

## ACTS OF SYNOD 2005

### Class 1 (Barrier Act Procedure)

No	Act	Reference
	None	

### Class 2 (Others)

No	Act	Reference
1	Overture to Presbyteries anent Admission of Ministers and Probationers from other Presbyterian and Reformed Churches	05.29
2	Mutual Eligibility Act (Free Church of Scotland) 2005	05.32
3	Revised Superannuation Fund Regulations	05.48.12
4	Procedures for dealing with complaints of sexual impropriety	05.54.1-3

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

None

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

#### ACT 1 – Overture to Presbyteries anent Admission of Ministers and Probationers from other Presbyterian and Reformed Churches

Tuesday 3<sup>rd</sup> May 2005

Minutes 05.29

The Synod directs that the following Overture be sent under the Barrier Act to Presbyteries for their approval or disapproval simpliciter, with returns to be in the hands of the Clerk of Synod by 31 December 2005.

“Whereas there is the need for clearly defined procedures for the admission of ministers and probationers from other Presbyterian or Reformed churches; and

Whereas the only procedure presently authorized is by reference to a meeting of Synod (per Act 18, Class 2, Synod 1983, “Act Anent Admission of Ministers from other Churches”); and

Whereas the church would benefit by having a more streamlined procedure, delegating the authority to admit to the presbytery of the bounds;

Now therefore, Synod hereby enacts and ordains as follows:

The Synod declares that where a congregation of the Presbyterian Church of Eastern Australia wishes to address a call to an ordained minister of another Presbyterian or Reformed church it shall be competent for it to do so, subject to the following conditions and in accordance with the following procedures:

(1) When a presbytery receives a request to moderate in a Call to an ordained minister of another Presbyterian or Reformed church it shall immediately inform the Training of Ministry Committee of this fact.

(2) The Presbytery shall forward to the minister concerned for completion and return a Form of Application, including, but not necessarily limited to (a) a transcript of his tertiary academic record; (b) a certificate of good standing from the presbytery/classis with which he is connected and (c) certification that he has received approval to work with minors in terms of the relevant child protection legislation in the State of the Commonwealth of Australia in which he resides, or in which it is proposed that he take up residence.

(3) The Presbytery shall arrange to confer face to face with the minister concerned in reference, among other things, to:

- a. his character and current ministerial status;
- b. his state of health, and medical fitness to undertake the work of ministry, as certified by a registered medical practitioner;
- c. the body by which he was ordained, and his ministerial experience since the time of his ordination;
- d. his willingness to undertake ministry in the PCEA and his preparedness to give an unqualified subscription to the Formula; and to do so in accordance with the explanation as to 'Purity of Worship' contained in the second declaration of the Act of Synod 1952 Anent Questions and Formula; and
- e. whether his knowledge of the Practice and Procedure of the PCEA is such as will render him a competent person to act as Moderator of a Session and to assume the responsibilities which normally fall upon PCEA ministers in the courts of the Church.

The Presbytery shall assure itself that the minister is fully committed to maintaining the peace and unity of this Church and does not hold opinions or follow practices likely to be divisive.

(4) Following this conference, and consideration of the completed Form of Application, the Presbytery shall forward a copy of the Form of Application, and report its findings to the Training of Ministry Committee, and shall suspend all further procedure till the Committee reports (in terms of Paragraph (7) below) that there is no impediment to the Call's proceeding.

(5) Within 14 days of receiving the Presbytery's report, the Convener of the Training of Ministry Committee shall (by letter) inform all Presbytery Clerks of the request, stating the name and denominational affiliation of the minister, along with the name and presbytery of the congregation which has requested moderation in a Call. The letter shall state that if any presbytery have objection to the Call's proceeding it must lodge this with the Convener of the Training of Ministry Committee within thirty clear days of the receipt of the Convener's letter by the Clerk of Presbytery.

(6) If any Presbytery raises objection, the Training of Ministry Committee shall refer the matter simpliciter to the ensuing Synod, and the provisions of Act 18, Class 2, Synod 1983, "Act Anent Admission of Ministers from other Churches" shall be followed. The reference to Synod by the Committee shall automatically suspend procedure until a final decision is pronounced by the Synod. The Presbytery concerned in the proposed Call shall be entitled to send representatives to state its case at the bar of the Synod.

(7) If no objection from Presbyteries has been received by the Training of Ministry Committee within the specified time, the Committee shall deliberate and determine whether the minister concerned is qualified in terms of its terms of reference to hold ministerial charge in the PCEA.

(8) The Committee shall intimate its decision to the Presbytery within 14 clear days of the expiry of the deadline for Presbyteries to comment.

(9) If the decision is in favour of the minister, the Presbytery shall proceed as normal in the case of a Call, with the exception that the Call may be placed directly in his hands without the need to prosecute it at the bar of the presbytery from which he is to be disjoined.

(10) No induction shall take place till the relevant PCEA presbytery receives from the other denomination official certification that the minister has resigned from his previous charge.

(11) The PCEA shall not require any minister so inducted to relinquish any existing right to be called by the denomination or denominations from which he has come, or which he has previously served.

(12) The PCEA shall not apply these procedures to ordained PCEA ministers who have resigned to accept calls to other Presbyterian and Reformed churches. The status of a PCEA minister who has resigned his charge in order to accept a call to another Presbyterian or Reformed church shall be determined by the Presbytery which accepts his resignation, in accordance with the Handbook of Practice and Procedure, 4.55, and Act 19, Class 2, 1986. If a PCEA Congregation requests the Presbytery to moderate in a call of this man back to the PCEA, the Presbytery shall first determine whether his name is to be placed on the Register of Ministers Without Charge in the PCEA (Act 19, Class 2, 1986), and thus made eligible for a call. If the decision of Presbytery is favourable, it shall notify the Clerk of Synod accordingly, it being understood that this status is provisional, and subject to a call's being issued, and accepted by the minister concerned. If the call does not proceed, or is declined, the name of the minister shall be removed from the Register of Ministers Without Charge.

(13) Once inducted to the pastoral charge of a Congregation of the PCEA the minister shall be under the exclusive oversight of the courts of the PCEA.

(14) Any previous legislation of the PCEA in conflict with these provisions, to that extent is hereby rescinded.”

## **ACT 2 – Mutual Eligibility Act (Free Church of Scotland) 2005**

Wednesday 4<sup>th</sup> May 2005

Minutes 05.32

The Synod of the of the Presbyterian Church of Eastern Australia (PCEA), having for many years had a close relationship with the Free Church of Scotland (FCS), a church having identity of constitutional principle with the PCEA, and having resolved that the previous relationship via the Federal Relations Act 1954/84 should be modified, and having declared in 2004 a revised relationship in terms of our Fraternal Relations Act 1993, (which is in the same terms as the Act on the same subject of the Assembly of the FCS in 1992), and having affirmed at the same time its desire to deepen and strengthen still further the bond of fellowship between us for the glory of God and the good of his

people, particularly between members of the ICRC, and knowing of the desire of the FCS to maintain close relations with the PCEA, even to an extent more close than that herein described, the Synod hereby acknowledges the right of presbyteries to process calls to FCS ministers and probationers eligible for call, and its desire that the FCS modify its Federal Relations Act to reflect this and to allow calls by FCS presbyteries to be transmitted to PCEA ministers and probationers.

In neither case does the PCEA intend that this mutual eligibility shall impinge on the right and responsibility of the relevant FCS or PCEA presbytery to require full and satisfactory presbyterial certificates of character and attainments before admission, including clearance under any relevant child protection legislation, and assurance that any incoming minister is familiar with the historical position of the church he enters as well as its practice and procedure, so that he is able to subscribe the formula of subscription intelligently and heartily, and participate harmoniously and constructively in the life of the church he enters. Where a minister is called by a PCEA congregation such a meeting with the presbytery may take place after a call is issued and before it is accepted in order that the called minister may assess more closely whether he should accept the call and know, should he accept it, that he will be admitted.

This Act may be cited as Mutual Eligibility Act (Free Church of Scotland) 2005.

### **ACT 3 – Revised Superannuation Fund Regulations**

Wednesday 4<sup>th</sup> May 2005

Minutes 05.48.12

Synod approve the revised regulations for the Committee as appended to the Report.

*The wording of the Report as follows:*

**A. SUPERANNUATION COMMITTEE**  
**[formerly Provident Funds Committee]**  
**PRESBYTERIAN CHURCH OF EASTERN AUSTRALIA**  
**REGULATIONS AS ADOPTED BY SYNOD MAY 1981**

AND AMENDED MAY 1982, MAY 1983, MAY 1985, MAY 1986, APRIL 1987, JULY 1988,  
MARCH 1989, APRIL 1991, APRIL 1992, APRIL 1993, MARCH 1996, MARCH 1997, APRIL  
1998, APRIL 1999, MAY 2000, MAY 2001, MAY 2002, MAY 2003, MAY 2004 and MAY 2005.

#### SECTION A - GENERAL RULES

1. The Superannuation Committee is appointed by the Synod to administer specific funds in accordance with all applicable Synod regulations. Synod 1997 resolved that it is to be composed of four persons, two of whom are to be members of the Retirement Fund.
2. The Committee is to keep proper records of its proceedings. The Committee is to continue to monitor relative performance and legislative changes with a view to appropriate recommendation to Synod from time to time.
3. The Committee is to report to each ordinary Synod on the state of its funds and in such a form that the adequacy or otherwise to meet immediate and projected liabilities may be readily seen.

4. In view of the need to avoid inadequately considered alterations to the rules governing the Committee and its funds, suggested changes are to be considered by the Committee and its opinion given prior to changes being made.

## **SECTION B - THE FUNDS ADMINISTERED**

### **1. Superannuation Levy Fund**

#### Source of Funds

#### **SANCTIONED CHARGES**

- a) As from 1/7/2003 an annual levy of 15% of the minimum stipend, such levy to apply to every vacant and settled sanctioned charge as a preference burden after stipend, and to be paid in four approximately equal quarterly installments by 28/2, 31/5, 31/8 and 30/11 in each year. Aid to aid-receiving charges is to allow for payment of the levy.
- b) Voluntary gifts and such other sources as Synod may determine including the Superannuation Support Fund.

#### **VACANT CHARGES/STATIONS**

- c) With effect from 1st January 1989, a charge that is vacant for part or all of a year shall be entitled to a 50% reduction on the amount of the levy pro-rated for the duration of the vacancy unless it is receiving extended residential supply from a minister for whom contributions are being made to the Superannuation Fund in respect of that period of supply, in which case the full levy is payable. Where a vacant charge engages a person on terms requiring Superannuation Guarantee contributions although the charge is technically still vacant, SG contributions will be payable for the period during which the SG Levy applies, and in respect of a station not a sanctioned charge a levy equal to the SG Levy shall apply.

#### How Funds Applied

- d) In the first place to be allocated to the accounts of members of the Retirement Fund in accordance with its regulations. All allocations to be made by the General Treasurer upon the written authorisation of the Provident Funds Committee.

### **2. Superannuation Support Fund [SSF]**

(c) This fund (formerly Third Millennium Provident Fund) was established by Synod 1999 to embrace existing funds for aged or infirm ministers and/or widows and orphans of such, as well as the Supplementary Benefits Fund formed from contributions forfeited by members of the Retirement Fund under its vesting provisions. Synod 2005 approved the combining of the D.K.McIntyre Bequest, the James Ross Memorial Fund and the Susan McIntyre McDonald Bequest in the accounting records as one, and their investment with other funds devoted to the same objects (including the Supplementary Benefits Fund) naming the combined fund the Superannuation Support Fund. As at 31/12/2004 there was \$99,083 in the fund that for the time being is treated as capital, and \$18,951 accumulated income treated as working funds.

#### Source of Funds

- a. gifts whether capital or otherwise
- b. investment income
- c. other sources as Synod may determine

#### How funds applied

- d. while seeking to at least maintain the value of the Fund the fund can also be drawn on to supplement contributions made to members of the Superannuation Fund so as to reduce the levy

otherwise payable by congregations, as determined by Synod from time to time on recommendation of the Provident Funds Committee.

e. by transfer of SSF income to what for the time being is treated as SSF capital, upon the direction of the Committee to the Synod Treasurer.

## **SECTION C - THE RETIREMENT FUND**

### **HISTORICAL PREAMBLE**

1. As early as 1853 the PCEA effected an insurance scheme for ministers with the fledgling AMP Society, but after the exit of the majority in 1863 there was no organized arrangement until 1877 when the Rev D.K.McIntyre contributed £574 to commence a Widows & Orphans Fund, the interest on which was paid to ministers to enable them to pay premiums on life insurance. He left further sums on his death in 1899, but until the Superannuation Fund was established the provision for retired ministers largely depended on the capacity of the congregation involved. With Neil McPherson as Convener (1964-71), the PCEA Retirement Fund was constituted. Wales Superannuation Funds Limited (1968-85) acted as managers of funds contributed by the Committee in the name of each of the members at a percentage between 5 and 15% of stipend depending on age, the higher percentage being designed to help older ministers catch up to a reasonable benefits, shortfalls being met by small pensions. The Superannuation Fund was financed by a levy on congregations. Campbell King was Convener 1971-78, and instituted a Long Service Leave Scheme in 1974. This was wound up by Synod 2003 during Rowland Ward's period as Convener (1978 to date). From 1/7/1983 a base rate of 8% was introduced (previously 5%), and was 8.4% when the Government legislated the first Superannuation Guarantee of 3%. By the time the maximum SG contribution of 9% applied (1/7/2002) we were contributing 13.5% and this was raised to 18% from 1/7/2003 having regard to the fact that minister's super is calculated on a stipend excluding housing. Investment choice within the ING Fund was allowed by Synod 2000, but with continued changes in the Superannuation law, Synod 2005 approved as its default fund the Health Employees Superannuation Trust Australia [HESTA] Core Pool, and allowed members the choice both of Fund and Investment permitted under the Government legislation effective 1/7/2005.

### **WHEN MEMBERSHIP EFFECTIVE**

2. When a minister is duly inducted to a charge, in normal circumstances his membership in the Fund will be effective from the date of induction. Licentiates will be added to the Fund upon being licensed and commencing residential supply to the extent of any Superannuation Guarantee or like, and similarly ministers supplying but not inducted for whom Superannuation Guarantee legislation is applicable.

### **BENEFIT**

3. The Retirement Fund provides a benefit in the form of a lump sum. The benefit for each member is the net sum resulting from the investment of the amounts contributed to each member's account plus any insurance benefit applicable, less relevant taxes, fees and charges. An annual statement is issued to each member by the Fund and the explanatory material indicates the Government rules on accessing benefits as they exist from time to time. In general, the benefit cannot be obtained until permanent retirement from the work force.

### **INSURANCE**

4. With both the ING Fund and the new default Fund with HESTA there are basic insurance provisions with options. Deacons' Courts are encouraged to discuss with the minister of the charge

disability/income protection insurance bearing in mind that such a minister is not a worker within the meaning of "Workcover" and the like legislation (see Synod Reports 1995, p.53). There is provision for Disability cover in the HESTA Fund. The responsibility for selecting cover suited to his needs rests with the member.

#### CHURCH CONTRIBUTIONS

5. Contributions are allocated to members' accounts to the extent of 18% of the minimum stipend/non-cash benefits figure set by Synod from time to time, half of this being Superannuation Guarantee and the balance Additional Employer contribution. In respect of entrants into the fund after May 2005, the contribution for the first five years of service will be 10% of the minimum stipend/non-cash benefits figure. Except for transitional arrangements (C9), all contributions are fully vested in the member.

#### MISSIONARIES/STUDENTS

6. Contributions for missionaries are made from Missions Funds; 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.

#### SALARY SACRIFICE & PERSONAL CONTRIBUTIONS

7. 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. No liability shall attach to the Convener, the Committee, the Synod Treasurer or the Synod to pay additional contributions at times other than standard contributions are usually paid (currently shortly prior to the end of each quarter).

#### INVESTMENT CHOICE

8. With effect 1/7/2005 the Church's default Fund is the HESTA Core Pool, and unless otherwise directed the Committee will contribute to this fund, except for the three members who as at May 2005 had not chosen the HESTA Fund. In these three cases the contributions will be made to the ING Fund as before unless instructed otherwise, and according to the default setting since 1/4/1997 of 50% Capital Guaranteed and 50% Managed Growth. An individual may choose a different Fund or investment choice but (i) he must note the Synod's strong recommendation that he should obtain competent professional advice; (ii) any decision he takes is his own responsibility; (iii) no liability is accepted by the Committee or the Church to him or his family or dependents for the investment performance of the fund or investment medium he chooses; and (iv) no request for assistance from the Committee to make up any real or perceived lack of performance can be entertained.

#### VESTING OF BENEFITS

9. From May 2005 new entrants' contributions are fully vested. The provisions adopted by Synod 2003 [minute 03.39 (3)] apply to existing members as at May 2005 who have not completed 7.2 years of service.

### **SECTION D - ANNUAL LEAVE PROVISIONS/LONG SERVICE LEAVE**

1. Synod 2003 wound up the previous Long Service Leave Fund and ruled that 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.

2. At the written request of a minister to his Deacons' Court the terms in D1 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 1. 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 services 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.

3. Synod 2002 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.

#### **ACT 4 – Procedures for dealing with complaints of sexual impropriety**

Wednesday 4<sup>th</sup> May 2005

Minutes 05.54.1-3

It was resolved that:

1. That Section A.3 of the *Procedures for Dealing with Allegations of Sexual Misconduct* be amended to read:

*A.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. It is fully understood that even a seemingly trivial act may have a very significant impact on the victim.*

2. That Section B.3 of the *Procedures for Dealing with Allegations of Sexual Misconduct* be amended to read:

*B.3 The interview should be conducted in as non-threatening manner as is possible. This is especially important if a minor is involved. Genuine complainants should never be made to feel that they are being “re-victimised.”*

3. That the first paragraph of Section 7.16 of the *Handbook of Practice and Procedure* be amended to read:

*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.*