations

Thursday 8th May 2003

Minutes 03.41

1. The Superannuation and Long Service Leave levy be renamed the Superannuation Levy, and that Synod request Deacons' Courts to note that the Levy for 2003 is 15% of minimum stipend/non-cash benefits payable in the 2003 calendar year. with an instalment of not less than 25% by each of 28/2, 31/5, 31/8 and 30/11 to be paid to the Synod Treasurer.
2. From 1/7/2003 each member's superannuation account be credited with 18% of minimum stipend, funded 15% from the Levy proceeds and 3% from the Third Millennium Provident Fund.
3. The vesting provisions for Superannuation be amended so that Superannuation Guarantee component is always fully vested and the Additional Employer component is vested at 2% per completed month of service excluding the first three years of service.
4. Effective 1/7/2003 the insurance provision be amended so that 10% of the Superannuation Guarantee component only is applied to purchase term life and permanent total disablement insurance.
5. The Long Service Leave Fund be wound up and existing entitlements in the LSL Fund as at 1.01.2003 be paid over to the congregation of each member and be available as supplemental

stipend/non cash benefit or as an additional contribution to Superannuation for the minister or his wife, or as the minister directs. Any surplus on winding up is to be placed to the credit of the Third Millennium Provident Fund.

6. With effect from 1.01.2003 the terms of ministerial settlement include a week of paid annual leave in addition to the presently required four weeks per year in respect of every minister. This additional week applies to service from the point the minister completes five years ministerial service until he reaches his 70th birthday. This additional week must be taken when due or within twelve months thereafter or it is forfeited, and it cannot be cashed out except for amounts due at the time of death or retirement.
7. At the written request of a minister to his Deacons' Court the terms in 6 above shall be varied so that the Congregation assumes responsibility for providing Long Service Leave at the rate of one week per year in lieu of the extra week of annual leave in 6 above. If this option is taken, the Long Service Leave cannot be accumulated beyond 10 years, and cannot be cashed out except for amount due at the time of death or retirement. So long as a person completes 5 years service within the PCEA, the LSL accumulates from the beginning of his service until he reaches his 70th birthday. In the event of transfer from one congregation to another the liability for LSL is to be adjusted between the congregations concerned. LSL liability (if any) is to be noted on Congregational Annual Accounts.
8. Synod further remind ministers that the four weeks annual leave provided is a valuable part of the benefit provided to ensure active and effective ministry, and should not be accumulated without extremely good cause. Presbyteries, Sessions and Deacons' Courts are reminded to keep a close eye on this matter so as to limit risk of ministerial burnout or unreasonable stress on the manse family.
9. The latter part of clause C6 be amended to read "contributions sufficient to cover any Superannuation Guarantee Levy or the like for students employed in supply work are made from the funds of the congregation or preaching station concerned."
10. Section C7 be amended to read as follows: "Under current law it is possible for Deacons' Courts by arrangement with the minister to make additional salary sacrifice contributions. A member may also make personal contributions from his after tax income. The investment medium required must be specified in writing. On termination the result of the investment of such contributions is not subject to vesting provisions but is always the property of the member."
11. The Committee Regulations as amended by the above decisions and appended to this Report be noted.

ACT 7 – Procedures for investigating complaints of sexual impropriety

Thursday 8th May 2003

Minutes 03.42.1

Synod adopt the “Procedures for Dealing with Allegations of Sexual Misconduct” set out in this Report as an interim set of procedures to be followed by the various judicatories of the Church.

The adopted wording as set out in the Report is as follows:

Procedures for Dealing with Allegations of Sexual Misconduct

Basic Principles

1. The Church does not condone or tolerate any acts of sexual misconduct, whether directed toward children or adults and will seek to prevent their occurrence.
2. Where there is a *prima facie* case that such an incident has occurred, the church will take such disciplinary steps as are deemed necessary – including the reporting of the matter to the civil authorities (including the Police) if it is considered that the incident may involve criminal behaviour. It should be borne in mind that, if the matter is to be reported to the civil authorities, this should be done as soon as possible, while any trail of evidence is still fresh.
3. The Church is also aware of the vulnerability of its office-bearers, members and adherents to malicious accusations, and is committed to ensuring that all accusations are investigated fully and completely so that the guilty may be brought to justice and the innocent cleared.
4. 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 according to the *Handbook of Practice and Procedure*.
5. The procedures adopted should be consistent with those laid down in Chapter 7 of the *Handbook of Practice and Procedure*.
6. Allegations against a minister or licentiate must be dealt with by his Presbytery. The allegation should go immediately to the Clerk of Presbytery, who will inform the other members of the Presbytery and arrange with them to conduct a preliminary investigation into the matter.
7. Allegations against other office-bearers, members and adherents are dealt with by the local session in the first place. The allegation may be taken to any elder, who must immediately inform the remainder of the session which will arrange to conduct a preliminary investigation. If the Session concludes that a *prima facie* case exists against the accused person, it should deal with him or her with a view to confession, but, if the allegation involves the sexual abuse of a child, then, whether or not the person confesses, the matter must be referred to the Presbytery of the bounds in terms of section 7.26 of the *Handbook of Practice and Procedure*.
8. Session and Presbyteries should keep themselves up to date with the legal requirements in their state with regard to mandatory reporting in relation to offences of this nature.
9. The preliminary investigation should take place as soon as possible and should involve separate interviews with the person making the allegations and with the accused person.
10. There should always be at least two members of the appropriate court, commissioned by the court, present at the interviews.

Interview with the Person making the Allegations

1. If the allegation concerns an offence against a minor, at least one parent or guardian of the minor (or another responsible adult nominated as the representative of the parent/s or guardian/s) must be present at the interview.
2. The complainant should be informed at the outset that there can be no absolute guarantee of confidentiality, especially in cases where the criminal offences may have occurred.
3. The interview should be conducted in as non-threatening manner as is possible. This is especially important if a minor is involved.
4. A complete record of all interviews must be made, preferably by way of a sound or video recording. Duplicate recordings should be made, one to go to the complainant and the other to remain with the session. If audio or video recording facilities are not available, two copies of a written record of the interview should be made. Both of these copies should be signed by the interviewers and the complainant (in the case of a minor, the responsible adult present should sign).

5. Great care should be taken, at this and at all subsequent stages of the proceedings, to ensure that the evidence given is not influenced by leading questions, or by “coaching” of the person against whom the offence is alleged to have been committed in what to say, or by any other means. This is especially important in a case where the alleged victim is a child. It should be made clear to all parties, at the outset, that such behaviour may result in all or part of the evidence given being disallowed.
6. If, at the first interview, it appears that the allegations concern an offence which is a breach of criminal law, the complainant should be advised to go directly to the police.
7. If the complainant declines to do so, the interviewers should ensure that a statement to this effect is signed by the complainant, and witnessed.
8. When the details of the allegations have been established, the accused person must be interviewed.

Interview with the Accused Person

1. The full details of the allegations must be disclosed to the accused person, so that he or she has opportunity to answer them, or to confess to them.
2. If the accused person is a minor, at least one parent or guardian of the minor (or another responsible adult nominated as the representative of the parent/s or guardian/s) must be present at the interview.
3. A complete record of all interviews must be made, preferably by way of a sound or video recording. Duplicate recordings should be made, one to go to the accused person and the other to remain with the Church court responsible for the case. If audio or video recording facilities are not available, two copies of a written record of the interview should be made. Both of these copies should be signed by the interviewers and the accused person (or by the responsible adult in the case of a minor).
4. The accused person must have no further contact with the person making the accusations until the investigations have been completed. This is especially important if the offence alleged is one involving a minor or minors.

Formal Charges

1. If the preliminary investigation leads the court to conclude that a *prima facie* case exists against the accused person, the he or she is charged formally in writing and is cited to appear before the appropriate court in terms of section 7.8 of the *Handbook of Practice and Procedure*. If the accused person is an office-bearer of the Church, he must be suspended immediately from the exercise of the functions of his office until the matter has been brought to a conclusion.
2. Regardless of the findings of the preliminary investigation, a complainant has always the right to bring a formal charge, on his or her own account, to the appropriate court. This should be made clear to the complainant.
3. The complainant should be advised that, if he or she decides to press charges personally, in terms of the previous paragraph, then, in the event of those charges being dismissed by the court, the complainant shall be charged with defaming the character of the accused, in terms of section 7.4 of the *Handbook of Practice and Procedure*.
4. If the allegations involve sexual abuse of a child, the court may decide that, in order to avoid stress to the child, the evidence of the child may be taken privately, instead of before the whole court and in the presence of the accused person. If this course of action is taken, the procedure in Appendix 1 should be followed.

5. If the charges are found by the court to be proven, then, after deliberation, the court shall pronounce sentence on the offender in terms of section 7.9 and subsequent sections of the *Handbook of Practice and Procedure*.

Appendix 1

Procedure for taking of Evidence from a Minor in Private

(The procedure here set down is based, largely, on the procedure of the Free Church of Scotland for the taking of "Evidence of Persons Unable to Attend a Church Court – Act VII, 1994")

1. The relevant Court appoints a responsible person (usually the Moderator of the Court) as its Commissioner to take the evidence of the witness in writing (preferably also with a video or audio recording of the proceedings) in a place separate from the room where the court is meeting.
2. A list of numbered questions is prepared on behalf of the party who wishes the witness interviewed.
3. This list is then submitted to the other party who prepares cross-questions to be put to the witness on his or her behalf. The preparation of this list of cross-questions cannot be postponed until the answers to the first list have been lodged.
4. The list of cross-questions is then submitted to the first party and both parties try to agree the terms of both documents.
5. The lists are then submitted to the clerk of the Court concerned and parties are duly cited to appear before the Court for the adjustment, if necessary, of the documents submitted and for their approval.
6. The documents are then passed on to the appointed Commissioner who duly meets with the witness in a formal manner. At this meeting the Commissioner reads the questions separately to the witness and his or her replies to each question are numbered and recorded. The Commissioner may put further questions to the witness and require him or her to make such additions and explanations as he thinks necessary.
7. The document recording the witness's answers and explanations should be read over by/to the witness and duly signed by him or her.
8. The documents are then returned to the clerk of the Court which authorised the Commission.
9. In the light of the answers received, further questions may be prepared and put to the witness, following the same procedure as above.

ACT 8 – Amendment to NSW Property Act

Thursday 8th May 2003

Minutes 03.46.3

That, to give some protection to members of the Body Corporate (the Trustees) of the *Synod of Eastern Australia Property Act 1918*, as regards personal liability in respect of breaches of trust, so long as they have not acted in bad faith, and also to enable a member of the said Body Corporate to reimburse himself for his expenses incurred in the administration of the trust, SYNOD resolves to submit the following amendment (or as re-phrased or amended by the Attorney General as necessary, without changing the meaning of the amendment) to the Attorney General, Attorney General's Department (NSW), for introduction into the Legislature of New South Wales for enactment:

Act - The Synod of Eastern Australia Property Act 1918

Amendment -

[1] Limitation of Liability

Insert new Section after Section 14

“(1) No Member shall except in the case of bad faith, be liable or accountable for any acts matters or things done or omitted to be done by such Member in or about or in connection with the carrying out of the rights powers or authorities conferred by this Act”

Right of reimbursement

(2) Every Member shall be entitled to be reimbursed out of the funds vested in the body corporate in respect of all costs charges and expenses of and incidental to the trusts herein declared”

[2] Interpretation of terms

Section 16

Insert after “The synod” means “The Synod of Eastern Australia”

““Member” means each person who is for the time being a member of the trustees””