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Tabled by Chair (Steele)

Date Apr. 15, 2022

Background Information Regarding Amendment to Private UCC Legislation

The United Church of Canada (the “UCC”) was formed officially on June 10, 1925, pursuant to *The United Church of Canada Act*, SC 1924 c100 (Canada), as a union between The Presbyterian Church in Canada, The Methodist Church and The Congregational Churches of Canada.

In addition to the federal legislation, provincial legislation was adopted in all of the then provinces in Canada.

The United Church of Canada’s 42nd General Council, the national governance body, adopted a motion on August 14, 2015, to initiate a consultative process with the congregations of the UCC, called a remit process. The question at issue was the restructuring the national church from a four court structure to a three council structure.

The remit was undertaken and the results of the remit were in favour of a restructuring. The remit, and the resulting restructuring, was confirmed by the United Church of Canada’s 43rd General Council on July 22, 2018.

The UCC has the ability through both provincial and federal legislation to make constitutional changes on its own, with the exception of two types of changes: one, the UCC cannot change the formula for making constitutional changes; and two, the UCC cannot change the terms on which congregational property is held. The restructuring engaged both these restrictions, therefore the legislation itself was required to be amended, with the consent of the respective legislative assemblies.

To give effect to this change in governance structure, an amendment was sought and obtained to the federal act in 2019. Amendments to the various provincial acts are also being sought. In Ontario, Manitoba, Nova Scotia, Prince Edward Island, Alberta, and British Columbia, amending legislation was passed to amend the former acts to reflect the restructuring of the UCC. To date, no concerns have been brought forward in those provinces with respect to the impact of the proposed bills on any parties’ interests or rights.

The provincial legislation dealt with certain aspects of the union, including how property of the negotiating churches came into the UCC. And Attached as a schedule to the acts was the Trusts of Model Deed, which also dealt with how property of the UCC may be transferred, leased, mortgaged or exchanged by UCC congregations. The Trusts of Model Deed includes provisions directing which court/council of the UCC must provide approval for congregations dealing with UCC property, and which UCC court/council assumes responsibility for the property of a UCC congregation when it disbands.

The restructuring undertaken by the UCC amends which UCC court/council oversees congregational property, and those changes are reflected in the proposed amendments to the respective acts.

Before initiating the remit process, the UCC discussed the restructuring at all levels of church governance across Canada. Individual congregations were given the

opportunity to consider the restructuring and its impact, and to vote on the restructuring. The UCC specifically considered whether the change in the court/council structure would have any impact on the congregational property interests, and found that it would not. Individual congregations' ownership interests in their property were not affected by the restructuring, and will not be affected by the amendment to the acts.

The proposed amendments to the acts will change the acts to reflect the restructuring motion already in effect. Before the restructuring, there were four levels of governance of the UCC, as follows, starting from the most local: congregation, Presbytery, Conference, and General Council. After the restructuring, there are now three levels of governance: community of faith (which includes the congregation), Regional Council, and Denominational Council (also known as General Council).

The restructuring changed which court/council congregations report to, but not the underlying rights of the congregations. For example, before the restructuring, individual congregations had to seek consent from their Presbytery to sell their property. After the restructuring, individual congregations must now seek consent from their Regional Council. The names and territorial areas of the overseeing bodies have changed, but the process and the inherent underlying rights have not.

Specifically, the proposed amendments to the acts include amendments to the definitions section to reflect the new names of the UCC courts pursuant to the restructuring and to alphabetize the definitions section; and amendments to the Trusts of Model Deed to reflect the change in overseeing body. In some cases, the Trusts of Model Deed schedule was repealed and replaced with an updated schedule.

Due to the varying legislative requirements in the provinces, the amending legislation is not identical across the country. Regardless of these necessary variations, the general approach that we have taken is to be as hands-off as possible with the amendments. The original acts are nearly a century old, and to preserve the integrity of those acts, we have proposed amendments that modify only the bare minimum required to effect the change in the governance structure of the UCC.

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Gardiner Roberts LLP, on behalf of The United Church of Canada