

For the reasons set out below, the question upon which I am ruling is whether Regulation 3.6.3.1(c) conforms to the Constitution of the Church.

The Ruling

My ruling is that Regulation 3.6.3.1(c) does not conform to the Constitution. This is because paragraph 34 of the Constitution explicitly empowers the Synod to determine the term of a Moderator, whilst Regulation 3.6.3.1(c) purports to limit that term.

The Assembly does not have authority to make a Regulation that is inconsistent with the Constitution.

Request Complies with Formalities

The request for this Ruling comes from the Moderator of the Queensland Synod. The request upon which I have ruled relates to an interpretation of the Regulations and is a legitimate subject for a Presidential Ruling (Regulations 3.6.4.3(a) and (b)).

Consequences of this Ruling

In my opinion, the express authority for the Synod to determine the term of the Moderator granted by paragraph 34 of the Constitution overrides the inconsistent provision in Regulation 3.6.1(c) and the Synod is able to exercise the authority granted by paragraph 34 of the Constitution.

Reasons for this Ruling

Paragraph 34 of the Constitution states (underlining mine):

The Synod shall elect, in accordance with such rules and procedures and for such term as the Synod may determine, a Moderator who shall have such powers as may be prescribed and such further powers as may be determined by the Synod.

Regulation 3.6.3.1(c), states (underlining mine):

The Moderator of the Synod shall be elected for such period up to three years as the Synod shall determine and shall hold office from the time of installation until the next Moderator is installed.

Paragraph 34 of the Constitution provides the Synod with discretion to determine a Moderator's term of appointment, whereas Regulation 3.6.3.1(c) purports to restrict that discretion.

Regulation 3.6.3.1(c) is in my view inconsistent with paragraph 34 of the Constitution.

Paragraph 62 of the Constitution provides:

The Assembly may make Regulations not inconsistent with this Constitution prescribing all matters by which this Constitution are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Constitution or for the life of the Church.

Regulation 3.6.3.1(c) is not consistent with paragraph 34 of the Constitution. I am of the opinion that the explicit power granted by paragraph 34 of the Constitution to the Synod to determine the term of the Moderator overrides the inconsistent provision in Regulation 3.6.3.1(c).

Presidential Rulings

I draw attention to the proviso in paragraph 71 of the Constitution and to Regulation 3.6.4.3(a)(vi). Usually a Presidential ruling is considered at the first meeting of the Assembly Standing Committee following the making of the ruling.



Stuart McMillan, President
19 October 2017