

Basis of Union, Constitution & Regulations 2018

with Covenanting Statement,
Code of Ethics and
Manual for Meetings

- Extract -



Property Related Regulations only

THE UNITING CHURCH IN AUSTRALIA

The Uniting Church in Australia
CONSTITUTION

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Property Related Regulations only

DIVISION 5
FUNDS AND PROPERTY

50. The beneficial ownership of all property whether real or personal shall be vested in the Church.
51. There shall be created in each Synod a body corporate (herein referred to as the Synod Property Trust) in which the legal title to all property, except such as may be prescribed, shall be vested.
52. All property vested in a Synod Property Trust shall be held, managed and dealt with in accordance with the rules, regulations, by-laws and resolutions made by or under the authority of the Assembly in that regard.
53. The Assembly may at its discretion delegate to any Synod power to make by-laws with respect to any property within the bounds or under the control or management of the Synod.
54. No interest in real estate shall be created or leased except in such manner as may be prescribed by the Assembly.
55. Pending the creation of a Synod Property Trust in any Synod, the Assembly or the Synod, if so authorised by the Assembly, may appoint any person or any body corporate to act as trustee of any property for the Church and in that event the rules, regulations, by-laws and resolutions of the Assembly and Synod relating to Synod Property Trusts shall apply to such trustee or trustees and the property vested in them, so far as they are relevant and appropriate.
56. The Assembly shall either appoint trustees or create a body corporate to hold property which is under the direct control or management of the Assembly.

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THE UNITING CHURCH IN AUSTRALIA
REGULATIONS
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4. PROPERTY

4.1 DEFINITIONS

In Part 4 unless the context or subject matter otherwise indicates:

Agency includes any body not separately incorporated or any person acting in the name or on behalf of the Church;

Building includes any building used solely or in part for educational, charitable, social, residential, business, commercial or professional purposes;

Chairperson includes the deputy chairperson and other person acting as chairperson;

Church building means any building ordinarily used for the holding of services for the worship of God;

Lease includes:

- (i) any lease, sub-lease, or licence of land or premises granted or taken on behalf of or for the benefit of the Church or any body of the Church,
- (ii) any surrender or variation of lease, sub-lease, or licence, or consent to either transfer or sub-lease, underlease or sub-licence any lease, sub-lease or licence of land or premises.

Proceeding means any action, suit, application or proceeding in any court or other tribunal, a reference to arbitration, or other proceeding of conciliation, mediation or adjudication whether judicial or arbitral or not;

Property means property of whatsoever nature whether real or personal, and includes money, investments, and rights relating to property;

Property Trust means a Property Trust constituted under the Uniting Church in Australia Act or Ordinance of the State or Territory concerned;

Responsible body means a body that is responsible for the management and administration of property, and which either itself carries out those responsibilities or appoints another body to undertake them either in whole or in part;

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Standing Committee means the Standing Committee of Synod by whatever name known or the executive committee or other body having authority to act on its behalf;

Trust property means property vested in or acquired by a Property Trust.

4.2 SYNOD PROPERTY BOARD

FUNCTIONS OF PROPERTY BOARD

4.2.1 Each Synod shall appoint a Property Board which shall:

- (a) advise the Synod with respect to policies relating to property within the bounds of the Synod;
- (b) supervise the implementation of the Synod's policies in regard to property within the bounds of the Synod;
- (c) consult where appropriate and advise Presbyteries, Church Councils, institutions and other agencies of the Church with respect to property matters within their bounds;
- (d) receive proposals with respect to property matters submitted to it by the Presbyteries, Church Councils, institutions or agencies, ensure that each proposal is in accordance with the policies of the Synod with respect to property matters, development and mission and give the final decision with respect to such proposals;
- (e) initiate proposals with respect to property matters;
- (f)) carry out functions (b) to (e) above in respect of departmental, institutional and other property outside the jurisdiction of Presbyteries and Church Councils;
- (g) only approve the transfer of any real estate vested in a Uniting Church Property Trust to any Aboriginal and Islander organisation with the prior approval of the National Executive of the Uniting Aboriginal and Islander Christian Congress; (See Reg. 3.2.6) and
- (h) perform such other duties and functions with respect to property matters as may be referred or delegated to it by the Synod from time to time.

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DELEGATION TO PRESBYTERY

- 4.2.2** (a) A Synod Property Board may delegate to:
- (i) the Property Committee of any Presbytery, or
 - (ii) another body within the Synod, or
 - (iii) a Church Council of a Congregation which is designated as a Parish Mission or a committee of that Church Council, or
 - (iv) the Property Officer, and / or specified positions
- any of its powers of consent or approval in relation to property, provided that the financial liability involved, or the value of the property concerned, does not exceed such sum or sums as the Synod may determine from time to time.
- (b) A Synod Property Board may withdraw such delegation, either generally or in a particular case, at any time.
- (c) The delegation shall be made subject to such conditions as the Assembly or the Synod Property Board shall determine from time to time.

MEMBERSHIP

- 4.2.3** The Synod shall determine the membership and terms of appointment of members of the Synod Property Board provided that the membership shall include
- (a) the Synod Property Officer ex officio; and
 - (b) at least two other members of the Property Trust.

4.3 PRESBYTERY PROPERTY COMMITTEE

PRESBYTERY PROPERTY COMMITTEE

- 4.3.1** (a) Each Presbytery shall appoint a Presbytery Property Committee and shall determine the membership and term of appointment of members of the Committee.
- (b) A Presbytery Property Committee, subject to any relevant by-laws and directions of the Presbytery, shall:
- (i) advise Church Councils and other bodies within the bounds of the Presbytery with respect to property matters for which they are responsible;
 - (ii) receive and consider applications from Church Councils and other bodies within the bounds of the Presbytery with respect to

property matters as provided by these Regulations having regard to:

- the mission of the Church within the bounds of the Presbytery,
 - the policies of the Synod and Presbytery,
 - financial feasibility,
 - design and location,
 - any other relevant matter;
- (iii) submit proposals from any Church Council or other body within the bounds of the Presbytery to the Synod Property Board with recommendations for final decision;
- (iv) initiate proposals with respect to property matters within the bounds of the Presbytery; and
- (v) regularly inspect or arrange for the regular inspection of properties for which the Presbytery and Church Councils and other bodies within the bounds of the Presbytery are responsible and propose and report to Presbytery such action as may seem desirable to ensure that the properties are maintained in good and safe condition.
- (c) A Presbytery may authorise the Presbytery Property Committee or another committee or committees to take responsibilities in respect of such one or more of the properties for which the Presbytery is itself responsible, including:
- (i) the supervision and use of the property;
 - (ii) maintaining the property in good repair;
 - (iii) reporting in respect of such matters as the Presbytery may require; and
 - (iv) such other matters as the Presbytery may determine.
- (d) In a matter of extreme urgency the Presbytery Property Committee may remit any application received by it to the Synod Property Board which shall be entitled to deal with such application without any recommendation thereon having been made by the Presbytery Property Committee, and in cases where the Moderator certifies that circumstances of extreme urgency exist, the Moderator may authorise the Synod Property Officer and the Synod Secretary to make a decision and take action in the name of the Synod Property Board, such action to be subsequently reported to the Board and to the Presbytery Property Committee.

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4.4 THE CHURCH COUNCIL

RESPONSIBILITY FOR PROPERTY

4.4.1 Subject to the Regulations, the by-laws of the Synod and the rules of Presbytery, the Church Council shall be responsible for the management and administration of all property of the Church acquired or held for the use of the Congregation, and without limiting the generality of the foregoing shall:

- (a) be responsible for the care and maintenance of property;
- (b) subject to clause (e) of this Regulation, determine the use of land and buildings;
- (c) deal with proposals for the acquisition or disposal of any property or the creation or extinguishment of any rights or interests in property by whatever means;
- (d) consider and if thought fit make recommendations concerning erection, demolition, alteration or enlargement of church buildings and other buildings;
- (e) consult with a Congregation regarding any proposal concerning property that would have a substantial effect on the life, witness and service of the Congregation;
- (f) be responsible for the financial affairs and the management and investment of all funds related to property;
- (g) do such other things as are necessary or appropriate for the use and management of all property acquired or held for the Congregation.

NOTICE OF BUSINESS

- 4.4.2** (a) Unless at least seven days' notice convening the meeting and specifying the business that shall be dealt with at the meeting has been given it shall not be competent to pass any resolution recommending or resolving to:
- (i) erect, enlarge, demolish, remove or substantially alter any building;
 - (ii) incur any expense for repairs exceeding such sum as may be determined by the Synod from time to time;
 - (iii) sell, mortgage, exchange, lease, grant or extinguish any estate, right or interest in any land, or surrender or accept the surrender of any lease;
 - (iv) acquire any land or interest in land;

- (v) alter the general purposes for which any land or building is or may be used;
 - (vi) invest any funds other than on short-term deposit with any of the financial institutions approved by the Synod in accordance with Regulation 3.8.7(b);
 - (vii) appropriate any funds except for current expenses.
- (b) It shall be competent for the Church Council to deal with and resolve any of the matters referred to in Regulation 4.4.2(a), notwithstanding that the prescribed notice has not been given, if a majority of those present at the meeting of the Church Council resolve to waive such notice, provided that the majority of votes cast in favour of such waiver shall be not less than three-fifths of the total membership of the Church Council.

ANNUAL PROPERTY REVIEW

4.4.3 At least once in every year the Church Council shall receive the audited accounts and review the following matters in respect of each property for which it is responsible:

- (i) the state of repair;
- (ii) the adequacy of the insurance cover;
- (iii) arrangements made in respect of public risk insurances and personal accident insurances for voluntary workers;
- (iv) the financial position in respect of each property.

4.4.4 In exercising the responsibilities set out in Regulation 4.4.1 the Church Council may itself carry out all these responsibilities or may appoint one or more committees to be responsible to the Church Council in respect of such one or more properties as the Church Council may specify for:

- (i) the supervision and use of the property;
- (ii) maintaining the property in good repair;
- (iii) such other responsibilities as the Church Council may determine;
- (iv) reporting in respect of such matters as the Church Council may require.

4.5 PROPERTY OTHER THAN CONGREGATIONAL PROPERTY

PROPERTY OTHER THAN CONGREGATIONAL PROPERTY

4.5.1 (a) Assembly property shall be dealt with in accordance with the provisions of Regulation 4.10.1.

- (b) In the case of property (other than property for which a Church Council is the responsible body), acquired or held for the use of a Synod, a Presbytery, or any body within the bounds thereof, the responsible body shall be that council or body.
- (c) The responsible body shall determine the manner in which such property is managed and controlled.

4.6 PROPERTY DEALINGS

PROPERTY PROPOSALS

- 4.6.1**
- (a) A proposal for the purchase, sale, mortgage, lease or the granting or acquiring or disposing of or surrender of any estate or interest in any real property or the erection, demolition or enlargement of a church or other building, or any borrowing of money, may originate in a Church Council or other responsible body or a committee thereof, or in a Congregation.
 - (b) In the event of any such proposal originating in a Congregation or a committee and being accepted for examination and decision, immediate written notice of such proposal shall be given to the Church Council or other responsible body, and when appropriate the originating body shall give advice of its recommendations in respect of such proposal.
 - (c) No such proposal may be put into effect before approval is given in accordance with the Regulations.

LEASES

- 4.6.2**
- (a) Subject to paragraph (b) of this Regulation, a lease shall not be granted without the prior approval of the Synod Property Board.
 - (b) Approval to grant or vary a lease or accept any surrender thereof may be given by the Church Council or other responsible body where:
 - (i) the term of the lease (including any options for renewal) does not exceed 3 years, and
 - (ii) the premises are not a Church building, a Church hall or a Minister's residence.
 - (c) A lease shall not be taken without the prior approval of the Synod Property Board.

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- (d) All leases shall be executed by a Property Trust unless otherwise authorised by the Synod Property Board on such terms as it thinks fit.
- (e) All leases shall be taken or granted in the name of a Property Trust.
- (f)) Each lease, or a copy thereof, shall be lodged with the Property Officer of the Synod.
- (g) This Regulation applies notwithstanding anything elsewhere contained in the Regulations.

PROPERTY TRANSACTIONS

4.6.3

- (a) Subject to paragraph (c) no transactions of the kind specified in paragraph (b) of this Regulation may be entered into without the prior approval in the required manner of:
 - (i) the Church Council or other responsible body; and
 - (ii) the Presbytery; and
 - (iii) the Synod.
- (b) The transactions are:
 - (i) the acquisition, sale, mortgage or (subject to Regulation 4.6.2) lease of real estate;
 - (ii) the grant, creation, assignment, or surrender, of rights, easements or other interests in real estate;
 - (iii) a contract in relation to a transaction of the kind in (i) or (ii);
 - (iv) a contract for the erection, enlargement, structural alteration, improvement, or demolition, of a substantial building;
 - (v) borrowing money.
- (c) The Synod or its Standing Committee may authorise one or more transactions mentioned in paragraph (b) by making a declaration that special circumstances exist.
- (d) When making a declaration that special circumstances exist, the Synod or its Standing Committee must:
 - (i) give reasons for making the declaration;
 - (ii) explain other options it has explored and abandoned to meet the circumstances;
 - (iii) give instructions about how and to what extent the transactions may take place.
- (e) Before a transaction authorised by a declaration may take place, the Synod or its Standing Committee must:

- (i) consult fully with all bodies that may be affected by the declaration, taking into account the purpose, functions, responsibilities and rights of those bodies as described in the Regulations; and
 - (ii) give all affected Church Councils or other responsible bodies the opportunity to make written submissions about the declaration within a specified timeframe; and
 - (iii) give serious consideration to those submissions.
- (f)) The Synod or its Standing Committee may withdraw a declaration at any time before the transaction authorised by it takes place.

APPLICATIONS FOR APPROVAL

4.6.4 Application to the Presbytery or the Synod for approval of any proposed property transaction shall be made in such form and accompanied by such information as the Synod Property Board may require.

4.7 EXECUTION OF DOCUMENTS AND MAKING OF AGREEMENTS

CERTIFICATION OF DOCUMENTS AND AGREEMENTS

4.7.1 All documents, agreements in writing and proposals for agreements, to be executed or made by or on behalf of a Property Trust and to which Regulation 4.6.3 applies, shall be submitted to the Property Officer of the Synod accompanied by a certificate in the form required by the Property Trust certifying that the document agreement or proposal has been approved in accordance with Regulation 4.6.3.

EXECUTION OF DEEDS

4.7.2 Any deed, instrument, contract or agreement relating to any property or matter to which the Regulations apply which, if made or executed by an individual could be, or would (under common or statute law) be required to be, in writing and under seal, may be made or executed under the seal of the Property Trust.

MAKING OF AGREEMENTS AND EXECUTION OF DOCUMENTS NOT UNDER SEAL

4.7.3 (a) Any instrument, contract or agreement relating to any property or matter intended to be evidenced in writing but not under seal (whether or not required by law to be in writing) shall be made in writing under the authority and on behalf of the Property Trust in the circumstances

and manner, and by the person or persons, authorised by the Property Trust.

- (b) Any contract relating to any property or matter which if made between individuals would by law be valid although made by parol only (and not reduced to writing) may be made under the authority and on behalf of the Property Trust, in the circumstances and manner, and by the person or persons, authorised by the Property Trust.

DOCUMENTS CONSEQUENTIAL ON AN AGREEMENT

4.7.4 In the event of a document to be executed by or on behalf of the Property Trust being consequential upon an agreement entered into by the Property Trust such document may be executed, provided the solicitor or other person properly submitting the same certifies the document to be consequential and in order for execution.

AGREEMENT TO BE BINDING

4.7.5 Any deed, instrument, contract or agreement made in accordance with the foregoing provisions shall be effectual in law and shall bind the Property Trust or any responsible body and all other parties thereto and may be varied or discharged in the manner in which it is authorised to be made.

4.8 APPLICATION OF PROCEEDS OF SALE

4.8.1 The proceeds of any sale of real estate shall, subject to any special trusts upon which it is held, be applied so far as the proceeds will extend in the following order:

- (a) in the discharge of any encumbrances and liabilities whether personal or otherwise lawfully created or contracted or such of them or such part thereof respectively as it may be found necessary or expedient so to discharge;
- (b) in the fulfillment of the conditions (if any) imposed by the Synod when consenting to such sale;
- (c) towards any one or more of the objects hereinafter mentioned:
 - (i) promoting the mission of the Church;
 - (ii) assisting or increasing the funds of any body of the Church;
 - (iii) erecting a new Church building, Church hall, residence or other building on any site vested in the Church;

- (iv) carrying out improvements and enlargements to any such existing buildings;
- (v) purchasing land as a site for a Church building, Church hall, residence or other building to be under the control of the Church Council concerned or any other body of the Church;
- (vi) contributing to the funds, objects or charities under the control or direction of the Presbytery, Synod or the Assembly;
- (vii) such other purposes as the Synod may approve.

4.9 LEGAL ACTIONS AND ARBITRATIONS

- 4.9.1**
- (a) The Property Trust in the State or Territory where proceedings are being taken may sue or be sued in its name on behalf of the Church or any agency of the Church or in relation to trust property.
 - (b) Proceedings shall not be instituted or defended by or in the name of a Property Trust, the Church, or any agency of the Church, without the prior approval of:
 - (i) the Standing Committee of the Synod in the State or Territory in which the proceedings are being taken or of the Moderator of that Synod, or
 - (ii) in cases of urgency, the Property Officer of that Synod or the chairperson of the Presbytery within the bounds of which the action arose or the property affected by the proceedings is located.
 - (c) All persons shall be entitled to rely upon a statement that the required consent has been given, if signed by an officer of the body by which or by the person by whom, the consent was given, without proof of the signature of that person.

4.10 ASSEMBLY PROPERTY

- 4.10.1**
- (a) All real property acquired or held for or on behalf of the Assembly or any agency of the Assembly (hereinafter called Assembly property) shall be managed and administered by
 - (i) the governing body of the agency concerned; or
 - (ii) such officer or body as the Assembly or its Standing Committee designates.

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- (b) Proper books of account shall be kept in respect of all Assembly property and shall be audited annually and at such other times as the President or the General Secretary may require.
- (c) A copy of the audited accounts shall be given to the General Secretary forthwith after the completion of the audit.
- (d) Assembly property shall not be purchased, sold, mortgaged, encumbered or leased; and
 - (i) no legal or equitable estate or interest in Assembly property shall be granted, transferred, assigned or surrendered; and
 - (ii) no building on Assembly property shall be erected, demolished, enlarged or substantially altered,

without the consent of the Assembly or its Standing Committee or such other committee as the Assembly or its Standing Committee may designate.

- (e) The legal title to Assembly property shall be vested in the Property Trust of the Church in the State or Territory in which the property is situated, except as may otherwise be approved by the Assembly Standing Committee.
- (f)) All documents necessary to be executed by a Property Trust in respect of Assembly property shall be executed by it upon being furnished with a certificate signed by the President or General Secretary or such other person as the Standing Committee of the Assembly shall appoint, evidencing that the document is in order for execution.
- (g) The Assembly or its Standing Committee may give directions in respect of Assembly property.

4.11 MISCELLANEOUS

UNSAFE BUILDINGS

- 4.11.1** (a) Notwithstanding any Regulation or by-law, a Synod Property Officer or Synod Secretary shall have the power, in respect of any property within the bounds of a Synod, owned by the Property Trust of that Synod or any body of the Church, which does not comply with any governmental regulation or requirement or is reported to the Synod Property Officer as being in an unsafe or dangerous condition, to do any or all of the following:

- (i) temporarily or permanently close any building;
 - (ii) obtain a professional audit or report in relation to the state of the property or any activity conducted thereon;
 - (iii) ensure that work is undertaken to make safe or obtain compliance;
 - (iv) require repayment by the body having oversight of the property of any amount expended by the Synod pursuant to this Regulation;
 - (v) after consultation with the body having the oversight of the property recommend to the Standing Committee of the Synod:
 - (1) disposal of the property where it is impossible or impracticable to make the property safe or to rectify the non-compliance;
 - (2) demolition of any building, or;
 - (3) future use of the property.
- (b) The Standing Committee of the Synod shall have power to determine, or to delegate to its Property Board the right to determine, matters relating to the use or disposal of property or demolition of any building when a recommendation is made pursuant to Regulation 4.11.1(a).

INDEMNITY

- 4.11.2** (a) Any person acting under the express or implied authority of the Church and who is not an independent contractor shall be indemnified out of trust property against all liability for any matter or thing done or liability incurred except in the case of fraud, criminal act, gross negligence or wilful misconduct.
- (b) Without detracting from the generality of paragraph (a), a member of a Church Council or other body responsible for the management and administration of property shall be indemnified out of trust property against liability for any matter or thing done or liability incurred in the performance of functions as a member thereof except in the case of fraud, criminal act, gross negligence or willful misconduct.

CUSTODY OF DEEDS

- 4.11.3** All deeds and documents of title relating to trust property shall, unless lodged with some person or corporation as security for a loan, be placed in the custody of such person or persons as may be prescribed by the Synod or the Assembly as may be appropriate.

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UNITED WORK

4.11.4 A responsible body may make property available for the purposes of united work with any other denomination or denominations upon such terms and conditions as may be approved from time to time by the Synod or the committee of the Synod appointed by it for that purpose.

TO FURNISH INFORMATION

4.11.5 A responsible body shall furnish such information regarding property affairs, including audited accounts, as the Presbytery or the Synod or any body so authorised by either of them requires from time to time.

REGISTER OF PROPERTIES

4.11.6 A Synod register of properties shall be kept in such form and by such person as shall be prescribed by the Synod.

INSPECTION OF REGISTER

4.11.7 The register shall be kept properly posted up and shall be made available for inspection by any member of a responsible body, or the chairperson or secretary of a Presbytery, the Moderator or Property Officer of the Synod, or any person authorised by any of them.

RETURNS

4.11.8 Each responsible body shall furnish such returns to the Presbytery and Synod as shall be prescribed by the Presbytery and the Synod respectively.

NATIONAL PROPERTY POLICY

- 4.11.9**
- (a) Where two or more Congregations or faith communities share, or will share, the use of a Church property that is under the management and administration of a Church Council of (one of) the Congregation(s), they will enter into a culturally sensitive memorandum of understanding (not a tenancy agreement) that shall
 - (i) specify usage rights of each Congregation or faith community;
 - (ii) provide for an appropriate sharing of costs; and
 - (iii) specify the manner in which the responsibilities listed in Regulation 4.4.1 and other relevant Regulations of the Church will be jointly undertaken in respect of the shared property.

 - (b) The memorandum of understanding will be negotiated in consultations between the participating Congregation(s) (through their Church Council(s)) and faith community/ies and their Presbytery or Presbyteries, taking into account the ministry and mission needs of each participating Congregation and faith community and any relevant policies of the Assembly and the Synod.

- (c) Where there is shared use as mentioned in 4.11.9(a) or where another Congregation or faith community requests that it be permitted to share the use of a Church property that is under the management and administration of a Church Council
 - (i) if there is disagreement or a failure to resolve issues between the participating Congregation(s) and faith community/ies after the consultations referred to in 4.11.9(b), the Presbytery may decide the matters in issue and will promptly notify them of its decision in writing; and
 - (ii) if one or more of the Church Council(s) or faith communities that has participated in the consultations, is dissatisfied with the decision of a Presbytery made under sub-paragraph (i), it may appeal. The appeal shall be dealt with under Part 6 of these Regulations

- (d) The Presbytery
 - (i) may dispense with the requirement that the responsibilities mentioned in Regulation 4.11.9(a)(iii) be jointly undertaken if it considers that it is appropriate to do so and the dispensation may be granted for a specified time and subject to conditions; and
 - (ii) shall have authority to implement any changes to use, management or administration of a Church property, that it considers are necessary or desirable to implement a memorandum of understanding made pursuant to Regulation 4.11.9(a) or a decision made in accordance with Regulation 4.11.9(c).

- (e) A Synod may determine policies and processes to assist Presbyteries, Church Councils and faith communities in the implementation of this Regulation.
Where there is more than one Presbytery, they shall determine the manner in which the responsibilities of the Presbytery under this Regulation will be exercised by one or both of them.

CLASSIFYING PROPERTY FOR ALTERNATIVE MISSIONAL USE

- 4.11.10** (a) In this Regulation:
- (i) “Alternative Missional Use” means use of property or the income from or proceeds of sale of property by or for
 - * new Congregations, faith communities or new worship gatherings within existing church buildings;

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- * future new Congregations or faith communities, as stipulated by Synod upon recommendation from the Presbytery;
 - * Congregations with inadequate property resources;
 - * any Congregation which in the opinion of the Presbytery has significant engagement in mission;
 - * Synod or Presbytery approved strategic mission initiatives;
 - or
 - * such other missional priorities as the Synod determines;
- (ii) “property” means real property and includes any building and fixed improvement and may also include any non-fixed property used in conjunction with the building if the non- fixed property is specifically included in property that is available for “Alternative Missional Use”;
- (iii) “Congregational Property” means property acquired or held for the use or benefit of the Congregation and for which the Church Council is responsible for management and administration.
- (b) Congregational Property will be classified as available for “Alternative Missional Use” where
- (i) the Congregation and Church Council resolve to make the property available for “Alternative Missional Use”; or
 - (ii) (1) the Presbytery convenes a consultation with the Congregation and its Church Council, and the purposes of the consultation specifically include consideration of whether a recommendation should be made by the Presbytery that any of the Congregational Property should be classified as available for ‘Alternative Missional Use’;
 - (2) the Presbytery in session, after appropriate consultation with the Congregation, recommends that the Synod classify all or part of a property held for the use of that Congregation as “available for Alternative Missional Use”; and
 - (3) the Synod or Synod Standing Committee in session resolves to make the classification.
- (c) In any consultation between Presbytery and a Congregation as referred to in Regulation 4.11.9 (b)

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- (i) the Presbytery shall take proper account of the purpose, functions, responsibilities and rights of the Congregation as described in the Regulations;
 - (ii) the Presbytery and the Congregation have a responsibility to listen faithfully to one another; and
 - (iii) the Presbytery shall take into account any effect on an existing placement.
- (d)
- (i) Where the Presbytery recommends to the Synod that the Synod classify a property as available for “Alternative Missional Use” the Presbytery shall provide to the Synod (and at the same time to the Congregation) written reasons for the recommendation.
 - (ii) Before resolving to classify a property as available for “Alternative Missional Use” the Synod must give the Congregation and its Church Council an opportunity to make written submissions to the Synod regarding the proposed classification; and
 - (iii) The Synod shall give written notice of a resolution to classify Congregational property as available for “Alternative Missional Use” to the Congregation within 14 days of the decision being made.
- (e)
- (i) When a property or income from or proceeds of sale of property is classified as available for “Alternative Missional Use” a Presbytery may transfer responsibility for the management and control of the property or the benefit of use or income from the property or proceeds of sale of the property to another body (which may be the Presbytery itself);
 - (ii) Prior to transferring the responsibility or benefit, the Presbytery shall ensure that appropriate arrangements are made for the care of the affected Congregation and its mission, and shall ensure that appropriate opportunities are made for the affected Congregation through its Church Council to make a contribution in the process that identifies the “Alternative Missional Use” to which the resources for which its Church Council was previously responsible, are put.
- (f)
-) If, notwithstanding a resolution of the Synod referred to in Regulation 4.11.10 (b)(ii), responsibility for the management, control or benefit or use (as the case may be) has not been transferred to another body within three (3) years of the Synod or the Synod Standing Committee resolution:

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- (i) the classification shall cease to operate; and
 - (ii) responsibility for the management and control or the benefit of use of the property shall remain with the existing Congregation and its Church Council.

 - (g)
 - (i) A Church Council may appeal against a decision pursuant to Regulation 4.11.10 (b)(ii) to classify property as available for “Alternative Missional Use” on the ground that the process was not in accordance with Regulations 4.11.10(a),(b), (c) and (d);
 - (ii) The appeal shall be heard by an appeal panel constituted under Part 6 of these Regulations; and
- 4.11.11 The Assembly determines that the body corporate allowed for in paragraph 56 of the Constitution shall be UCA Assembly Ltd.