

## ACTS OF SYNOD 2011

### Class 1 (Barrier Act Procedure)

No	Act	Reference
1	Act concerning Conflict of Interest to be deemed Class 1 [Rescinded 2024]	11.18

### Class 2 (Others)

No	Act	Reference
1	Church's Position on Marriage	11.15.1
2	Interviewing Women, Children and Vulnerable Adults (Interim Act)	11.15.2
3	Free Presbyterian Church Property Amendment Act (amendment of Parliamentary Act 5691, Victoria 1953)	11.17
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5	Armidale Minister and Congregation	11.43
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### CLASS 1 – ACTS WHICH HAVE PASSED THE BARRIER ACT

#### ACT 1 – Act concerning Conflict of Interest to be deemed Class 1

Tuesday 3<sup>rd</sup> May 2011

(Minutes 11.18)

Synod declare that, as there is general agreement that the Act Concerning Conflict of Interest is not innovative and as the subject has been before the church for two years, the Act Concerning Conflict of Interest is held to have met the requirements of the Barrier Act.

[This Act rescinded by Synod in May 2024 and the *Act concerning Conflict of Interest* reclassified as Act 8, Class 2, 2011]

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

#### ACT 1 – Church's Position on Marriage

Tuesday 3<sup>rd</sup> May 2011

(Minutes 11.15.1)

For removing any question about the Church's position in the light of more recent attitudes to marriage, Synod reaffirm its commitment to the statement in the Confession of Faith 24.1, namely, marriage is to be between one man and one woman. Synod commend the short statement on Marriage and Family Life in the Report to the use of our people in ways they may find appropriate.

## **ACT 2 – Interviewing Women, Children and Vulnerable Adults (INTERIM ACT)**

Tuesday 3<sup>rd</sup> May 2011

(Minutes 11.15.2)

The Synod transmit the following Overture about interviewing Women, Children and Vulnerable Adults to Presbyteries under the provisions of the Barrier Act and meantime enact the same as an Interim Act.:

*The approved wording is as follows:*

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 non-leading, 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 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.

9. 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.

This Act may be cited as 'Act Concerning Interviewing Women, Children and Vulnerable Adults by Church Courts'.

**ACT 3 – Free Presbyterian Church Property Amendment Act (amendment of Parliamentary Act 5691, Victoria 1953)**

Tuesday 3<sup>rd</sup> May 2011

(Minutes 11.17)

Synod approve the proposed amendment of the Free Presbyterian Property Act as set out below and direct the Committee to arrange for its submission to the Parliament of Victoria.

**DRAFT**

**Free Presbyterian Church Property Amendment Act 20\*\***

**Preamble**

1. The Presbyterian Church of Eastern Australia wishes up to date legislation for the more efficient management of its property.
2. The Church desires the body corporate to have power to accept appointment and act as administrator, executor or trustee, to pool trust funds for investment purposes, to vary trusts where appropriate, and power to enter into joint use of property with other denominations.
3. It is expedient to enact legislation for this purpose.

**The Parliament of Victoria therefore enacts:**

**1 Purpose**

The purpose of this Act is to amend the Free Presbyterian Property Act 1953 to provide for more efficient management of the Church's property.

**2 Commencement**

This Act comes into operation on the day after the day on which it receives the Royal Assent.

**3 Existing Section renumbered**

Existing Section 10 is renumbered 1 3.

**4. Additional powers granted**

The following words are added to Section3(2) the principal \_Act:

- i. accept appointment, and act, as an administrator, executor or trustee.

**5. Pooling of trust funds**

The following Section 10 is inserted

10. 1) Where the body corporate hold money on trust for different purposes or activities it shall be lawful for the body corporate from time to time to invest the money or any part or parts thereof as one fund and to distribute income arising therefrom rateably among the several purposes for which the money so invested is held and any loss arising from any such investment shall likewise be borne rateably.
- 2) The body corporate may make advances out of the money referred to in sub-section (1) for any purpose of or relating to the Church.
- 3) Any sum advanced under sub-section (2) shall be deemed an investment of the money and shall bear interest at a rate fixed by the body corporate in accordance with the rules and the sum advanced and the interest thereon shall be deemed to be a charge on the assets (if any) that the body corporate holds for the activity, service, institution or interest of the Church for which the advance was made.

## **6 Variation of trusts**

The following Section 11 is inserted

11. (1) Subject to sub-section (2), in every case where by reason of circumstances subsequent to the creation of the trusts, including trusts declared under this section, to which any property vested in the body corporate is for the time being subject, it has in the opinion of Synod become impossible or impracticable to carry out or observe the trusts, it shall be lawful for the Synod by resolution to declare that opinion, and by the same or any subsequent resolution to declare other trusts for or for the use, benefit or purpose of the Church instead of the first-mentioned trusts, and the first-mentioned trusts shall thereupon by force of the resolution cease and determine, and the property shall thereupon be held upon the other trusts accordingly.

(2) The property shall be dealt with for the same purposes as nearly as may be as the purposes for which the property was immediately before the resolution held unless the Synod by resolution declares that by reason of circumstances subsequent to the creation of the first mentioned trusts it is, in the opinion of the Synod, impossible or impracticable to deal with or apply the property or some part thereof for the same or like purposes, in which case the property or that part thereof may be dealt with or applied for the use and benefit of the Church for such other purposes as may be declared by resolution of the Synod.

## **7 Joint use of property with other denominations**

The following Section 12 is inserted

12. (1) In this section, 'scheme of co-operation' means a scheme entered into by the body corporate with the permission of Synod:

- (a) with or involving a church of another denomination or any activity of such a church, and
- (b) involving the body corporate.

(2) The body corporate may permit property to be used and managed for the purposes of a scheme of co-operation on such terms and conditions as the Synod determines.

(3) Any proceeds derived by the body corporate from such a scheme of co-operation are to be applied in the manner decided by Synod.

(4) Conditions that the Synod may determine under this section include:

- (a) conditions with respect to the making of monetary contributions towards the acquisition, construction, alteration, maintenance or repair of property vested in or held on behalf of a co-operating church or congregation, and
- (b) the giving or taking of security over any property.

(5) Property may be used in accordance with a scheme of arrangement except to the extent that the property is subject to an express trust expressly forbidding its use in that manner.

(6) Property is not to be regarded as property that is subject to an express trust expressly forbidding its use under a scheme of co-operation merely because it is held on trust for worship within or for the purposes of, the Church.

### **ACT 4 – Worship in the Free Church of Scotland**

Tuesday 3rd May 2011

(Minutes 11.31.1)

The Synod of the Presbyterian Church of Eastern Australia (PCEA) meeting in Melbourne 2-4<sup>th</sup> May 2011 expresses its deep disappointment and grief at the outcome of the Plenary Assembly of the Free

Church of Scotland in November 2010. We are disappointed that the decision of the Assembly implies that the inspired book of praise is inadequate for Christian worship. We are dismayed that such a momentous decision did not go down to Presbyteries by way of the Barrier Act, and we are concerned about the possible impact this will have on the unity of the church.

### **ACT 5 – Armidale Minister and Congregation**

Wednesday 5<sup>th</sup> May 2011

(Minutes 11.43)

Synod, having heard the overture of the Northern Presbytery resolved as follows:

1. The granting of six months leave of absence on compassionate grounds on the basis of 50% of minimum stipend and 50% of manse allowance is approved, as also the severance of the pastoral tie on compassionate grounds as well as the lack of financial viability of Armidale Congregation., effective 14th September 2011.
2. The decision of the Northern Presbytery to dissolve the local Session and Deacons' Court and place the Congregation under the Northern Rivers Session is rescinded as it could be construed as not being in accordance with the laws of the church. Instead the Armidale Congregation continues as a vacant charge from 14th September 2011, consisting of the existing Armidale Session and three assessors as appointed by Northern Presbytery.
3. Appropriate interviews shall be conducted by representatives of the Northern Presbytery with Mr and Mrs Smith and other interested parties in order to understand their circumstances and provide counsel and encouragement.
4. The request for stipend for the transitional period from 14 September to 31 December 2011 is not approved.
5. In respect of all matters related to Rev. D.P. Smith and the Armidale Congregation only, two assessors are hereby appointed to Northern Presbytery, one nominated by Southern Presbytery and one by Central Presbytery, who shall be entitled to participate by telephone hook-up or personal attendance as may seem best to them.

### **ACT 6 - Amending Act 1 Class 2 Synod 1983 (as amended) and renaming as Act concerning Reports and Correspondence to Synod**

Monday, 2<sup>nd</sup> May 2011

(Minutes 11.9.5)

That Synod repeal Sections 1 and 2 of Act 1, Class 2 of Synod 1983 (as amended) and re-title the said Act "Reports and Correspondence to Synod".

### **ACT 7 – Synod Committees: Membership and Method of Operating**

Monday, 2<sup>nd</sup> May 2011

(Minutes 11.9.6)

1. Synod appoints such standing and occasional Committees as deemed appropriate.
2. Normally a Synod Committee shall consist of no more than five members, and given the prevalence of electronic means of communication, these members do not normally need to be geographically

close to each other. Members are expected to serve on their Committee for at least three years unless otherwise decided by Synod.

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

4. 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.

5. 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.

This Act may be cited as "Synod Committees: membership and method of operating"

### **ACT 8 – Conflict of Interest**

Tuesday 3<sup>rd</sup> May 2011

(Minutes 11.18)

That Synod remind all church courts that all members are obliged to act with impartiality as servants of Christ, and that where there is or is perceived to be a real or possible conflict of interest whether in financial matters or by virtue of marriage or family relationship, or anything else, that interest should be:

- (1) declared before consideration of the business,
- (2) noted in the minutes and
- (3) the person should withdraw from the meeting unless the court resolves that the conflict is not an obstacle to him participating in the matter, or a specific provision allows him to remain and participate.

The lawfulness of such a resolution may be taken under review in the examination of records if not previously the subject of appeal or complaint. A person or court failing to declare a conflict of interest or breaching the conflict of interest principle is subject to discipline appropriate to the case.

If the court would be without a quorum due to a member or members excusing themselves, then consideration of the matter should be deferred until suitable arrangements can be made to resolve the quorum issue. If the conflict of interest affects the moderator of the court then he should arrange for another member present to moderate the meeting of the court in his absence. If the conflict of interest is anticipated, then these arrangements may be made in advance.

This Act may be referred to an *Act Concerning Conflict of Interest*

[This Act was wrongly classified as Class 1 but was reclassified by Synod in May 2024 as Act 8, Class 2, 2011]