

ACTS OF SYNOD 2014

Class 1 (Barrier Act Procedure)

No	Act	Reference
1	Procedures for Dealing with Allegations of Child Abuse and Sexual Misconduct	14.18.3

Class 2 (Others)

No	Act	Reference
1	Barrier Act Amendments	14.18
2	Dealing with Disturbances in a Church	14.18.4
3	Bequests	14.18.5
4	Recognition of Rev. Peter Smith as missionary serving with AIM in a voluntary capacity	14.27.2
5	Extension of Fraternal Relations to Southern Presbyterian Church in Tasmania	14.28.3
6	Amendment to Commissioners' Expenses	14.36.4
7	Amendment of Victorian Trustees investment allocation	14.41.3
8	Victorian Trustees: Presbytery approval of loans	14.41.4
9	Overture remitted to Presbyteries re Barrier Act procedure	14.18

CLASS 1 – ACTS WHICH HAVE PASSED THE BARRIER ACT

ACT 1 – Procedures for Dealing with Allegations of Child Abuse and Sexual Misconduct

Wednesday 7th May 2014

(Minutes 14.18.3)

The content of Interim Act (Act 1 Class 1 of 2013) having met with the approval of a majority of Presbyteries the Synod convert the said act into a standing rule, and encourage Presbyteries to send any further suggestions for improvement to the Law & Advisory Committee.

The approved wording as follows:

PROCEDURES FOR DEALING WITH ALLEGATIONS OF CHILD ABUSE AND SEXUAL MISCONDUCT (repealing Act 6 Class 2 Synod 2004 as amended)

A. Introduction

1. Sexual assaults against children are almost always pre-meditated, involving predatory acts of grooming, manipulation, self-gratification and exploitation, and occur widely across the various socio-economic areas. Child sexual assault is generally perpetrated by a male in the vast majority of cases and is more likely to be perpetrated by someone known to the child or their family (research varies but commonly finds between 85% and 95% of the time). Of those offenders known to the child most commonly the offender is not living with the child (approx. 70%). Child sexual assaults involve shame, silence and secrecy and for these reasons often are not reported for many years.
2. While mindful of the possibility of baseless allegations 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. (Refer also to Guidelines for Church Workers, Synod 2004 as amended 2013 which is to be inserted at the front of each minute book of each Congregation.)

3. At least once a year an affirmative answer to the following questions shall be given by all Session members and all members of Presbyteries and duly minuted in Session and Presbytery records: Ministers and elders are reminded of their obligation to keep watch over the flock of God and in particular to the care of the young and the vulnerable. Are you familiar with the Guidelines for Church Workers passed by Synod? Are you faithfully keeping to them? Are you aware of your obligations under State and Church law concerning the reporting of suspected or actual cases of child abuse or child pornography?

B. Basic Principles

1. In the event of a disclosure or allegation that there is reasonable ground to suspect a child has been, or is being harmed the matter must be reported to the Police. In addition, any particular requirements of Federal or State law must be followed.

Generally, reasonable grounds are a belief that a child may be in need of protection based on situations where:

- A child states that they have been sexually assaulted or abused.
- A child states that they know someone who has been sexually assaulted or abused (sometimes the child may be talking about themselves).
- A relative, friend, acquaintance or sibling of the child, states that the child has been sexually assaulted or abused.
- Professional observations of the child's behaviour or development lead the professional to form a belief that the child has been sexually assaulted or abused.
- Signs of sexual assault or abuse lead to a belief the child may have been abused.

At this stage allegations of child sexual assault when the alleged victim is still under 18 years of age, must not be investigated further by the church and neither the child/young person or the accused should be questioned by the church. The matter involves criminal behaviour and, like other criminal offences, must first be investigated by the Police as soon as possible.

2. Where the victim is now an adult, the Church encourages the offence to be reported to the Police but where adult victims do not wish to proceed or be identified because of the victim's fear of not being believed, or being not comfortable with, or trusting of, authority figures, or because of a sense of isolation by their own fear, shame and self-persecution, an alternative process of reporting to the Police in a non-confronting way without having to give a detailed statement and/or which will facilitate the passing on of information regarding alleged offenders and offences to police should be used, subject to any applicable State legislation.

3. Whether or not the offence is admitted at the time the offence comes to notice, the alleged offender is suspended from church privileges as an interim measure until Police investigations (if applicable) are completed. If no admissions are made the suspension is not disciplinary but for good order pending establishing the facts one way or another. Any Police investigation has priority. If clear admissions are made they should be secured in writing, and the church court may proceed with appropriate discipline in accordance with the Handbook of Practice and Procedure. If sexual abuse is involved the Session refers to the Presbytery before final sentence (cf. Handbook 7.26).

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. In such a case, the accused person must have no further official contact with, or control of, any minors.

5. 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, according to the Handbook of Practice and Procedure.

a. 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) who will inform the other members of the Presbytery and arrange with them to conduct a preliminary investigation into the matter, with Police investigation having priority as in 1 above.

b. Allegations against other office-bearers, members and adherents are dealt with by the local session in the first place. The allegation can be taken to any elder, who must immediately inform the remainder of the session which will arrange to conduct a preliminary investigation, with Police investigation having priority as in 1 above. 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.

5. The Law and Advisory Committee shall ensure Sessions and Presbyteries are kept up to date with the legal requirements in their State with regard to offences of child abuse, and shall assist in the clarification of procedure or securing of legal advice as may be necessary.

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

ACT 1 – Barrier Act Amendments

Wednesday 7th May 2014

(Minutes 14.18)

That the proposal to amend The Barrier Act as detailed in the Law & Advisory Committee Report and Proposed Deliverance No. 1 be transmitted to Presbyteries in terms of existing legislation.

The wording proposed for transmission as follows:

Synod amend the ACT CONCERNING THE METHOD OF PASSING ACTS OF ASSEMBLY OF GENERAL CONCERN TO THE CHURCH, AND FOR PREVENTING OF INNOVATIONS [COMMONLY CALLED THE BARRIER ACT] enacted by the General Assembly of the Church of Scotland in 1697 by deleting the now ambiguous word ‘Constitutions’ and replacing it with the word ‘Laws’.

ACT 2 – Dealing with Disturbances in a Church

Wednesday 7th May 2014

(Minutes 14.18.4)

Synod note the procedure in regard to serious disturbance in a church service stated in the Report and draw the attention of Sessions to the same.

ACT 3 – Bequests

Wednesday 7th May 2014

(Minutes 14.18.5)

Synod draw attention of members to the importance of giving by bequests for the furtherance of Christ's work, and provide the following examples of forms of bequest, replacing 3:23 in the Handbook.

(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 BEQUEATHto 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 BEQUEATHto 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 BEQUEATHto 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 BEQUEATHto 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)

ACT 4 – Recognition of Rev. Peter Smith as missionary serving with AIM in a voluntary capacity

Wednesday 7th May 2014
(Minutes 14.27.2)

That Synod recognises and confirms Rev Peter Smith as a missionary to serve in a part-time voluntary capacity as office administrator with Australian Indigenous Ministries, and assures him of its prayerful interest and support. (It was noted that Mr Smith remains a minister of the church available for a call).

ACT 5 – Extension of Fraternal Relations to Southern Presbyterian Church in Tasmania

Wednesday 7th May 2014
(Minutes 14.28.3)

The Synod records its pleasure at the developing relationship with the Southern Presbyterian Church in Tasmania. Synod resolves to extend Fraternal Relations to the Southern Presbyterian Church in terms of our Act of Synod 1993. Synod also encourages pulpit exchange or supply to assist in getting to know each other and thus progress closer relations.

ACT 6 – Amendment to Commissioners' Expenses

Thursday 8th May 2014
(Minutes 14.36.4)

SYNOD COMMISSIONERS' EXPENSES [Act 1 of Class 2, Synod 1984 as amended in section c by Synod 2003, 2005 & 2007] be amended to:

“Expenses incurred by Commissions attending Synod meetings may seek reimbursement as follows:

1. Economy class return fares for travel by rail, road or air to apply.
2. Should reimbursement for travel by motor vehicle at the rate per kilometre set by Synod from time to time, exceed the cost of air fares where services are available, commissioners' claims are to be limited to the lesser of the two for that portion of their journey.
3. Reimbursement for travel by motor vehicle:
 - One claim per congregation represented at Synod allowed.
 - For church owned vehicles, reimbursement be Running (operating) Costs only.
 - For privately owned vehicles, Running Costs with an option to include Fixed Costs, if commissioners so desire. The NSW NRMA annual Vehicle Operating Costs Survey figures to be used as the basis for reimbursement. These figures to be adjusted on the last business day before Synod convenes, taking into account the average unleaded fuel pump price in the area where Synod is meeting.
4. Miscellaneous expenses allowed including taxis, car parking, accommodation at reasonable cost if necessary.”

ACT 7 – Amendment of Victorian Trustees investment allocation

Thursday 8th May 2014

(Minutes 14.41.3)

Synod amend the allocation in the investment strategy of Synod 2002 as follows:

Asset Class	Benchmark	Range
Cash/mortgages/debentures	30%	25-35%
Shares/units	70%	65-75%

ACT 8 – Victorian Trustees: Presbytery approval of loans

Thursday 8th May 2014

(Minutes 14.41.4)

The following be added to paragraph 3.20 in the Handbook: “Purchase or capital improvements of property where full funds are not available must be cleared with Presbytery first and any loan proposals approved by the Presbytery.”

ACT 9 – Overture to Presbyteries re Barrier Act Procedure

Tuesday 5th May 2015

(Minutes 14.18)

That the proposed Summary of Procedure relating to The Barrier Act procedure as set out in the Law & Advisory Committee Report and Proposed Deliverance No. 2 be transmitted to Presbyteries in terms of existing legislation. (Handbook 5.39).

The wording proposed to be remitted to Presbyteries as follows:

Limitations

1. The Barrier Act is a means of regulating the lawful exercise of the Synod’s powers not of changing anything that enters into the fixed constitution of the church. In making rules and laws the Synod is always to aim to apply the mind of Christ as given in the Holy Scriptures and thus to seek in an orderly way the building up of the people of God.
2. The requirements of the Barrier Act do not apply to the passing of Acts which merely declare what the existing law of the church is, or which relate to matters of an exhortatory or advisory character, or that are entirely or substantially related to the Synod itself such as the regulation of its business and its committees, or to matters other than the doctrine, worship, discipline and government of the church. However, matters to which this Act does not apply may be referred to Presbyteries by Synod if she wishes but their consent is not required for enactment to take place.

Procedure

3. The norm is for the overture to be transmitted to Presbyteries for consideration. It includes the proposed rule or law and the grounds for it. The Presbytery decides to either ‘approve’ or ‘disapprove’ the content of the proposed legislation, with the liberty to add comments when thought appropriate and with the result of voting being recorded. The Presbytery reports to the next Synod within the time prescribed. In matters that have been before the Church for some time and on which there is no reason

to think a significant difference of opinion exists, the notice requirements of this Act may be satisfied by Synod directing Presbyteries to meet at Synod time, when Synod is not in Session, to approve or disapprove the proposal and to report in order that enactment may then be considered by the same Synod rather than the next (cf. Act Anent Questions & Formula, Synod, 1952).

4. An overture approved by a majority of Presbyteries may be passed into law by the Synod, but Synod is not bound to do so, and cannot do so if a majority of Presbyteries do not approve. It is competent for the substance of remarks by Presbyteries which in no way modify the substance, sense or intention of the overture to be adopted by the Synod. An 'approved' overture may be passed into law notwithstanding such changes, or other minor changes made by the Synod which are not at variance with the spirit and purpose of the overture.

5. In the event the Presbyteries are evenly divided, Synod may assess what is the mind of 'the whole church' in line with the spirit and intent of the Barrier Act by considering the proportion of individual Presbytery members approving, and/or consulting all the ministers and elders of the Church.

6. If Synod twice transmit an overture to Presbyteries in terms of the Barrier Act, the Synod may take the matter into consideration and enact or reject as she sees fit so long as those Presbyteries that have approved and those who have neglected to send in their opinion form a majority of Presbyteries. (cf. Act 5, Class 1, Assembly 1758).

Interim Authority

7. The Synod may immediately convert an overture that is to be transmitted under the Barrier Act into an Interim Act which has authority only until the next Synod deals with the returns from Presbyteries, but this may be done only if an immediate change in the law is considered of urgent practical importance.

Rescission of Class 1 legislation

8. Acts passed under Barrier Act procedure may only be rescinded by that procedure. (cf. Act 8, Assembly 1736).