

CHURCH LAW No. 3 / 2023

NORTHEASTERN EVANGELICAL LUTHERAN CHURCH IN SOUTH AFRICA

At its meeting on 21 July 2023 Church council of NELCSA resolved in terms of sections 60, 61 and 62 of the Constitution of NELCSA to submit the following amendment to the Constitution of NELCSA to Church synod for consideration and adoption.

Legend: Deleted items; **New items**; Existing law

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Congregational Code, Section 64 (1) to be amended

Section 1

Section 64 Decision to Dissolves and Liquidat~~ion~~

- (1) The dissolution of the congregation **shall** ~~may only~~ be decided by an extraordinary General Meeting convened for this purpose. The resolution shall be effective only if at least two-thirds of its members in a legal sense as referred to in Section 5, are present and of these at least two-thirds have voted in favour of the dissolution. Section 20(1) of the Constitution of the NELCSA shall apply. **Should the quorum required above not be realised, section 17(2) and 17(3) apply. A two-thirds majority in favour of the dissolution will be required at this second extraordinary General Meeting.**
- (2) Once the dissolution of the congregation has been resolved, the **extraordinary** General Meeting shall issue directives concerning the liquidation of the assets of the congregation and shall appoint a committee to carry out the liquidation. The committee does this in accordance with the above-mentioned directives and in accordance with the relevant provisions of the laws of the country. Any assets remaining after the liquidation shall be transferred to NELCSA.
- (3) Should NELCSA also be dissolved or liquidated, then and in that event only, any assets remaining after liquidation shall be transferred to another Church, which is also a Non-Profit Organisation, having similar objectives as NELCSA. The extraordinary General Meeting, as referred to in Section 64(1), shall in terms of this provision decide to which organization the remaining assets will be transferred.

Section 2 This Law shall come into effect with its adoption on 23 October 2023.

Motivation:

It is very difficult to motivate a large proportion of a congregation, which is about to dissolve, to attend a General Meeting to discuss the dissolving of the congregation. The amendment allows the congregation to continue its business of dissolution, even if a quorum is not established in the first meeting.

*The word **only** is removed in order to make this law compatible with section 21 of the constitution of NELCSA which reads:*

Section 21 Formation, Dissolution and Merging of Congregations

- (1) *Decisions on the formation of new congregations, on changes to and dissolution and mergers of existing congregations are taken by Church*

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Council, after considering submissions, made by interested parties. Its decision is subject to ratification by Church Synod.

- (2) In order to improve congregational life Church Council may, after consultation with affected parties, integrate parts of a congregation into neighbouring congregations, form new congregations or dissolve existing congregations. Its decision is subject to ratification by Church Synod.*
- (3) If it is impossible to reach an agreement on matters referred to in Sections 21 (1) and (2), then Church Synod will take the decision.*