

THE CHURCH OF SCOTLAND
STEWARDSHIP AND FINANCE DEPARTMENT

**Online Stewardship Surgery
28 February 2022**

Questions and Answers

This handout has been prepared following the online Stewardship Surgery held on 28 February 2022. This particular event recording is not available to view for reasons of privacy. Around 95 people joined the event and submitted questions in writing or on camera. A number of questions have been merged to avoid duplication.

Q1	What guidance is available for Church Treasurers on the financial implications of a proposed basis of union with one or more other congregations? Concerns include OSCR, Legacies, Endowments, Gift Aid/GASDS Recovery, Water Rates Relief, PAYE/NI/Pensions, Giving to Grow, Charities Reporting/Auditing and the possible requirement for a full time Treasurer.
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A1	For the purposes of Charity legislation, a union is generally treated as if one (or more) of the congregations is ceasing and one is continuing under a new name but retaining its charity number and incorporating the ceased congregation(s) including a transfer of assets. There are many considerations including:
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Legacies and Restricted Funds

These matters are covered in Question 5.

OSCR

The Law Department notifies OSCR of which charity/charities to remove from the register, so there is no need for the congregation to do this.

Congregational Accounts and Reporting

During the year of re-organisation, accounts are required for all congregations involved in the union.

Where a congregation's number is being removed from the charity register, the accounts should be prepared up to the date of union and submitted to the Stewardship and Finance Department only; the accounts do not require to be submitted to OSCR.

The charity number of one of the congregations involved in the union will be retained. In the current year, these accounts will include the charity's annual income plus that of the ceasing congregations (ie those losing their previous charity number) for the period from the date of the union. There is no requirement to consolidate the comparative detail; the comparatives should remain as stated in the previous year.

Banking and Bank Accounts

The bank accounts of all congregations involved in the union should remain open for a short time following the union to allow for the re-organisation of standing orders, name changes etc. Careful consideration must be given during this period to the controls surrounding the access to the accounts. Banking signatories should be addressed as a

matter of priority. The balances remaining at the date of closure of the accounts should be transferred to the united congregation.

Giving to Grow

The impact of a union on a congregation's contribution under the forthcoming Giving to Grow scheme will very much depend on specific circumstances. The detailed Regulations for the Giving to Grow scheme are due to be considered by the General Assembly in May 2022. More detail will be issued to Treasurers in due course.

Additional Information

The following two documents have been appended:

Appendix 1: Notes Regarding Accounting Procedures for a Union

Appendix 2: Guidance Notes in Connection with the Dissolution of Congregations.

If you have specific questions about your congregation's situation in relation to the financial implications of a union, please contact SFAdmin@churchofscotland.org.uk.

Q2	How is a decision taken as to which congregation's charity number goes forward in a new union?
A2	This is a matter for discussion between the relevant Kirk Sessions and the Presbytery as part of the basis of union considerations. OSCR will ultimately be required to agree the decision.
Q3	Are we likely to see the introduction of full-time treasurers in large unions in the future?
A3	There is no plan to introduce paid treasurer posts in congregations. Whilst there may be some congregations who choose to resource such a role, many will not be in a position to do so. One treasurer in the online event commented that she had gathered a small team together to share the load when a union had taken place.
Q4	In the case of a congregation moving from one linkage to another linkage, will the accounts of that congregation be split as a result of this reorganisation?
A4	In the case of a linkage , a congregation's accounts should not have been merged in any way with the other congregation within the linkage, as the constituent congregations continue to hold their own charity number status and their accounts should be quite separate.
Q5	a) What happens to legacies left to a specific congregation when that congregation or the building it worshipped in may no longer exist e.g. due to closure or union? b) Will church members be advised on how to amend any such specific legacies they propose, should they wish and, if necessary, after any such plans are confirmed? c) Has the church already researched or investigated how future legacy income might likely be affected by such plans or does it intend to? d) Is there a plan or advice to give to mission districts/groupings on when and how to address legacy matters around congregational adjustments?
A5	a) In the case of a union , the uniting congregations do not lose their legal identities (<i>this is not the same as the loss of a charity number as discussed in Q1</i>). That means any restricted funds from previous legacies simply transfer to the new united congregation and any new legacies which are left to one of the former constituent congregations can still be paid over to the united congregation.

In the case of a **dissolution**, any legacy left to the Congregation which has not yet become payable is lost as the congregation ceases to exist. Restricted funds have to be reorganised prior to dissolution. Any subsequent legacies cannot be paid as there is no entity to receive the funds.

A **dissolution** can also produce difficulties with regard to the titles of heritable properties and properties and funds held which are subject to third party trusts. A **union**, on the other hand, usually produces no such difficulties as the uniting congregations do not lose their legal identities.

Please get in touch with the Law and Stewardship & Finance Departments early in the process; the sooner we are notified the more likely we are able to help.

- b) The legacy leaflet we produce encourages members and supporters both to make a Will and to update it regularly to ensure that their wishes are carried out.

We encourage Kirk Sessions to agree their own policy on how potential legacy income will be spent and to encourage unrestricted gifts since the needs of a church will change over time.

In the case of unions, Kirk Sessions should be keeping members informed of the various implications arising from the union, so that any intended legacy is properly worded or amended to ensure the intentions of the giver are realised.

- c) We have not actively researched how future legacy income might be affected by Presbytery plans, but we can see that there could be an impact. Legacies are gifts which are given freely. It may be that there will be people feeling disenfranchised and hurt, and those people may well choose to reconsider their intentions. Office-bearers, however, do have a responsibility to support the joint vision for the future and to speak positively of the opportunities which can come from a new approach and fresh thinking.
- d) We can provide guidance for Presbyteries to help them consider the various issues involved in relation to adjustments.

Q6

We are a large rural parish with three churches. One church is being sold and that will leave a grade A and B church. These churches require a lot of maintenance. With a congregation of just over 100, we are now at a point where we do not have the monies to pay our M&M contributions or maintain the churches. We are trying to increase income and reduce expenditure. Where do we go from here? What help can you offer churches like us?

A6

If your congregation knows that it will struggle to maintain the payment of its M&M contributions, please contact the finance staff as soon as possible at sfadmin@churchofscotland.org.uk and contact your Presbytery. Congregations require a dispensation from Presbytery if Standing Orders relating to M&M contributions are being amended or cancelled.

There are often a range of measures that can be adopted. For example:

- some congregations may have Reserves to fall back on;
- restricted funds can be reorganised;
- fabric fund revenue accounts held by the General Trustees on behalf of congregations can be used to assist with fabric, heat & light and insurance costs;
- the Stewardship Team would be happy to discuss how a stewardship programme in your congregation may help increase income and regular giving and reduce expenditure;

- increased income from Gift Aid and GASDS;
- seeking external funding to support elements of the congregation's work.

Please get in touch with us for an early discussion if you are concerned about your congregation's finances or future sustainability.

Q7 I am a newly appointed treasurer and seek clarification on:

- **Freewill Offering - What differentiates this from 'Plate' offerings and 'Gift Aid' offerings?**
- **Confirm that Gift Aid is against named individuals?**
- **Gift Aid record keeping**

A7 The use of these terms might vary a bit from place to place, so we will try to cover all angles here:

The term **Freewill Offering** could apply to all offerings, but in the Church of Scotland it is mainly associated with Freewill Offering envelopes. These envelopes are often printed with identifying numbers on them so that the person recording the offerings can align the gift to a specific person, often for the sake of Gift Aid. FWO envelopes may also be used by givers who are not eligible for Gift Aid but who prefer to give their offerings in an envelope. Many people will set aside their offering in its envelope even if they can't get to church that week, so envelopes can be a good way to encourage regular and intentional giving. Some congregations use different coloured envelopes to differentiate between those givers who have signed Gift Aid declarations and those who have not to help the recording process.

Open Plate could refer to all offerings put into the plate or bag as part of a service of worship. The term may be more specifically applied to those offerings put into the plate which are not in a Gift Aid envelope, so the loose change or notes which can't be identified against a specific giver's name and the offerings within non-Gift Aid envelopes. These open plate offerings can be claimed under the Gift Aid Small Donations Scheme, subject to the rules of that scheme.

Gift Aid relates to named individuals who have completed a Gift Aid declaration form and whose giving can be recorded and clearly evidenced for audit.

Our team presented a webinar on Gift Aid and GASDS in May last year which you may find helpful to watch. You can find it on our YouTube page here:

https://www.youtube.com/watch?v=VkiBwTF_f3w

We also have a Q&A document which was issued after the webinar. These two resources provide a good deal of relevant information, including on Gift Aid record keeping. Please get in touch if you would like a copy of that handout.


Q8 I have been following the Gift Aid webinars run by Data Developments. These have yet to explain which forms should be completed and how to submit them. The forms will not submit to HMRC if an error is made. Is it possible to have this explained please?

A8 The image below shows the HMRC online form for claiming Gift Aid. The form itself includes some guidance on how to complete the schedule and points to further online help. These forms can be amended and resubmitted if necessary.

HMRC advice on claiming Gift Aid and GASDS online can be accessed here:

<https://www.gov.uk/guidance/claim-tax-back-on-donations-using-charities-online>

The HMRC Charities Helpline number is 0300 123 1073 (Mon-Fri 8.30am-5pm).



Gift Aid donations schedule

Get it right first time - how to complete this schedule:

- * Don't change the layout of the schedule or change the name of the worksheet.
- * Save the schedule as a .ods file not a Microsoft Excel .xlsx file, for example Gift Aid Jan 2014.ods.
- * If any section isn't applicable leave it blank. Don't enter N/A or Nil.
- * Don't include blank spaces or other characters at the start or end of boxes.
- * Don't leave a blank row between donations.
- * Enter the house name or number and the postcode of all donors that live in the UK. For donors living abroad, enter their address and put X in the 'Postcode' column.
- * Stay within the maximum of 1,000 rows of donations.
- * Aggregated donations are donations under £20 from different people totalling less than £1000 per line. When you add together donations from the same donor, you must leave the aggregated donations column blank.
- * For sponsored events enter the participant's name and address, the date collected, and the total amount raised. Don't include any donations over £500 – these must be shown separately as normal Gift Aid donations.

Fig.1 shows an example of how to complete the schedule. For more information follow the link below. You must be connected to the internet to access the guidance.
[Charities online guidance](#)

Fig.1 Examples	Title up to 4 characters	First name or initial up to 35 characters with no spaces, or just enter an initial	Last name up to 35 characters	House name or number up to 40 characters	Postcode UPPER CASE and include a space	Aggregated donations a simple description up to 35 characters - DON'T enter Yes or Not Applicable.	Sponsored event enter Yes or leave blank	Donation date (DD/MM/YY) DON'T use hyphens or full stops	Amount DON'T use a £ sign
	Prof	Henry	House Martin	152A	M99 2QD			24/03/15	240.00
	Mr	John	Smith	100 Champs Elysees, Paris	X			24/06/15	250.00
						One off Gift Aid donations		31/03/15	880.00
	Miss	B	Chaudry	21	L43 4FB		Yes	26/04/15	80.00

Enter details from here

Q9 Can I claim through GASDS on a cheque which was placed into the open plate?

A9 No, cheques are not eligible for GASDS. Donations of £30 or under made in cash (including non-Gift Aided envelopes) or via a contactless device are eligible to be claimed through the Gift Aid Small Donations Scheme (GASDS). However, donations made through cheques, Standing Orders, online donate facilities or QR codes are not eligible for GASDS.

Q10 Can you clarify what envelopes should be retained for Gift Aid and GASDS purposes and for how long?

A10 Current HMRC guidance states:

“The charity is advised to keep a minimum of one month’s envelopes per tax year, covering a period of 4 years. For example, a church may decide to keep every general giving envelope received throughout the month of August. After a period of 4 years the church will have in place a total 4 months envelopes, all received during August for the preceding 4 years.”

The full guidance can be found here:

<https://www.gov.uk/government/publications/charities-detailed-guidance-notes/chapter-7-audits-by-hmrc-charities#chapter-76-what-constitutes-an-acceptable-audit-trail>

The sample of FWO envelopes should include ALL envelopes for that month.

The above is the minimum required by HMRC. For the purposes of best practice, you may consider retaining all envelopes until the related Gift Aid and GASDS claims have been processed.

Where the FWO envelope incorporates an enduring Gift Aid declaration itself, the envelope will need to be treated as a Gift Aid declaration and therefore kept for 6 years after the end of the accounting period in which the donation was made. (In the case of one-off donations, envelopes incorporating a declaration only require to be retained for 4 years rather than 6 years.)

Q11	As FWO envelopes are numbered, does this mean that the donor is identifiable and therefore the tax on their giving is not redeemable via GASDS?
A11	While GASDS is primarily aimed at a congregation's unidentified donations, claims can also be made on cash donations of £30 or less given through Freewill Offering envelopes where the donor <u>is</u> identifiable, provided they have not completed a Gift Aid declaration.
Q12	Can you clarify that GASDS can be claimed on FWO envelopes as I understood that it was only cash?
A12	If the FWO envelope contains cash of £30 or less, it is eligible for GASDS if the donor does not have a Gift Aid declaration in place. If the FWO envelope contains more than £30 in cash, or a cheque of any value, it is not eligible for GASDS.
Q13	Are payments given through Standing Order eligible for Gift Aid or GASDS?
A13	Gift Aid can be claimed on any form of offering, including those given by Standing Order, provided the giver has signed a Gift Aid declaration and is eligible eg a UK taxpayer. GASDS cannot be claimed on offerings given by Standing Order.
Q14	Do you have any leaflets on Give As You Earn?
A14	<p>We do not have a Church of Scotland leaflet on <i>Give As You Earn</i> but here are two helpful links:</p> <p>Gov.UK: https://www.gov.uk/payroll-giving</p> <p>Charities Aid Foundation: https://www.cafonline.org/giving-as-a-company/engaging-employees/caf-give-as-you-earn?gclid=EAlaIQobChMI0YPYxL--9gIV0e3tCh1VYg0iEAAAYASAAEgIUUfD_BwE</p>
Q15	When preparing the accounts for 2021 I noticed some payments and receipts involving '121'. When donations are made to a congregation via the '121' website, what percentage does the national Church deduct before sending on the money to individual congregations and how is it labelled on our statements?
A15	<p>The National Donate Button allows donations to be made to individual congregations as well as to the Church of Scotland's work nationally. The Church of Scotland does not receive any portion of a donation which is specified for a congregation but PayPal, which provides the payment facility, charges a fee of 1.4% +20p per transaction, so a £10 donation will incur a fee of 34p.</p> <p>The finance staff in the National Offices transfer these donations, minus the PayPal fee, into the relevant congregational account. 'Church of Scotland' (or an abbreviation) shows on the congregation's Bank Statement. A system-generated reference number is also added. The reference will remain consistent for all donations paid so should be easily identifiable. The remittance advice, which is e-mailed from the National Offices to the Treasurer, provides a breakdown of these donations for reconciliation purposes.</p>
Q16	When trying to contact the national offices by phone how long should we have to wait for a response?
A16	Communicating with us by email is much more efficient and gives us a chance to prepare a helpful response. The 121 switchboard is staffed by one person so it can easily get clogged, particularly at present when many staff members are continuing to work from home.

Q17 I would like information on online giving. My main query relates to how we tie things back to our bank account and how we set this up.

A17 To provide an online giving facility you will need to have either a donate button (generated by your provider) on your own website or a personalised fundraising page on a provider's website. Regardless of which option you choose, you will require a merchant account (payment processor) in order to process all online transactions and transfer the donations directly into the congregation's bank account.

Most providers will have step by step guidance on how to set up a merchant account. You will need to complete an application form (usually online) and supply proof of ID (a passport or driving licence) for one or more of the congregation's trustees; sometimes proof of address (such as a utility bill) is also required. You will need to prove that the chosen bank account belongs to the congregation; usually a bank statement is sufficient for this. You may also be asked to provide a link to your website or a copy of your annual accounts.

There are many providers who offer online giving facilities. Your congregation's trustees will require to consider cost, terms and conditions, compliance with GDPR and ongoing support available. Here are a few you may wish to investigate further:

Give a Little: <https://givealittle.co/>

Dona Donations: <https://donadonations.com/donations-webpage/>

Fundraise from Stewardship.org: <https://www.stewardship.org.uk/fundraising>

Just Giving: <https://www.justgiving.com/for-charities/free>

Wonderful: <https://wonderful.co.uk/>

Many congregations are making use of **Data Developments** software and support for accounting, Gift Aid and church management. For those congregations utilising their MyGiving.Online software package, it makes sense to use this to generate a 'Donate Now' button. This can be added to the congregation's website and linked directly into their existing software package and Gift Aid claims process. More information can be found at: <https://www.datadevelopments.co.uk/>

It is vital that you promote your online giving facility. You can add the link to social media pages and advertise it in other ways such as promoting the link in church and community newsletters, posters or emailing it to your members and supporters.

Many providers will also be able to supply you with a QR code linked to your merchant account. This is a unique image code of small black and white squares. Donors scan the code with their mobile device (or click on it if on a webpage) and that generates a link to your online giving page. You can print the QR code and display it around your building on posters, flyers, newsletters and noticeboards.

It is important that alongside the link you tell the story of your congregation's work and how it supports your local community and others through its ministry, practical support and loving care. You need to inspire people to give.

Our Digital Giving webinar recording might be helpful. The online giving section starts at 13m 38s at the following link: <https://www.youtube.com/watch?v=3lqMaNmBD30>

Q18 Could a user group be set up for those Treasurers using Data Developments software?

A18 If you are interested in participating in such a group, please email the Stewardship Team in the first instance at stewardship@churchofscotland.org.uk. We will then seek to find a co-ordinator from within that group of users.

Q19	Is it better for members to give by Standing Order rather than to give online and incur transaction fees?
A19	Yes, regular givers should be encouraged to give their offerings by Standing Order wherever possible. However, it is important for congregations to offer a range of giving methods to suit different circumstances and givers. Online giving facilities can often reach a different audience when promoted on church websites, Facebook pages, etc.
Q20	Can you provide more information on the pros and cons of contactless giving? Are any congregations using contactless giving systems?
A20	Our digital giving webinar covers the main points: https://www.youtube.com/watch?v=3lqMaNmBD30 We would suggest you contact the Stewardship Team for a discussion about your particular circumstances as every congregation is different and there is a range of potential solutions depending on your context and potential uses. We know of a couple of congregations who would be willing to share their experiences so could put you in touch, depending on which provider you are considering.
Q21	Is there any plan to produce a template of the Receipts and Payments accounts in the more up to date Excel format? I have updated my computer and got into all sorts of pickles trying to produce this year's accounts.
A21	The Finance staff will endeavour to update the template to a more recent Excel format.
Q22	If a manse is let, does the rental income come direct to the congregation or is it placed into the Consolidated Fabric Fund?
A22	If the manse is held by the General Trustees, then the rental income goes into the revenue account of the Consolidated Fabric Fund and is available to the congregation to draw down, following the normal procedure. If the manse is held locally, then the rental income will go straight to the congregation.
Q23	Is there any likelihood that the rules may change in relation to the Consolidated Fabric Fund to allow these to be used for general purposes?
A23	The General Trustees are looking to assess and evaluate how restricted funds might be used more flexibly but the issues around this are complex. It is expected that an update will come to the General Assembly of 2022. It is worth noting that locally held fabric funds may be 'designated' rather than 'restricted' and, where this is the case, could be used for general purposes.
Comment	Easy Fundraising is a good way of getting extra money with people buying more items online. www.easyfundraising.org.uk

Church of Scotland Stewardship Team

16 March 2022

Email: stewardship@churchofscotland.org.uk

Appendix 1: Notes Regarding Accounting Procedures for a Union (Revised March 2014)

The following notes have been prepared for the guidance of Congregational Treasurers who are involved with a union of two or more congregations. The comments below are of a general nature and it should be noted that circumstances can vary from one case to another. On some occasions a union might involve two (or more) congregations which have already been linked to each other, whereas on other occasions the union can involve two (or more) congregations which have had no previous linking.

For simplicity the remainder of this document is prepared on the basis of only two congregations being united.

Charity legislation now treats a union as if one of the congregations is ceasing and the other is continuing under a new name and incorporating the ceased congregation. It is therefore necessary prior to the union to decide which of the congregations will be treated as the “ceasing” congregation for this purpose and which will be treated as the “continuing” congregation. Financial accounts should be prepared for the “ceasing” congregation up to the date of the union with accounts for the full year being prepared for the “continuing” congregation which will include the combined activity for both congregations from the date of the union. These accounts will require to be independently examined in the normal way.

Under the requirements of the Office of the Scottish Charity Regulator (OSCR) to submit an annual return along with accounts each year the above procedure will mean that OSCR will issue an annual return for the united congregation at the end of the year which should be completed as normal and returned with the accounts for the “continuing” congregation which will also include the united results from the date of the union.

The accounts for the “ceasing” congregation covering the period up to the date of the union will not require to be lodged with OSCR as the charity will be removed from the Register by OSCR when they are notified of the union. (OSCR will be notified by the Law Department of the Church of Scotland and it is not necessary for church treasurers to contact OSCR).

The simplest way to deal with bank accounts is to keep the accounts for both congregations open for a short period after the date of the union so that standing orders, gift aid claims and other automatic receipts and payments can still be received and paid until the necessary details have been changed. Eventually the account of the “ceasing” congregation can be closed with the balance transferred to the “continuing” congregation’s account which will become the account for the new united congregation. Arrangements should also be made with the bank to change the name of the continuing bank account to that of the united congregation and also to change the account signatories if necessary. After an appropriate time any remaining balance on the “ceasing” congregation’s bank account can be transferred to the united bank account with the former account being closed.

As far as the Congregational Ledger (maintained by the General Treasurer) is concerned it should be noted that following the union there will be a new congregation with a new reference number allocated to it. Money can still be processed through either of the present congregational reference numbers. Each payment should be accompanied by a remittance advice clearly showing to which reference the payment should be credited, and which items are covered in the payment. At the end of the calendar year the total requirements should be allocated between the ledger accounts for the congregations and similarly the payments received should in total equal the combined requirements. If the combined figures balance then adjustments can either be made to the requirements, or the payments received can be reallocated. Strictly speaking the requirements for each existing congregation will be a requirement figure of so much up to the

date of union, and the appropriate requirement for the united charge will be that due as from the date of the union.

As far as the Ministries & Mission Allocation to Central Funds is concerned, it is normal in such cases for the Income Base amounts of the existing individual congregations to be added together to produce a combined figure for the new united congregation. It is often the case that not all members of the existing congregations decide to become members of the united congregation so that there is a reduction in income after a union. An allowance may be made against the combined incomes. Proposed allocations will be prepared by the General Treasurer's department and provided to the Presbytery who will arrange for approval after discussion with local parties.

Efforts should be made to ensure that payments to *Life & Work* etc. which relate to the pre-union situation are remitted promptly in order that ledger accounts can be closed.

Further information can be obtained from the Finance Manager-Congregational Finance at the Church of Scotland Offices at 121 George Street, Edinburgh EH2 4YN.

Enquiries regarding congregational requirements can be addressed to the Congregational Payments Section in the Stewardship and Finance Department.

Appendix 2: Guidance Notes in Connection with the Dissolution of Congregations

The dissolution of a Congregation terminates its existence and, in general, means that any legacy left to the Congregation which has not yet become payable is lost. It can also produce difficulties with regard to the titles of heritable properties and properties and funds held which are subject to third party trusts. The union of Congregations, on the other hand, usually produces no such difficulties, as neither of the uniting Congregations loses its legal identity. Once the Congregation is dissolved, there still may remain a surprisingly large number of loose ends to be tied up connected with the settlement of bills, ongoing maintenance of properties yet to be disposed of, the closing of Congregational Accounts. Such issues can become problematical as office-bearers move on to other Congregations and inevitably feel less motivated to retain any role concerning the affairs of the former Congregation. Members of the Presbytery on whom the responsibility for supervising the winding up of the Congregation devolves, may find it hard to access the necessary information to enable them to carry out their tasks thoroughly. There may, in particular, be difficulties in supervising heritable property yet to be sold which can inevitably become the subject of vandalism. For all of these reasons, therefore, dissolution should only be contemplated as a last resort. Where it is, however, eventually decided upon, a detailed Basis requires to be drawn up and agreed. The draft Basis (a Model for which is annexed) requires to be approved by the following:-

1. The Kirk Session.
2. The Financial Board of the Congregation (if separate from the Kirk Session).
3. The Congregation.
4. The Presbytery.
5. The General Assembly's Ministries Council.
6. The General Trustees.

The date for dissolution is as appointed by the Presbytery and, before this date is fixed, the Presbytery Clerk should check that all necessary steps in relation to the transfer of the title of heritable property and the re-organisation of trusts have been completed. Arrangements should also be made for a final closing service to give thanks for the life and work of the Congregation.

HERITABLE PROPERTY

This is now governed by Regulations 2, 1996 (it being considered that the provisions of GA Act XXVI, 1933 can be regarded effectively as being superseded). The Regulations provide that any heritable property held by or for a Congregation which is to be dissolved is, if not already vested in the General Trustees, subject to the Trustees' concurrence, to be transferred to them prior to the dissolution. The General Trustees require then to dispose of it. Any accumulated shortfalls in contributions to central funds to the extent that these are unjustified and to the extent that they cannot be met from the free moveable assets of the Congregation, fall then to be deducted from the net proceeds of the redundant heritable property. The balance remaining is paid into the Central Fabric Fund unless there is any agreement to the contrary by the General Trustees and the Ministries Council or either body refers the matter to the General Assembly. These provisions, being mandatory, are not variable by either of the Congregation or the Presbytery. The sale of redundant property will be carried out by the Church's Law Department. Prior to dissolution, it would be very helpful if a person or a small team of people, either from the Presbytery or the former Congregation, can be identified, who are willing to keep an eye on the property and also undertake the task of showing it to viewers. It should be noted that in the case of Manses, insurance cover is voided after 30 days unless certain conditions are complied with, including the inspection of the property on a weekly basis. In the case of empty Churches and Halls, only limited insurance cover can be obtained.

MOVEABLE PROPERTY AND FUNDS

Subject to it being the firm expectation that there will be surplus arising after all the debts of the Congregation have been met (including shortfalls), it is, in the first instance, for the office-bearers of the Congregation and the Congregation itself to propose the destination of such property and funds, subject to the recipients being Church of Scotland bodies or agencies as is required in terms of the Act anent Church Finance. There have, unfortunately, been cases in the past where in the period leading up to the dissolution, office-bearers, in good faith and with the best of intentions, have dispersed funds to good causes outwith the Church of Scotland. There have also been cases - fortunately very few - where valuable property has been "misplaced". Those monitoring the position within the Presbytery require to be alert to the possibility of such difficulties. It is particularly important that the required

position should be spelt out to local office-bearers in detail at the earliest possible stage. Appropriate arrangements should be put in place to ensure the preparation and auditing of the final Accounts of the Congregation. So far as ecclesiastical furnishings and fittings are concerned, it is often possible for these to be donated to another Church of Scotland Congregation and the Committee on Church Art and Architecture, who will, in any event, be asked to inspect the Church and advise about fitments prior to its sale, can often assist. In the case of assets which are not of significant value, there can be some flexibility as to their destination and, indeed, in the past, there have been cases where, with the approval of Presbytery, ecclesiastical fittings and furnishings have been gifted to non-Church of Scotland Congregations.

CONGREGATIONAL TRUSTS

Trusts administered by Congregations fall generally into two categories. Firstly, there are property and funds deriving from bequests, where the testator has directed that these be used for a particular purpose in connection with the Congregation. Secondly, there are Trusts whose purposes are for the Parish generally. A traditional "Poor Fund" would be an example. Depending on the terms and purposes of the Trust and its size, it may be possible for it to be transferred or re-organised in terms of the Small Trust legislation enacted in 1990. Alternatively, other arrangements may be necessary. It is recommended that legal advice is sought at the earliest possible opportunity regarding all Trusts and bequest funds.

ENDOWMENTS FOR STIPEND

Unless there is an agreement by the General Trustees and the Ministries Council to the contrary or either body refers the matter to the General Assembly, such endowments are allocated to the Minimum Stipend Fund.

TERMS FOR RETIRING MINISTER

Any lump-sum payment to a retiring Minister and any pension enhancement must, of course, be in accordance with the terms and conditions set out in Section 12(3) of Act VII, 2003. In the case of a Congregation being dissolved, the cost falls to be met, in the first instance, from the moveable property and funds of the Congregation but if these are insufficient, the outlay may be refunded from the proceeds of the sale of heritable property, including existing holdings in the Consolidated Fabric Fund. Similarly, in a case involving an enhancement of pension, if the moveable funds of the Congregation are insufficient, the cost of provision falls to be met by the Ministries Council. In either event, both the General Trustees and the Council should be consulted when the arrangements for dissolution are being negotiated.

MODEL BASIS OF DISSOLUTION

Basis of the Dissolution of the Congregation of _____ in the Presbytery of _____

1. **Act of Dissolution:** the Congregation of _____ shall be dissolved as at a date to be appointed by the Presbytery of _____
2. **Pastoral Oversight:** *[insert details of how the Presbytery proposes to deal with the pastoral care of the members. Although other arrangements are possible, the following has been the usual provision in recent years:-]*

Prior to dissolution, the Kirk Session shall provide the Presbytery Clerk with a list of the names and addresses of communicant members and shall issue to each such member a Certificate of Transference. Notices of Removal shall then be served by the Presbytery Clerk to the Ministers of the Parishes of residence of the said members, with an instruction to provide due pastoral care.

3. **Territorial Responsibility:** *[insert details as to the reallocation of the parochial area. A possible clause would be as follows:-]*

The parochial area of _____ shall be incorporated within the Parish of _____ and the boundary of the extended Parish shall be recorded by the Presbytery.

4. **Minister:** *[Here, as applicable, detail the arrangements being made with any retiring Minister]*

5. **Heritable Property:** *[The following is an example of an appropriate clause:-]*

The titles of the Church and Hall are vested in the General Trustees whilst the titles of the Manse are vested in local Trustees. Prior to the date of dissolution, the local Trustees shall transfer the title of the Manse to the General Trustees, who are authorised and empowered:

- (a) to sell, let or otherwise dispose of the Church, Hall and Manse on such terms and conditions as may be approved by the General Trustees in consultation with the Congregational Board of _____ or, after dissolution has been effected, with the Presbytery of _____ ; and
- (b) to transfer the free proceeds of such sale or let, subject to the meeting of any shortfalls of contributions to central funds which the Presbytery has determined to be unjustified (so far as these are not met from the funds referred to in Section *[insert section dealing with disposal of moveable property]* hereof into the Central Fabric Fund.

6. **Moveable Property** *[here detail the arrangements for disposal of:-*

(1) Cash, funds and bank, marketable securities etc.

(2) Fixtures and fittings.

(3) Memorials in the Church building. It is strongly recommended that a Committee be appointed to deal with the arrangements for such items. A possible clause might read as follows:-]

- (a) A Committee consisting of members of the Congregation, together with *[detail representatives of Presbytery either by name or in relation to offices held]* is hereby appointed and vested with the power to deal with the whole furniture, furnishings and corporeal moveable property effeiring to the Congregation. The said Committee shall have powers to make over, in terms appearing appropriate to them (including by way of gift) any such moveable property to other Congregations or agencies of the Church of Scotland, any surplus items being sold and dealt with as in Paragraph (b) hereof.
- (b) The said Committee appointed in Paragraph (a) above is hereby vested with the power to settle any debts due by the Congregation and to deal with the whole cash, funds in banks and marketable securities belonging to or effeiring to the Congregation. All such property will be realised and the net proceeds, under deduction of any debts, shall be transmitted to the General Trustees to be added to the fund referred to in Section *[insert Section number of paragraph dealing with heritable property]* and applied for the same purposes set out therein.

(As indicated in the above Notes, it is possible to nominate other bodies within the Church to benefit from such funds).

7. **Endowments:** The endowments of the charge, if any, shall be transferred to the Minimum Stipend Fund *(after January 2004, the fund should be termed “the National Stipend Fund”)*

8. **Congregational Trusts:** *Detail the arrangements made with respect to Congregational trusts.*