

See

<https://freechurch.org/acts-in-force/act-v-commission-of-assembly-january-2007-act-anent-governance-arrangements-b-edinburgh-18th-january-2007/#>

## Act 5, Class 2, Commission of Assembly, January 2007 – Act anent Governance Arrangements (B)<sup>1</sup>

The General Assembly instruct all congregations to submit an application for registration for separate charitable status if they have not already done so. They direct Kirk Sessions to appoint a congregational meeting to adopt the constitutional form as approved and appropriate to their particular congregation, as included in the Appendix One and Appendix Two set out below.

- I. The General Assembly instruct congregations already holding separate Charity Registration to adopt the constitutional form appropriate to their particular congregation.

### Appendix One

## FREE CHURCH OF SCOTLAND

### Draft Constitution for Congregations with a Deacons' Court

#### DEED OF CONSTITUTION

#### CONGREGATION

#### PRESBYTERY

<b>Congregational Aims</b>	1. The Congregation aims to maintain the public worship of God and to foster Christian fellowship; to evangelise the local area by proclaiming the gospel of Jesus Christ, to exercise pastoral care and practical compassion for those in need; to uphold and further the interests of the Free Church of Scotland; and to participate in the worldwide promotion of Christian fellowship and the advancement of the Christian faith. All the business and proceedings of the Congregation shall be conducted in accordance with the constitution of the Free Church of Scotland, under the supervision of the Presbytery of the bounds, and in terms of the Acts, deliverances or directions of the General Assembly of the Free Church of Scotland.
<b>General Duties &amp; Responsibilities of the Deacons' Court</b>	2. The control of the whole temporal affairs of the Congregation shall be vested in the Deacons' Court, subject as hereinafter mentioned, to any Acts, deliverances or directions of the General Assembly of the Free Church of Scotland.
<b>Membership of the Deacons' Court</b>	3. The Deacons' Court shall consist of the Minister, Assistant Minister (where such exists), <i>bona fide</i> acting Elders and Deacons of the Congregation. The Minister and Assistant Minister (where such exists) become members of the Deacons' Court on being inducted to the charge by the Presbytery of the bounds after a free election by communicant members of the Congregation. Elders and Deacons are elected on the initiative of the Kirk Session by the communicant members of the Congregation in accordance with the procedures of the Church. Elders and Deacons hold office for life and remain members of the Deacons' Court until they cease to be members of the Congregation, or their resignations from office are accepted, or they have been deposed from Office.  3.1 In the event of a vacancy in the pastoral charge, the Presbytery of the bounds has the right and duty to appoint a Minister, who is a member of Presbytery, to act as interim

<sup>1</sup> As amended by Act XIII, 2007 - Act anent Compliance with the new Charity Legislation and Act XXXI, 2009 – Act amending Act V, Commission of Assembly, January 2007, and Act XIV, 2018 – Act anent The Charity Constitution of Deacons Courts and Finance Committee

	<p>Moderator of the Kirk Session, and he becomes a member of the Deacons' Court with the same rights and duties as the minister in that regard during the term of his appointment.</p> <p>3.2 In the event of there being no <i>bona fide</i> acting Elders, or only one, the Presbytery has the right to appoint one or more assessors from within their own bounds to act for a stated period, which may thereafter be extended, as General Assessors to the Congregation. Such General Assessors become members of the Deacons' Court during the term of their appointment.</p> <p>3.3 If the Congregation faces circumstances of particular difficulty, the Kirk Session may request the Presbytery to augment its numbers by the appointment of Special Assessors, or the Presbytery may do so on their own initiative. Such Special Assessors do not become members of the Deacons' Court unless the Presbytery explicitly stipulates this in the terms of their appointment.</p>
<b>Convening of Meetings</b>	4. A meeting of the Deacons' Court shall be convened by due notice through pulpit intimation, church intimation or by personal notice to the members thereof, and is called by authority of the Minister, or at the requisition of any three members—said requisition being addressed to the Minister, or, in time of a vacancy of the pastoral charge, to the Clerk of the said Court. The ordinary business of the Deacons' Court may not be transacted on the Lord's Day. The Deacons' Court shall not meet at the same time as the Presbytery or Synod of the bounds or the General Assembly.
<b>Chairman &amp; Quorum</b>	5. The minister shall preside in the meeting of the Deacons' Court, when he is present; and, in his absence, any Elder or Deacon whom the meeting may appoint. Three members form the quorum of a Deacons' Court.
<b>Constituting Meeting</b>	6. Every meeting of the Deacons' Court is both opened and closed with prayer. The Minute shall always bear at the outset that the Deacons' Court was <i>constituted</i> , and at the end that the meeting was <i>closed with prayer</i> . No Extract Minute shall be received which does not bear that the Deacons' Court was constituted, and which is not certified by the Clerk as having been extracted by him from the Records of the Court.
<b>Conduct of Business</b>	7. The Chairman may introduce any business to the Deacons' Court and may address them regarding it. Resolutions are passed by a simple majority of members attending. The Chairman has only a casting vote.
<b>Clerk to the Deacons' Court</b>	8. The Deacons' Court shall appoint a Clerk, usually from among their own number, who shall write up the minutes of each meeting and take care of such of its papers, books and documents as are not entrusted to the custody of a Treasurer. In the absence of the Clerk, the Deacons' Court shall appoint a replacement <i>pro tempore</i> , and this fact shall be noted in the minutes. The temporary clerk shall sign the minutes he has written as well as the regular clerk.
<b>Treasurer</b>	9. The Deacons' Court shall appoint one or more treasurers who need not be members of the Court, and whose term of office is as stipulated by the Deacons' Court. The Treasurer shall keep one or more bank accounts in the name of the Congregation and also detailed records of the income and expenditure of the Congregation as required by church regulations and civil legislation.
<b>Powers of the Deacons' Court</b>	10. The Deacons' Court has the management and charge of the whole property belonging to the Congregation and of all its temporal affairs with the determination of all questions relating thereto; and it is the province and duty of the said Court to transmit, from time to time, to the denominational Treasurer appointed by the General Assembly, or their Committee, the funds raised for the annual commitments toward stipends and other centrally funded work of the denomination, to apply the remaining congregational funds, in fitting proportions, to the support of the ministry, the payment of the salaries of the various support staff (who may or may not be members of the Deacons' Court),

	<p>provision of indemnity insurance for members of the Deacons' Court and the defraying of all necessary charges connected with the property, or with the dispensation of Christian ordinances; to apply, moreover, any surplus, which may thereafter arise, to religious, ecclesiastical, educational or charitable objects.</p> <p>The Court may also organise designated collections of funds for other stated purposes of a religious, ecclesiastical, educational or charitable nature and accept similar funds for onward transmission to the denomination's central treasurer or committee, or charity in terms of the donor's wishes. Finally, the Court shall decide as to the payments to be made for the relief of the poor.</p>
<b>Nature of Meetings</b>	11. The meetings of Deacons' Court shall not usually be open to the public, or the Congregation; but the Deacons' Court may hold open meetings if it sees special cause.
<b>Maintenance of Church Property</b>	12. While property belonging to the Congregation is held in the name of local trustees, the Deacons' Court is responsible for the maintenance of its fabric, keeping it in proper order and repair and fully insured against loss or damage by fire and also against loss or damage by such other risks or perils as appropriate.
<b>Health &amp; Safety</b>	13. The Deacons' Court has the responsibility for discharging all duties imposed by Health and Safety and other civil law legislation pertaining to the properties owned or occupied by the Congregation or assigned by the Free Church of Scotland or one of its committees for the Congregation's use.
<b>Use of Church Property</b>	14. While the church is solely at the disposal of the Minister for all religious purposes, the consent of the Deacons' Court, as well as of the Minister, is necessary, before any meeting, not strictly of a religious, ecclesiastical, or charitable nature, can be held in it. It is, however, within their competence to make such charge for these uses as will defray costs falling on the Congregation.
<b>Declaration of Interest</b>	15. A member of the Deacons' Court who has a personal interest in any transaction or arrangement which the Court is proposing to enter into must declare that interest and is debarred from voting on whether or not the Court should enter into that transaction or arrangement. Provided this procedure has been followed, a member of the Deacons' Court is not debarred from entering into a transaction or arrangement with the Court in which a personal interest exists.
<b>Application of Funds &amp; Assets</b>	16. The Deacons' Court shall apply the whole funds and assets of any description and under its control in any way, exclusively for the purposes of the Congregation and/or the Free Church of Scotland, unless such funds or assets are otherwise appropriated in law to a specific purpose, and in accordance with all relevant Acts, directions and deliverances approved by the General Assembly.
<b>Examination of Records</b>	17. The Minute Book of the Deacons' Court shall be exhibited to the Presbytery of the bounds at its first ordinary meeting after 31st January each year for the purpose of being examined and attested by the Presbytery at said meeting.
<b>Examination of Accounts</b>	18. The Treasurer's Accounts shall be prepared and examined in accordance with prevailing accounting regulations. The Accounts, once examined, shall be submitted to the Presbytery each year, and the Presbytery shall forward them to the Church's Finance Manager within three months of the financial year end. After the Finance Manager has acknowledged receipt of the Accounts, the Congregation shall forward them to the Charity Regulator along with their annual returns.
<b>Annual Congregational Meeting</b>	19. After the Minute Book of the Deacons' Court has been attested by the Presbytery and the Treasurer's Accounts duly examined; and preferably not later than 31st March, a Congregational Meeting shall be held, when the Deacons' Court shall present a report of its proceedings for the preceding year, give such information and explanations as may be

	asked for, and receive any suggestions which may be offered by members of the Congregation for the consideration of the Court, with reference to the future distribution of funds. The Congregational Meeting shall be convened by intimation from the pulpit, and the Minister, if present, shall preside at it.
<b>Minutes of Congregational Meetings</b>	20. Meetings of the Deacons' Court with the Congregation (that is, Congregational Meetings which do not require the Kirk Session's authority) should be duly minuted and the minutes engrossed in the Record of the Deacons' Court.
<b>Dissent</b>	21. So long as the Deacons' Court acts within the bounds of its authority as prescribed by Church law, decisions are regarded as final, and no dissent and complaint is competent. A simple dissent is, however, competent.
<b>Petition against Decisions</b>	22. Any member of a Congregation or of the Kirk Session may petition the Presbytery against the procedure of the Deacons' Court on the grounds that it has exceeded its powers or disregarded Acts of Assembly. It is competent also for the Presbytery to find that the Deacons' Court has exceeded its powers or disregarded the Acts, upon the periodical examination of the Record. The Presbytery may, in either of these cases, require the procedure to be altered, or censure the Deacons' Court, according to the nature of the case. The Deacons' Court may appeal to the Superior Courts; so also may the petitioners against the Deacons' Court's procedure, if the Presbytery reject their Petition.
<b>Congregational Trustees</b>	23. Property belonging to the Congregation, whether or not held in terms of the Model Trust Deed or any variation thereof, shall be held in the names of trustees elected by the Congregation. The duties of local trustees are to hold properties in trust and sign necessary documents connected with ownership or sale, when duly authorised. The trust conditions under which congregational trustees hold title shall be set out or referred to in the title deeds, or, failing that, in a separate Trust Deed. A list of local property trustees should be maintained by the Deacons' Court and included in the Treasurer's Annual Accounts. Duties of day-to-day management belong to the Deacons' Court.
<b>Model Trust Deed Property</b>	24. Only persons whose names appear on the Communion Roll of the Congregation as duly attested by Presbytery have the right to vote in electing trustees. A Congregational meeting to elect trustees must be intimated from the pulpit after the forenoon service and the intimation must specify the reason for which the meeting is called. At least ten days' notice of such a meeting must be given.
<b>Powers to Borrow</b>	25. The Deacons' Court shall have power to borrow money for the purpose of implementing its duties and obligations but only if the Deacons' Court is satisfied that sufficient funds are available or are assured for the purpose of repaying the money borrowed. Congregational property may only be used as security for a loan in circumstances where (a) the granting of a security is not prohibited by the trust conditions under which the title is held by the congregational trustees; and (b) all procedures required in terms of the said trust conditions have been followed and all consents required in terms thereof have been obtained. Further, and for the avoidance of doubt and whether or not explicitly stated in the title or elsewhere, no standard security may be granted over congregational property without prior written agreement having been obtained from the Free Church of Scotland Board of Trustees.
<b>Existing functions of Minister &amp; Kirk Session reserved</b>	26. Nothing herein contained shall interfere with the functions assigned either to the Minister or to the Kirk Session by the constitution of the Free Church of Scotland or by the Acts and Deliverances of its General Assembly.
<b>Powers reserved to the General Assembly</b>	27. It shall be in the power of the General Assembly or its Commission, to alter, revoke, amend or modify this Deed of Constitution, in whole or in part with the exception of para 1, or to substitute a new Deed of Constitution for this Deed of Constitution.

**Appendix Two**

**FREE CHURCH OF SCOTLAND**

**Draft Constitution for Congregations with a Finance Committee**

**DEED OF CONSTITUTION**

**CONGREGATION**

**PRESBYTERY**

<b>Congregational Aims</b>	1. The Congregation aims to maintain the public worship of God and to foster Christian fellowship; to evangelise the local area by proclaiming the gospel of Jesus Christ, to exercise pastoral care and practical compassion for those in need; to uphold and further the interests of the Free Church of Scotland; and to participate in the worldwide promotion of Christian fellowship and the advancement of the Christian faith. All the business and proceedings of the Congregation shall be conducted in accordance with the constitution of the Free Church of Scotland, under the supervision of the Presbytery of the bounds, and in terms of the Acts, deliverances or directions of the General Assembly of the Free Church of Scotland.
<b>General Duties &amp; Responsibilities of the Finance Committee</b>	2. The control of the whole temporal affairs of the Congregation shall be vested in the Finance Committee, subject as hereinafter mentioned, to any Acts, deliverances or directions of the General Assembly of the Free Church of Scotland.
<b>Membership of the Finance Committee</b>	3. The Finance Committee shall consist of the Minister, Assistant Minister (where such exists) and bona fide acting Elders of the Congregation along with those persons appointed members of the Finance Committee by the Congregation. The Minister and Assistant Minister (where such exists) become members of the Finance Committee on being inducted to the charge by the Presbytery of the bounds after a free election by communicant members of the Congregation. Elders are elected on the initiative of the Kirk Session by the communicant members of the Congregation in accordance with the procedures of the Church. Elders hold office for life and remain members of the Finance Committee until they cease to be members of the Congregation, or their resignations are accepted, or they have been deposed from Office.  3.1 Each year at the Annual Congregational Meeting the Kirk Session should propose a suitable number of other persons to serve on the Finance Committee. Each of these persons shall be approved of by a majority of the Congregation to serve on the Finance Committee until the next Annual Congregational Meeting. Individuals shall be eligible for re-election from year to year.  3.2 In the event of a vacancy in the pastoral charge, the Presbytery of the bounds has the right and duty to appoint a Minister, who is a member of Presbytery, to act as interim Moderator of the Kirk Session, and he becomes a member of the Finance Committee with the same rights and duties as the minister in that regard during the term of his appointment.  3.3 In the event of there being no bona fide acting Elders, or only one, the Presbytery has the right to appoint one or more assessors from within their own bounds to act for a stated period, which may thereafter be extended, as General Assessors to the

	<p>Congregation. Such General Assessors become members of the Finance Committee during the term of their appointment.</p> <p>3.4 If the Congregation faces circumstances of particular difficulty, the Kirk Session may request the Presbytery to augment its numbers by the appointment of Special Assessors, or the Presbytery may do so on their own initiative. Such Special Assessors do not become members of the Finance Committee unless the Presbytery explicitly stipulates this in the terms of their appointment.</p>
<b>Convening of Meetings</b>	<p>4. A meeting of the Finance Committee shall be convened by due notice through pulpit intimation, church intimation or by personal notice to the members thereof, and is called by authority of the Minister, or at the requisition of any three members—said requisition being addressed to the Minister, or, in time of a vacancy of the pastoral charge, to the Clerk of the Finance Committee. The ordinary business of the Finance Committee may not be transacted on the Lord's Day. The Finance Committee shall not meet at the same time as the Presbytery or Synod of the bounds or the General Assembly.</p>
<b>Chairman &amp; Quorum</b>	<p>5. The minister shall preside in the meeting of the Finance Committee, when he is present; and, in his absence, any Elder or member of the Finance Committee whom the meeting may appoint. Three members form the quorum of a Finance Committee.</p>
<b>Constituting Meeting</b>	<p>6. Every meeting of Finance Committee is both opened and closed with prayer. The Minute shall always bear at the outset that the Finance Committee was constituted, and at the end that the meeting was closed with prayer. No Extract Minute shall be received which does not bear that the Finance Committee was constituted, and which is not certified by the Clerk as having been extracted by him from the Records of the Committee.</p>
<b>Conduct of Business</b>	<p>7. The Chairman may introduce any business to the Finance Committee and may address them regarding it. Resolutions are passed by a simple majority of members attending. The Chairman has only a casting vote.</p>
<b>Clerk to the Finance Committee</b>	<p>8. The Finance Committee shall appoint a Clerk, usually from among their own number, who shall write up the minutes of each meeting and take care of such of its papers, books and documents as are not entrusted to the custody of a Treasurer. In the absence of the Clerk, the Finance Committee shall appoint a replacement <i>pro tempore</i>, and this fact shall be noted in the minutes. The temporary clerk shall sign the minutes he has written as well as the regular clerk.</p>
<b>Treasurer</b>	<p>9. The Finance Committee shall appoint one or more treasurers who need not be members of the Committee, and whose term of office is as stipulated by the Finance Committee. The Treasurer shall keep one or more bank accounts in the name of the Congregation and also detailed records of the income and expenditure of the Congregation as required by church regulations and civil legislation.</p>
<b>Powers of the Finance Committee</b>	<p>10. The Finance Committee has the management and charge of the whole property belonging to the Congregation and of all its temporal affairs with the determination of all questions relating thereto; and it is the province and duty of the said Committee to transmit, from time to time, to the denominational Treasurer appointed by the General Assembly, or their Committee, the annual commitments towards stipends and other centrally funded work of the denomination; to apply the remaining congregational funds, in fitting proportions, to the support of the ministry, the payment of the salaries of the various subordinate functionaries (who may or may not be members of the Finance Committee), provision of indemnity insurance for members of the Finance Committee and the defraying of all necessary charges connected with the property, or with the dispensation of Christian ordinances; to apply, moreover, any surplus, which may thereafter arise, to religious, ecclesiastical, educational or charitable objects. The</p>

	Committee may also organise designated collections of funds for other stated purposes of a religious, ecclesiastical, educational or charitable nature and accept similar funds for onward transmission to the denomination's central treasurer or committee, or other charity in terms of the donor's wishes. Finally, the Committee shall decide as to the payments to be made for the relief of the poor.
<b>Nature of Meetings</b>	11. The meetings of Finance Committee shall not usually be open to the public, or the Congregation; but the Finance Committee may hold open meetings if they see special cause.
<b>Maintenance of Church Property</b>	12. While property belonging to the Congregation is held in the name of local trustees, the Finance Committee is responsible for the maintenance of its fabric, keeping it in proper order and repair and fully insured against loss or damage by fire and also against loss or damage by such other risks or perils as appropriate.
<b>Health &amp; Safety</b>	13. The Finance Committee has the responsibility for discharging all duties imposed by Health and Safety and other civil law legislation pertaining to the properties owned or occupied by the Congregation or assigned by the Free Church of Scotland or one of its committees for the Congregation's use.
<b>Use of Church Property</b>	14. While the church is solely at the disposal of the Minister for all religious purposes, the consent of the Finance Committee, as well as of the Minister, is necessary, before any meeting, not strictly of a religious, ecclesiastical, or charitable nature, can be held in it. It is, however, within their competence to make such charge for these uses as will defray costs falling on the Congregation.
<b>Declaration of Interest</b>	15. A member of the Finance Committee who has a personal interest in any transaction or arrangement which the Committee is proposing to enter into must declare that interest and is debarred from voting on whether or not the Committee should enter into that transaction or arrangement. Provided this procedure has been followed, a member of the Finance Committee is not debarred from entering into a transaction or arrangement with the Committee in which a personal interest exists.
<b>Application of Funds &amp; Assets</b>	16. The Finance Committee shall apply the whole funds and assets of any description and under its control in any way exclusively for the purposes of the Congregation and/or the Free Church of Scotland, unless such funds or assets are otherwise appropriated in law to a specific purpose, and in accordance with all relevant Acts, directions and deliverances approved by the General Assembly.
<b>Examination of Records</b>	17. The Minute Book of the Finance Committee shall be exhibited to the Presbytery of the bounds at its first ordinary meeting after 31st January each year for the purpose of being examined and attested by the Presbytery at said meeting
<b>Examination of Accounts</b>	18. The Treasurer's Accounts shall be prepared and examined in accordance with prevailing accounting regulations. The Accounts, once examined, shall be submitted to the Presbytery each year, and the Presbytery shall forward them to the Church's Finance Manager within three months of the financial year end. After the Finance Manager has acknowledged receipt of the Accounts, the Congregation shall forward them to the Charity Regulator along with their annual returns.
<b>Annual Congregational Meeting</b>	19. After the Minute Book of the Finance Committee has been attested by the Presbytery and the Treasurer's Accounts duly examined, and not later than 31st March, a Congregational Meeting shall be held, when the Finance Committee shall present a report of its proceedings for the preceding year, give such information and explanations as may be asked for, and receive any suggestions which may be offered by members of the Congregation for the consideration of the Committee, with reference to the future

	distribution of funds. The Congregational Meeting shall be convened by intimation from the pulpit, and the Minister, if present, shall preside at it.
<b>Minutes of Congregational Meetings</b>	20. Meetings of the Finance Committee with the Congregation (that is, Congregational Meetings which do not require the Kirk Session's authority) should be duly minuted and the minutes engrossed in the Record of the Finance Committee.
<b>Dissent</b>	21. So long as the Finance Committee acts within the bounds of its authority as prescribed by Church law, decisions are regarded as final, and no dissent and complaint is competent. A simple dissent is, however, competent.
<b>Petition against Decisions</b>	22. Any member of a Congregation or of the Kirk Session may petition the Presbytery against the procedure of the Finance Committee on the grounds that it has exceeded its powers or disregarded Acts of Assembly. It is competent also for the Presbytery to find that the Finance Committee has exceeded its powers or disregarded the Acts, upon the periodical examination of the Record. The Presbytery may, in either of these cases, require the procedure to be altered, or censure the Finance Committee, according to the nature of the case. The Finance Committee may appeal to the Superior Courts; so also may the petitioners against the Finance Committee's procedure, if the Presbytery reject their Petition.
<b>Congregational Trustees</b>	23. Property belonging to the Congregation, whether or not held in terms of the Model Trust Deed or any variation thereof, shall be held in the names of trustees elected by the Congregation. The duties of local trustees are to hold properties in trust and sign necessary documents connected with ownership or sale, when duly authorised. The trust conditions under which congregational trustees hold title shall be set out or referred to in the title deeds, or, failing that, in a separate Trust Deed. A list of local property trustees should be maintained by the Finance Committee and included in the Treasurer's Annual Accounts. Duties of day-to-day management belong to the Finance Committee.
<b>Model Trust Deed Property</b>	24. Only persons whose names appear on the Communion Roll of the Congregation as duly attested by Presbytery have the right to vote in electing trustees. A Congregational meeting to elect trustees must be intimated from the pulpit after the forenoon service and the intimation must specify the reason for which the meeting is called. At least ten days' notice of such a meeting must be given.
<b>Powers to Borrow</b>	25. The Finance Committee shall have power to borrow money for the purpose of implementing its duties and obligations but only if the Finance Committee is satisfied that sufficient funds are available or are assured for the purpose of repaying the money borrowed. Congregational property may only be used as security for a loan in circumstances where (a) the granting of a security is not prohibited by the trust conditions under which the title is held by the congregational trustees; and (b) all procedures required in terms of the said trust conditions have been followed and all consents required in terms thereof have been obtained. Further, and for the avoidance of doubt, and whether or not explicitly stated in the title or elsewhere, no standard security may be granted over congregational property without prior written agreement having been obtained from the Free Church of Scotland Board of Trustees.
<b>Existing functions of Minister &amp; Kirk Session reserved</b>	26. Nothing herein contained shall interfere with the functions assigned either to the Minister or to the Kirk Session by the constitution of the Free Church of Scotland or by the Acts and Deliverances of its General Assembly.
<b>Powers reserved to the General Assembly</b>	27. It shall be in the power of the General Assembly or its Commission, to alter, revoke, amend or modify this Deed of Constitution, in whole or in part with the exception of para I, or to substitute a new Deed of Constitution for this Deed of Constitution.



