

Book of Order Advisory Committee

Recommendations

1. That the amendments to the Book of Order contained in Appendix 1 to this report be adopted. _____

2. That the amendments to the Book of Order contained in Appendix 2 to this report be adopted ad interim and remitted for consideration in accordance with the special legislation procedure found in Chapter 14.9 of the Book of Order. _____

3. That the supplementary provisions contained in Appendix 3 to this report be adopted. _____

Executive Summary

- 1.1 The Book of Order Advisory Committee over the last two years has continued to review the Book of Order, and considered proposals for change to the Book of Order from various committees and members of the Church.
- 1.2 The Advisory Committee therefore recommends to the General Assembly the further changes to the Book of Order contained in appendices 1 and 2. The General Assembly is also asked to approve supplementary provisions found in Appendix 3 covering authorisation of the Ministry Development Programme, rolls of ministers and appointments during ministry vacancies.
- 1.3 The Committee is also unanimous in suggesting to the General Assembly that the Book of Order not be changed to require proposals for special legislation to be sent down to parish councils and sessions as well as to presbyteries.

Report

- 2.1 The Committee has continued to be very busy providing advice regarding interpretation of the 2006 Book of Order and practical advice, particularly to presbyteries and congregations as to how to make the new Book work in practice.
- 2.2 The amendments contained in appendix 1 do not require referral to presbyteries, including Te Aka Puaho, under Chapter 14.9 of the Book of Order containing the special legislative procedure. A summary of the changes and the rationale is as follows:
 - a. Item 1. This makes a small change to Chapter 5.2(4)(c) removing the reference to the Financial Reporting Act, an Act of Parliament, in relation to the congregation appointing a suitably qualified person to review or audit its

- accounts. The Financial Reporting Act 1993 has no application to congregations and the reference is therefore redundant.
- b. Item 2 reflects the Committee's consideration of the proposal put by the Rev Judy Bedford on behalf of the Manawatu-Wanganui Presbytery at the 2008 Assembly in notice of motion 08.068(a), and gives effect to the decision of the 2008 Assembly.
 - c. Item 3 makes a small change to chapter 9.46 dealing with functions of recognised ministries. In the Committee's view there is no need to have supplementary provisions as contemplated originally under chapter 9.46(2), so that has been repealed with a reference to conducting public worship being inserted in chapter 9.46(1).
 - d. An amendment is proposed to chapter 15.44 dealing with expenses and allowances in relation to a disciplinary proceeding. The Church has faced payment of significant sums of money in relation to costs in recent disciplinary hearings. There needs to be some control of the process, not least so that the Church can properly budget the expenses. Hence some prescriptive requirements are suggested to monitor the legal expenses after proper estimates have been supplied by legal counsel.
 - e. In the definitions found in appendix 1, a replacement definition for "good standing" is required to recognise the Ministry Development Programme and a new definition of "sexual misconduct" is also recommended.
- 2.3 The changes proposed to the Book of Order contained in appendix 2 all require adoption *ad interim* and reference to presbyteries including Te Aka Puaho in accordance with Chapter 14.9 of the Book of Order.
- a. Item 1. A change is required to chapter 6.8 to recognise the Ministry Development Programme and authorise supplementary provisions in that regard.
 - b. A minor change is required to chapter 7.23(b) referring to a letter of commission for commissioners to presbytery, rather than a form.
 - c. One matter that was overlooked when the Book of Order was enacted in 2006 was provisions regarding ministers emeritae and the removal of names of ministers from the rolls of ministers (in respect of which approval of supplementary provisions is now sought). The Committee now seeks to remedy these omissions.
 - d. The Commission chaired by the Rev Reg Weeks has suggested a definition of "conduct unbecoming" for the purposes of chapter 15 dealing with discipline. Obviously sexual misconduct is a form of "conduct unbecoming", and the Committee feels there is a necessity to insert a definition of "sexual misconduct", as well as setting out the consequences of a conviction in a court of law for a criminal charge involving sexual misconduct as well as the power for the Church to still exercise discipline in relation to sexual misconduct where the person concerned has been acquitted on a criminal charge relating to that same conduct. These provisions are consistent with appendix E9 under the old Book of Order.
- 2.4 Three sets of further supplementary provisions are ready now to be enacted, as set out in Appendix 3.
- 2.5 The Book of Order Advisory Committee has given consideration to notice of motion 08.084 that was passed at the 2008 General Assembly, referring to the

Committee a proposal to recognise Presbyterian Church schools as faith communities. There is already a definition of "faith community" in the Book of Order. Chapter 8.4(9) requires presbyteries to maintain ties with Church schools, and Chapter 8.9(1)(a) allows for chaplains to be members of presbytery. It thus seems to the Committee that there is no need for any legislative changes to the Book of Order on this issue.

- 2.6 The Book of Order Advisory Committee has carefully considered notice of motion 08.70 that was carried at the last General Assembly, requiring proposals for special legislation under Chapter 14.9 of the Book of Order to be sent to parish councils and sessions as well as presbyteries, and that the responses from all courts be considered of equal value.
- 2.7 In the Committee's view such legislative change would be a radical departure from the Barrier Act passed in Scotland in 1697 in relation to the Church of Scotland, and applied to our Church from its inception in Aotearoa New Zealand. This procedure has stood the test of time for over three centuries now, and in our view is constitutionally sound. The long recognised hierarchy in our Church is General Assembly-presbytery-congregations. This hierarchy has stood the test of time. In addition of course parish councils and sessions have the opportunity at presbytery to present their views on any proposed changes to the Book of Order. It would be quite unwieldy in relation to any proposal for legislative change to the Book of Order if the views of parish councils and sessions were treated as of equal value to those of presbyteries.
- 2.8 Are parish councils and sessions up and down the country able to fully debate and consider all the ramifications arising from any special legislative proposal? In the Committee's view these issues are far better debated and resolved at presbytery level in accordance with the fine traditions of our Church before final resolution by the General Assembly.
- 2.9 Finally I express my heartfelt thanks to the members of our Committee, and in particular Heather McKenzie who gives unstinting service as our secretary and guide. The Committee records its thanks to Russell Feast, who has elected to retire but contributed much common sense and a wealth of knowledge regarding the heritage of our Church to the Committee's debates.

Peter Whiteside
Convenor

Appendix 1 - Amendments to the 2006 Book of Order

1. Amend Chapter 5.2(4)(c) by deleting the words "in accordance with the Financial Reporting Act No. 2."
2. Amend Chapter 8.17(4) by adding on the words:
"and that all ministers who are members of that presbytery have an equal opportunity of attending the General Assembly so that one half of the ministers (other than ministers emeritae) who are members of that presbytery should be commissioners at each alternate General Assembly."
3. Amend Chapter 9.46(1) by adding as follows:
"(f). Conducting public worship"
and repeal Chapter 9.46(2).
4. Amend Chapter 15.44(1) by inserting at the end of the existing sentence the following:-
"In any proceeding where legal counsel is retained the following provisions shall apply:
 - (a) *There shall be a description of the scope and content of intended legal services agreed between the Presbytery, Te Aka Puaho or Assembly Executive Secretary and legal counsel providing the legal services, before the service is provided.*
 - (b) *Legal counsel shall provide an estimate of fees for the intended legal services, stipulating the practitioner's hourly rate and anticipated time for the task. The Presbytery, Te Aka Puaho or the Assembly Executive Secretary, shall if appropriate approve that estimate in writing, in whole or in part prior to the legal services being provided.*
 - (c) *Legal counsel shall provide monthly reports to the Presbytery, Te Aka Puaho or the Assembly Executive Secretary, reporting on the legal services which have been provided, and the extent of professional fees incurred."*
5. In Appendix 1 in relation to defined terms:-
 - (a) *Repeal the existing definition of "good standing" and replace it with:-*
"Good standing" *in relation to a minister or licentiate, means a minister or licentiate in respect of whom the Church, on behalf of the Presbytery having oversight of that person, is in a position to issue a letter signed by the Assembly Executive Secretary confirming that person's good standing by reason of the fact that the person is neither facing a disciplinary charge nor is subject to any current disciplinary orders under Chapter 15, and has satisfied the general criteria for ministry development and review as set out in the provisions of the Ministry Development Programme.*
 - (b) *Insert:-*
"Sexual misconduct" *means any form of sexual behaviour or attention which is offensive or unwelcome to the person who receives it and/or is repeated or is of a significant nature. It can be written or oral or communication by electronic means, or physical, and can include misuse of visual material. It can include a breach of the pastoral relationship which may be, have been, or have appeared to be consensual but which, by virtue of the pastoral relationship, the Church deems improper.*
"Sexual misconduct" includes sexual abuse and sexual harassment but is not limited to those. "Sexual misconduct" includes any direct or indirect request of another person for sexual intercourse, sexual contact, or any other form of sexual activity that contains:

- *an implied or overt threat of some form of detriment; or*
- *an implied or overt promise of some form of benefit; or*
- *an implied or overt threat about the present or future status of the person or any other person related in any way to the person.*

Appendix 2 - Amendments to the 2006 Book of Order

1. Amend Chapter 6.8(2) by deleting the words "continuing ministry formation and supervision in accordance with section 8 of Chapter 9 and replacing it with the words "ministry development in accordance with supplementary provisions."
2. Amend Chapter 7.23(4) by deleting the word "form" and replacing it with the word "letter".
3. Enact new Chapters 10.32A and 10.32B as follows:
 - 10.32A *Ministers Emeritae*
When a minister retires or has become incapacitated, except where the presbytery of which the minister is a member deems it not to be in the interests of the Church, the minister shall be granted by the presbytery the status of minister emeritus or emerita and shall be eligible to be appointed as a member of that presbytery.
 - 10.32B *Removal of Names from Rolls of Ministers*
In addition to the powers described in Chapter 10.32 for the removal of names of ministers from the rolls of ministers, there shall also be a power to remove such names when a minister has been the subject of an order made pursuant to Chapter 15.27(1)(a) or been engaged in another calling and not been a member of any presbytery for 5 years (such period being capable of extension to 7 years) pursuant to supplementary provisions.
4. Amend Chapter 15.2(1) by adding at the end of the existing sentence "'conduct unbecoming' includes sexual misconduct", and inserting new provisions as chapter 15.2(3) and (4):
 - 15.2(3) *If a respondent to a charge in respect of sexual misconduct has been convicted in a court of law of any criminal charge relating to sexual misconduct the Church must for the purposes of dealing with a complaint concerning the same matter accept such charge as proven without further inquiry, and proceed to consider penalty and other matters provided for in this chapter without further proof of such charge.*
 - 15.2(4) *If the respondent who has been charged with sexual misconduct has been acquitted in a court of law of any criminal charge relating to sexual misconduct, the Church may, in its discretion, investigate and/or lay a complaint concerning the same matter under this chapter.*

Appendix 3 - Supplementary provisions**CHAPTER 6 SUPPLEMENTARY PROVISIONS****Ministry Development***Pursuant to Book of Order Chapter 6.8*

1. Ongoing ministry development, reviews and supervision are core requirements for a Certificate of Good Standing, which shall be issued by the Assembly Executive Secretary.
2. The general criteria for ministry development and review are set out in the provisions of the Ministry Development Programme, as approved from time to time by the Council of Assembly.
3. A minister who does not hold a current Certificate of Good Standing may not transfer to another presbytery, be inducted into a new charge, or remain on the Church's register of marriage celebrants.
4. A minister may appeal a decision to not grant him or her a Certificate of Good Standing. The procedures for such an appeal are, subject to any necessary modifications, the same as those that apply under Chapter 14 of the Book of Order to an appeal from presbytery to General Assembly.

CHAPTER 10 SUPPLEMENTARY PROVISIONS**Rolls of Ministers***Pursuant to Book of Order Chapter 8.4***1. Roll of Ministers**

- 1.1 The Assembly Executive Secretary shall keep and maintain the Church's roll of ministers (the Church's roll of ministers).
- 1.2 Each Presbytery Clerk shall also keep and maintain a roll of ministers for those ministers resident within the bounds of that presbytery (the presbytery's roll of ministers). This roll must comply with Chapter 8.4(1)(s) of the Book of Order.
- 1.3 At all times the two rolls referred to in clauses 1.1 and 1.2 hereof should not be in conflict so that any minister on the Church's roll of ministers should be on one but no more of the presbyteries' roll of ministers.

2. Additions to Rolls of Ministers

- 2.1 The name of any person ordained to the ministry of word and sacrament shall in the first place be added to the presbytery's roll of ministers for the presbytery by which that person has been so ordained. The Presbytery Clerk for that presbytery shall immediately advise the Assembly Executive Secretary in writing of that ordination and the Assembly Executive Secretary must add that person's name to the Church's roll of ministers.
- 2.2 Where a pastoral tie between a minister and his or her congregation is dissolved or severed by the presbytery concerned (presbytery A) and that minister accepts a call that is issued by a different presbytery (presbytery B) then presbytery B's Clerk must add the minister's name to presbytery B's roll of ministers and presbytery A's Clerk must remove the minister's name from presbytery A's roll of ministers.
- 2.3 Where any minister is appointed to a chaplaincy within the area of a presbytery if that minister's name is not already on that presbytery's roll of ministers, then that presbytery's Clerk must add the minister's name to that presbytery's roll of ministers and the Presbytery Clerk for the presbytery on whose roll of ministers that minister's name appeared immediately prior thereto must remove the minister's name from that presbytery's roll of ministers.
- 2.4 Where any minister has been appointed an additional full voting member pursuant to Chapter 8.9(1)(b) of the Book of Order of a presbytery of which that

- minister was not immediately prior thereto a member (presbytery A), presbytery A's Clerk must add that minister's name to presbytery A's roll of ministers and the Presbytery Clerk of the presbytery of which that minister was immediately prior thereto a member (presbytery B) must remove the minister's name from presbytery B's roll of ministers.
- 2.5 Where any minister or chaplain has been invited to become a member pursuant to Chapter 8.9(1)(e) of the Book of Order of a presbytery of which that member was not immediately prior thereto a member (presbytery A), presbytery A's Clerk must add that minister's or chaplain's name to presbytery A's roll of ministers and the Presbytery Clerk of the presbytery of which that minister or chaplain was immediately prior thereto a member (presbytery B) must remove that minister's name from presbytery B's roll of ministers.
- 2.6 Any Presbytery Clerk for a presbytery affected by any of the provisions contained in clauses 2.2 to 2.5 hereof must immediately advise the Assembly Executive Secretary in writing of the respective changes in his or her presbytery's roll of ministers and the Assembly Executive Secretary shall note the Church's roll of ministers accordingly.
- 2.7 Any transfer of a minister or chaplain from one presbytery's roll of ministers to another presbytery's roll of ministers can only take place if that minister or chaplain is in good standing.
- 3. Removals from Rolls of Ministers**
- 3.1 The name of any minister who has resigned from the Church pursuant to Chapter 10.32 of the Book of Order shall be removed from the presbytery's roll of ministers and the Church's roll of ministers in accordance with that Chapter.
- 3.2 The name of any minister who has been the subject of an order made pursuant to Chapter 15.27(1)(a) of the Book of Order shall in the first place be removed from the Church's roll of ministers by the Assembly Executive Secretary. The Assembly Executive Secretary shall immediately advise the Presbytery Clerk for the presbytery on whose roll of ministers that minister's name appeared immediately prior thereto and that Presbytery Clerk shall remove that person's name from the presbytery's roll of ministers.
- 3.3 Subject to clause 3.4, the name of any minister who has been engaged in another calling and has not been a member of any presbytery for 5 years shall in the first place be removed from the Church's roll of ministers by the Assembly Executive Secretary. The Assembly Executive Secretary shall immediately advise the Presbytery Clerk for the presbytery on whose roll of ministers that minister's name appeared immediately prior thereto and that Presbytery Clerk shall remove that person's name from the presbytery's roll of ministers.
- 3.4 Before the name of any minister is removed pursuant to clause 3.3, that minister shall be notified in writing by the Assembly Executive Secretary of the Church's intention to remove that minister's name from the Church's roll of ministers unless that minister in turn notifies in writing the Assembly Executive Secretary that he or she is still available to accept a call. Such notice in writing by a minister must be given within one month of the date of the Assembly Executive Secretary's notice of intention to remove that minister's name from the Church's roll of ministers and if so given the minister's name shall not be removed from the Church's roll of ministers for a further 2 year period. If at the end of that 2 year period the minister has not been called, appointed to a chaplaincy or become a member of any presbytery, then the minister's name shall be removed from the Church's roll of ministers by the Assembly Executive Secretary.

CHAPTER 10 SUPPLEMENTARY PROVISIONS

Appointments during ministry vacancies

Pursuant to Book of Order Chapter 10

During a ministry vacancy in a congregation, while the ministry settlement board is undertaking its functions, there may be opportunity for short term ministry appointments.

1. Stated Supply Ministers

- 1.1 Stated supply is a local appointment made by the church council, and approved by the presbytery/UDC, for ministry to a congregation for a short stated term.
- 1.2 Before the church council makes any approach to a minister of the Presbyterian Church of Aotearoa New Zealand (PCANZ) to provide stated supply, the minister's status and standing must be ascertained from the Assembly Office.
- 1.3 Before a church council makes a stated supply appointment, it must consult with, and obtain the concurrence of, the ministry settlement board.
- 1.4 The ministry settlement board shall continue to function in all respects.
- 1.5 The Interim Moderator shall continue to moderate the church council.
- 1.6 The terms of appointment, including remuneration and allowances, must be approved by the presbytery/UDC.
- 1.7 A retired minister may not be appointed to a stated supply position in the parish from which the minister retired.
- 1.8 If a church council wishes to appoint a minister who is not a PCANZ minister, the approval of the presbytery/UDC must be gained prior to the supply arrangement being entered into.
- 1.9 Before a presbytery/UDC may approve the appointment of a non-PCANZ minister, it must obtain evidence of the minister's ordination, good standing in their denomination, and a current Police check.
- 1.10 If the congregation is a co-operative venture, the partner church must be consulted before the appointment is made.

2. Transition Ministry

- 2.1 A ministry settlement board may discern the need for intentional transition ministry, which is for a longer contractual time than stated supply, and has a different intent.
- 2.2 Transition ministry may be undertaken only by ministers or lay people who have specialized and recognised transition ministry training qualifications.
- 2.3 (Refer to Assembly Office for list of trained intentional transition ministers.)
- 2.4 Before a church council makes a transition ministry appointment, it must obtain the approval of the presbytery/UDC.
- 2.5 The church council should negotiate an appropriate contract with the proposed transition minister and submit this to the presbytery/UDC for approval.
- 2.6 The ministry settlement board shall continue to function during the period of transition ministry, and the Interim Moderator shall continue to moderate the church council.

3. Lay Ministry Supply

- 3.1 The purpose of a lay supply appointment in a ministry vacancy is to "fill in", for a short fixed term, until an ordained minister can be appointed.
- 3.2 Before a church council makes a lay supply appointment, it must obtain the approval of the presbytery/UDC and the concurrence of the ministry settlement board.
- 3.3 Lay supply appointees are employees of the church council, and their appointment must conform with 'best practice' and relevant employment legislation. Church councils should obtain qualified advice before finalising an

- employment agreement, with particular regard given to the fixed-term nature of the appointment.
- 3.4 The presbytery/UDC must approve the terms and conditions of employment for a lay supply appointee. Appointments should be for no longer than six months in total.
- 3.5 The lay supply appointee may conduct worship and undertake pastoral responsibilities but may not administer the sacraments of baptism or communion, unless that person is specifically authorised to do so under the relevant regulations.
- 3.6 The provisions of the Conditions of Service Manual Chapter 3 (Pastoral Lay Positions) apply to lay supply appointments.
- 3.7 The ministry settlement board shall continue to function in all respects.
- 3.8 The Interim Moderator shall moderate the church council, and shall arrange for an ordained minister or authorised elder to administer the sacraments.