

VADIMECUM



## **Administrative Guide for the Use of Provincials and their Councillors**

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**Institute of the Marist Brothers  
Rome, September 2008**

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Administrative Guide  
for the use of Provincials  
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## INTRODUCTION

Dear Brothers,

Since the time of its first publication and throughout subsequent revisions, Brothers throughout the Institute have come to value a small text called the *Vademecum*. Made up of those procedures in place to guide the work of governance, Provincials, Economes, and others reach for it whenever they need a quick reference. Today I have the pleasure of presenting to you still another edition of this invaluable resource.

The present text is the result of a detailed and methodical study carried out by a Commission appointed in May 2006 and composed of Brothers Vicar General, Secretary General, General Econome and Procurator General. Using the 1992 edition of this publication as their text of reference, this group updated content, unified references,<sup>1</sup> and made a conscious effort to introduce pastoral language, even though the nature of the document remains normative. My thanks to each of them for their efforts.

What made a revision necessary at this time? To begin with, members of both the 1993 and 2001 General Chapters introduced changes into our Marist Constitutions and Statutes. The introduction of a Statute dealing with Vicars is but one example.

Second, some descriptions found in the earlier edition had become obsolete. For example, the International Bureau of Solidarity was still identified as the Social Secretariat, a structure that was retired more than a decade ago. Finally, those who have used the *Vademecum* over the last 15 years have suggested that we develop some new procedures and simplify others.

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<sup>1</sup> c for *Canon Law*; C for the *Constitutions and Statutes*; V for the *Vademecum*.

The present text follows in a lengthy history of guidelines and norms that have been with us since the time of the founder. During the life of Saint Marcellin, for example, a set of written orientations guided the communities of the Institute in their relationship with the Motherhouse at Notre Dame of the Hermitage. Brother François and his successors continued this practice.

Some sections of these guidelines eventually became what was called the Rules of Government while others remained scattered throughout various Institute documents, available for the use of Superiors and their Councils as needed. As the Institute grew in number and complexity of structure, particularly after 1903, successive General Administrations continued to issue sets of guidelines aimed at orienting and facilitating the work of Provincials and their Councils.

During the administration of Brother Basilio Rueda a first attempt was made to bring these guidelines together into one document. From 1968 to 1972, 29 texts were published as an untitled collection. In 1978, however, this document was christened the *Vademecum* for the Provincial Administration. A copy of that original text can still be found today in our Archives in Rome.

During the years 1987 to 1992, when Brother Charles Howard was Superior General, these guidelines were developed further in a systematic way resulting in an official text that was approved by the General Council in December 1992. The title of this Document was: *Vademecum: Administrative Guide for the use of Provincials and their Councillors*; it remained in use from the time of its approval until June 2007.

The philosophy and objectives that guided the 1992 edition remain intact in the present text. Likewise, the 2007 edition of the *Vademecum* continues to be an administrative guide for Provincials, District Superiors, Councillors, Provincial Secretaries and Provincial Economes and, hopefully, will save them time and energy when dealing with administrative matters.

Note also that this revised version of the text retains the same structure as the 1992 edition. Various topics are introduced by a short reflection followed by a systematic step by step explanation of the procedure under discussion. At

the end of the text, you will also find 17 annexes that contain samples of commonly used forms and sheets that offer a practical orientation on a number of matters. The material found in these annexes are for reference only. Updated electronic copies of all forms and orientation sheets are available on the Institute's web page ([www.champagnat.org](http://www.champagnat.org)) and can be downloaded according to need.

Brothers, I hope that this newly revised edition of the Vademecum is as of much help to you as it is to those of us who make up the present General Administration. If it is, the text will have more than met its aim.

The 2007 edition of the Vademecum was officially approved by the General Council on 13th February 2007 during one of its plenary sessions. May it be for all of us a means for effectively rendering our fraternal service to our Brothers and lay Marists.

With blessings and affection,

Brother Seán D. Sammon, FMS  
Superior General  
Rome, 6 June 2007

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## I. GENERAL ADMINISTRATION

### 1. General Services

The General Administration carries out services for which it needs personnel (cf. C 129.2-3). These services are organised by the Brother Superior General and his Councillors.

#### *1.1 The Procurator General*

The Brother Procurator General is the Institute's representative accredited to the Holy See. He provides information and follows the processes with the various entities of the Roman Curia (cf. C 137.6).

#### *1.2 The Postulator General*

The Brother Postulator General is the official in charge of the Institute's causes of beatification and canonisation. He prepares the documents dealing with these causes, and works to make known whatever could bring them to a successful conclusion (cf. C 137.7). He keeps the Brothers informed, and encourages them to make our Marist "saints" known, and to imitate them. At the request of the Brother Postulator, the Brother Superior General can appoint Brothers as Vice-Postulators. The Vice-Postulators represent the Brother Postulator in the diocesan phase of the processes and work in close collaboration with him.

Pictures, medals, souvenirs, and other objects of piety can be obtained by making enquiries to the Brother Postulator or to the Brother Director of the General House in Rome or to the Brother Director of the Hermitage.

#### *1.3 The Secretary General*

The Brother Secretary General is responsible for the official correspondence between the Brother Superior General and his Council and the Administrative Units (cf. C 137.9 and V 63).

#### *1.4 The Econome General*

The Brother Econome General has charge of the finances of the General Administration (cf. C 160) and of the financial services and of the administration of the goods of the Institute (cf. C 137.10). He is helped by an Assistant Econome, by the International Council for Economic Affairs (cf. C 160.4) and by the Finance Committee (cf. C 160.5). The Provinces and most Districts have an account with the Econome General. For information about financial matters, enquiries should be addressed to the Brother Econome General (cf. C 160, 160.2-3- and 161.4).

#### *1.5 Other services*

The Brother Superior General and his Council appoint Brothers and employ laypeople to entrust them with different tasks of animation of the activities proper to the Institute. Among them are found those responsible for the archives, the statistics, research on the history of the Institute, periodical publications, the secretaries and members of commissions, those responsible for formation courses, etc. (cf. C 137.11).

##### *1.5.1 The Archives*

Those in charge of the Archives receive documents, catalogue them, conserve them, and also answer enquiries.

It is desirable that an increased co-ordination exist between the Provincial Archives and the General Administration, having recourse to electronic means and the Internet in order to always make the service more flexible and more efficient.

##### *1.5.2 Statistics*

Those in charge of the Statistics keep the databases up to date and make them accessible. They work under the co-ordination of the Secretary General and in close collaboration with the Provincial Secretaries and the service of the Archives.

##### *1.5.3 Research on the history of the Institute*

The Brother Superior General and his Council create and co-ordinate teams of

research on the life, the work and the time of the Founder and of the first Brothers, as well as on the history of the Institute (cf. C 164.1) in view of conserving, deepening and developing the Marist spiritual patrimony, through various activities and publications.

#### *1.5.4 Communications*

Those responsible for this service work in the maintenance and the development of the Institute's webpage and assure the publication of paper and electronic copies of the Circulars, periodical bulletins and other documents.

The publications are sent to the Provinces and Districts according to the instructions of each one. The orders are addressed to the General Secretariat and the costs of printing and delivery are generally charged to the Provinces and the Districts. Each Brother usually receives a copy of the circulars whose distribution is generally global, in agreement with the Province.

## **2. The Bureau of International Solidarity (BIS) / Fondazione Marista per la Solidarietà Internazionale, onlus (FMSI)**

Two entities exist to further the solidarity work of the Institute:

BIS, an office of the General Administration works within the Institute to animate, educate, facilitate and advocate for solidarity, justice and peace.

FMSI, onlus, is a not-for-profit foundation with its own statutes and legal standing in the public forum. With similar activities as BIS, its creation was inspired by the charism of St. Marcellin Champagnat and the mission the Institute of the Marist Brothers.

Depending on the purpose of its activities, the audience it wants to address, and either the internal or external environment in which its activities are carried out, the BIS/VMSI mandate includes:

- Advocacy for children's rights, especially the right to education, before international organizations;

- Networking with appropriate organisations and coalitions that support the works and the mission of the Institute;
- Assisting administrative units in the developing countries to identify and secure appropriate internal and external funding for various educational, pastoral and development projects and needs within the units;
- Coordination/Facilitation of international campaigns for recovery after a natural disaster as needed and
- Developing and coordinating additional fundraising strategies to meet the solidarity needs of the Institute.

**Procedure to be followed**

- Appoint a member (or several) or a commission in the Administrative Unit who will serve as a liaison with BIS. Their aim is to inform and distribute the necessary materials and to keep BIS up to date about additions, suppressions or changes that could affect a fluid communication between BIS and the corresponding Administrative Unit.
- Consult the section reserved for BIS on the Institute's webpage. There you will find the information, the lines of action, the procedures and the forms for obtaining help for projects in developing countries.

## II. PROVINCES AND DISTRICTS

### 3. Functions of the Brother Provincial (according to the Constitutions)

	Proper Law	Mode <sup>2</sup>
ABSENCE permission for a prolonged absence	61.1 and 150.2.2	Consent
ACCEPTANCE / RESIGNATION of Provincial Councillors of appointed persons	150.3.2 150.3.5	Collegially Collegially
ADMISSION to the novitiate to profession of a novice in danger of death to temporary or perpetual profession	96.9 and 112 102.3 113 and 150.2.1	Alone Alone Consent
AFFILIATION of a person to the Institute	150.2.4	Consent
ANIMATION OF THE PROVINCE first responsible (spiritual and apostolic)	143	Alone
APOSTOLATE discernment of the Provincial Chapter decisions of the Provincial and of his Council giving a mission to each Brother maintaining the missionary spirit founding a work proposal to suppress a work contact with the Bishop	85.1 150.2.6 143.2 91.1 to 91.4 80.1 and 150.2.12 80.1 and 150.2.13 80.1	— Consent Alone — Consent Consent Alone

<sup>2</sup> On the meaning of the following expressions: The Provincial can make the decision on his own (**Alone**) / after having consulted or taken the advice of his Council (**Advice**) / after having obtained the consent of his Council (**Consent**) / must make the decision collegially with his Council (**Collegially**) cf. V 52 and note 2 of the appendix at the end of the Constitutions.



<b>APPOINTMENTS</b> a Brother to accompany post-novices 2 <sup>nd</sup> stage distinct from the superior Administrator of a work Provincial Econome Director of a Formation Centre Director of a work Master of Novices Responsible for postulants in a community Superior of a District/Sector Local Superior Vicar Provincial Vice Provincial	105.1 150.3.4 and immediately after C 154 161 and 150.3.4 150.3.4 150.3.4 and immediately after C 154 108.1 and 150.3.4 96.8 150.3.3 151 and 150.3.4 V 51.3 149.1	Alone Collegially Collegially Collegially Collegially Alone Alone Collegially Collegially That depends Alone
<b>ARCHIVES</b> of the Province	143.6	Alone
<b>AUTHORISATION OF EXPENSES</b> exceptionally and with urgency, less than 10% of the ceiling	143.5	Alone
<b>COMMISSIONS</b> of animation and others	143.1	Alone
<b>COMMUNITY LIFE PLAN</b> approval	50.1 and 150.2.7	Consent
<b>CONSTRUCTIONS</b> authorising constructions and improvements in the limits of the Province preliminary study for new constructions permission for notable modifications in the local limits	150.2.8 161.13 161.15	Consent Alone Alone
<b>CONSULTATIONS</b> before appointing District/Sector Superior before appointing superiors the Bishop the Brothers	150.3.3 153 129 121	— — — —

DEPOSITION of Provincial Councillors of appointed persons	150.3.2 150.3.5	Collegially Collegially
DISMISSAL of a Brother	150.2.3 and V 31	Consent
DISPENSATION from an article of the Constitutions of a Brother from his vows	145.2 116 (cf. V 29 and 30)	Alone —
DOCUMENTS TO BE SENT TO THE GENERAL ADMINISTRATION at the time indicated to the Brother Superior General to Brother Secretary General to Brother Econome General to Brother Procurator General	143.6 (cf. V 62) (cf. V 63) (cf. V 64) (cf. V 65)	Alone — — — —
ELECTION OF PROVINCIAL COUNCILLORS outside the time of the Provincial Chapter number of Provincial Councillors for the Provincial Chapter	150.3.1 151.1.2 151.1.2	Collegially — —
FINANCIAL AID Brothers on exclaustation Brothers who leave the Institute	117.1 117.2	Collegially —
FORMAL ORDER when and how to give it	37.1 (cf. V 34)	Alone
FORMATION changes in the stages after the novitiate regional Marist centres centres of preparation for the postulancy in another Province ongoing formation interprovincial novitiate plan of action preparation and updating of formators responsibility	103.3 91.3 96.4 104.3 109 to 109.3 100.4 95.1 and 150.2.6 108 106	Collegially Alone Collegially Alone Alone Alone Consent Alone Alone

FOUNDATION establishing or modifying a contract with the founders of a work of a house of an apostolic work	162.5 and 150.2.14	Consent
	129.1 and 150.2.12	Consent
	80.1 and 150.2.12	Consent
HOUSES foundation to propose suppression	129 and 150.2.12 129 and 150.2.13	Consent Consent
INSURANCE OF THE BROTHERS providing insurance cover	15.2 and 161.8	Alone
LAY PERSONNEL just salary employment of a lay professional	88.3 and 156.2 161.9 and 150.2.17	— Consent
LOCAL COUNCIL examining the minutes of the Council determining the number of Councillors	152.9 152	Alone Consent
MISSION of each Brother missionary spirit	143.2 91.1 to 91.4	Alone —
NOVITIATE admission duration of the retreat and the place of the 1 <sup>st</sup> profession periods of apostolic activity periods outside of the novitiate prolongation	96.9 102.2  101 100.2 100.3 and 150.1.3	Alone Alone  Alone Alone Advice
PERMISSIONS administration of the goods of others change of will change of arrangements of a transfer of administration work or position outside the Institute novices outside of the novitiate	29.9 29.5 29.5  40.2 101 and 100.2	Alone Alone Alone  Alone Alone

<p><b>PERMISSIONS</b> renunciation of a Brother's patrimony being guarantor for the goods of others vow of stability</p>	<p>29.8 and 150.1.4 29.9 170.1 and 150.1.1</p>	<p>Advice Alone Advice</p>
<p><b>PERSONAL INTERVIEW</b> with each Brother once a year</p>	<p>145.1</p>	<p>Alone</p>
<p><b>POVERTY</b> plan in favour of the needy applying the Norms authorising long journeys and time spent outside the country</p>	<p>34.1, 34.2 and 150.2.6 29.11 and 150.2.10 29.11 and 150.2.11</p>	<p>Consent Consent Consent</p>
<p><b>PREACHERS</b> authorisation to preach</p>	<p>147</p>	<p>Alone</p>
<p><b>PRIORITIES OF THE PROVINCE</b> establishing them according to the orientations of the Provincial Chapter</p>	<p>150.2.6</p>	<p>Consent</p>
<p><b>PROFESSION OF VOWS</b> anticipation of perpetual profession not more than three months authorising changes in the formula of profession of a novice in danger of death excluding a Brother from a subsequent profession place of the first profession reception of vows</p>	<p>113.3.2 114 102.3 116 and 150.1.2 102.2 146 and 113.2.5</p>	<p>Alone Alone Alone Advice Alone Alone</p>
<p><b>PROPOSITION OF SUPPRESSION</b> of a house of a work</p>	<p>129 and 150.2.13 80.1 and 150.2.13</p>	<p>Consent Consent</p>
<p><b>PROVINCIAL ASSEMBLY</b> Convocation</p>	<p>150.1.5 and immediately after C 151</p>	<p>Advice</p>
<p><b>PROVINCIAL CHAPTER</b> definition and functioning</p>	<p>51 to 151.8</p>	<p>—</p>

PROVINCIAL CHAPTER determination of the opening date	150.2.18	Consent
PROVINCIAL COUNCIL definition and functioning collegial vote vote with the consent of the Council vote with the advice of the Council	148 to150.3 150.3 and note 2.4 appendix 150.2 and note 2.3 appendix 150.1 and note 2.2 appendix	— — — —
PROVINCIAL GOVERNMENT Articles of the Constitutions	143 and following	—
PROVINCIAL PLANS establishing	34.1, 85.1, 88.3, 94.1, 95.1 and 150.2.6	Consent
PUBLICATIONS permission given to the Brothers	147	Alone
READMISSION TO THE INSTITUTE request to the Superior General	113.9	Collegially
RECOGNITION OF A FRATERNITY OF THE CHAMPAGNAT MOVEMENT when and how to do so	(cf. Frat. Life Plan, 22)	Alone
RETREATS in the Province	73.2	Alone
SECTOR creation giving it a Statute, if it is judged opportune	143.3 150.2.20	Alone Consent
SEPARATION FROM THE INSTITUTE at the end of temporary profession dispensation of temporary or perpetual vows exclaustration dismissal of a Brother transfer of a Brother to another Institute transfer to diocesan clergy	116 116 117 117 (cf. V 31) 117 (cf. V 27)	— — — — — —

SPIRITUAL PATRIMONY knowledge and deepening	164.2	—
STATUTES of a District	127.1, 137.4.13 and 150.2.19	Consent
of a Sector	143.3 and 150.2.20	Consent
of several communities in the same house	150.2.15	Consent
SUFFRAGES FOR THE DECEASED increase	55.7	Alone
TEMPORAL GOODS local Economy	162 and 150.3.4	Collegially
approval of budgets	161.3 and 150.2.9	Consent
approval of Financial Report	161.4 and 150.2.9	Consent
authorised amount for the Province	158.1	—
capitalisation	159	—
Commission of Economic Affairs	161.2 and 150.2.5	Consent
employment of a lay professional	161.9 and 150.2.17	Consent
checking of accounts	161.5	Alone
establishment of an accounting system	161.5	—
discernment every three years	159.1 and 159.2	Collegially
alienation and acquiring	150.2.8	Consent
loans	161.11 and 150.2.8	Consent
surplus	162.4	—
Provincial, primary responsibility of administration	143	Alone
engaging a lay professional and competent people	161.2 and 150.2.17	Consent
use of goods, way of administering them and supervision	158	Alone
TESTAMENT modification	29.5	Alone
THOSE RESPONSIBLE FOR WORKS assignment	150.2.16 and immediately after C 154	Consent
appointments of directors and of economies	150.3.4	Collegially

TO LISTEN TO the Holy Spirit, as Mary the Brothers	120 52.1 and 122	— —
TRANSFER of a Brother to another Province	143.4	Alone
VISITS to Brothers, to houses of the Province once each year to the leaders of the local Church right to request minutes and deliberations	145 and 145.1 80.1 152.9 and 161.5	Alone Alone Alone
VOCATIONS plan for vocations and formation primary responsibility	95.1, 95.2 and 150.2.6 94.1	Consent —
VOWS admission anticipation of the 1 <sup>st</sup> profession up to 15 days anticipating perpetual profession up to 3 months approval of changes in the formula of profession of stability of a novice in danger of death dispensation from vows (indult to leave the Institute) written communication on the candidates for profession prolongation of temporary profession readmission to the Institute reception of the profession refusing a candidate to profession	113 and 150.2.1 (cf. c 649 §2) 113.3.2 114 170.1, 170.2 and 150.1.1 102.3 116 (cf. V 29 and 30) 113.5 and 165.1 113.7 113.9 146 and 113.2.5 116 and 150.1.2	Consent Alone Alone Alone Advice Alone Collegially Alone Advice
WRITTEN WARNING through pastoral concern	37.2 (cf. V 33)	Alone

## 4. Statutes of Juridical Persons

### *4.1 Statutes of Juridical Persons in Civil Law*

For a Province or a District to become juridical persons in civil law, one needs to have the approval of the Brother Superior General and his Council who, in their turn, must apply the corresponding civil statute (cf. C 155.1 and 137.4.12).

Since the XX General Chapter, the approval of the transformation of a work of the Province into a juridical person in civil law, as well as the application of the correlative statute, is up to the Brother Provincial and his Council (cf. C 155.1 and 150.2.16).

In any case, one must be careful that the creation of juridical persons involves no prejudice to the patrimony of the Institute or of the Province (cf. C 155.1).

The variety in the laws of various countries does not allow us to give precise instructions in this regard. Nevertheless, we must remember that while respecting the law of the country, we also have to follow the principles of Canon Law and the Proper Law of the Institute, in our management of works and administration of goods.

### *4.2 Statutes of a District*

The establishment, the modification or the suppression of Districts is a concern of the exclusive competence of the Brother Superior General and his Council (cf. C 137.4.1). There are Districts which depend directly on the Brother Superior General and others which are dependent on a Provincial. Each District is administered by a District Superior (cf. C 127).

In each case a Statute should be drawn up to specify some details, including, amongst others, the nomination and the competencies of the District Superior and his Council, the organs of government, the administration of goods and the rights and obligations of the Brothers as members of the Institute. The Statute must indicate if the District Superior is a member of



the General Conference or not (cf. General Conference immediately after C 142).

#### *4.3 Statutes of houses which depend directly on the General Administration*

Their immediate Major Superior is the Brother Superior General. Although they may not be juridical persons, they have a special Statute approved by the Brother Superior General (cf. C 129.2 and 137.4.13).

#### *4.4 Statutes of a Sector or of a house*

In order to facilitate the government of the Province, the Brother Provincial, with the consent of his Council, can, if he judges it necessary, draw up a Statute:

- for a Sector of his Province (cf. C 143.3 and 150.2.20).
- or for a house, when several communities live there (cf. C 150.2.15).

#### *4.5 Statutes for common works*

Provinces and Districts having common interests, such as formation, missionary or educational projects, or activities involving economic cooperation are free to work together and to draw up a Statute which will be presented to the Brother Superior General and his Council for approval if this statute contains points which are not clearly in conformity with our Constitutions (cf. C 125.1, 137.4.13 and 155.3).

#### **Procedure to be followed**

It is the Brother Superior General who approves in the final instance:

- any civil statute that involves the Institute, a Province, or a work.
- the Statute of each District.
- the Statutes of houses that depend directly on the General Administration
- other Statutes mentioned above which contain points which are not clearly in conformity with the Constitutions.

## 5. Norms of the Province (Approval)

The Proper Law of the Institute includes firstly and before all else, the Constitutions. Other elements of the Proper Law are contained in the Statutes, the Norms and the Rules of Procedure approved by the authorities of the Institute. We can cite in particular the Statutes, the Statutes of the General Chapter, the Rules of Procedure of the General Chapter, the Vademecum and the Formation Guide (cf. *The Proper Law and the Formation Guide* in the Acts of the XIX General Chapter and *Note 1* of the Appendix to the Constitutions).

The Norms of the Province, which the Provincial Chapter is to establish, allow each Province to determine certain aspects of our life in accordance with the culture and customs of a particular country. In this sense, they are also part of the Proper Law of the Province. In accordance with Statute 151.3, these norms are to be approved by the Brother Superior General and his Council and they include only the subjects that are expressed there.

According to our Proper Law, the Provincial Chapter can produce:

- a) The Norms of the Province about which we have just been speaking. These Norms come into effect after having received ***the approval of the Brother Superior General with the consent of his Council***. (They need to be sent to the General Council for approval and they come into effect only from the time they have been approved.)
- b) The Norms that are in force emanating from the ***authority of the Provincial Chapter***. (They are approved by the Chapter and do not require the approval of anybody else (cf. C 151.1.1-2, 151.1.4-5 and 151.1.3).
- c) Recommendations that in order to come into effect must be ***assumed by the Brother Provincial and his Council***. (To have the rank of Norms they must be approved by the Provincial Council (cf. C 85.1, 88.5, 150.2.6, 151.2 and many other subjects.)

**Procedure to be followed**

(Approval of the Norms of the Province)

The Brother Provincial presents to the Superior General and to his Council the Norms of the Province for their approval (cf. C 137.3.12).

The Norms of the Province that must be sent to the General Council for approval, after the holding of the Provincial Chapter, are those that are indicated in C 151.1.3.

To facilitate the communication with the General Council in view of requesting the approval of the Norms of the Province, one will use the form found in Annex 8.

### III. JURIDICAL QUESTIONS

#### A - NOVITIATE

##### 6. House (cf. c 647-649)

Only the Superior General, with the consent of his Council, has the authority for the establishment, transfer or suppression of a novitiate (cf. C 100, 137.3.2).

In particular cases and by way of exception, he can give permission for a novice to make his novitiate in another house of the Institute under the responsibility of an approved Brother who takes the place of the Master of Novices (cf. C 137.3.4).

In the case of the establishment of an interprovincial novitiate, the Brothers Provincial concerned must be in agreement about its functioning (cf. C 100.4) and anticipate who will assume the different responsibilities that are spoken about in the following numbers.

The Brother Provincial can authorise the group of novices to reside for a time in another house of the Institute (cf. C 100.2). If someone is absent from the group during this time, he is considered as “absent from the novitiate”.

##### 7. Admission

The postulant makes a justified request, in writing, to the Brother Provincial. A report from the formators is required (cf. C 96.9). It must be assured that he possesses the necessary qualities (cf. C 112). He must be a layman (cf. C 112.1). Canon Law establishes certain conditions that must be fulfilled before the admission to the novitiate and others that make the admission invalid (cf. c 643-645).

The favourable response of the Brother Provincial allows him to commence his novitiate (cf. C 96.9). You must not forget to send the form for the admission to the novitiate to the Secretary General (cf. C 113.8, V 63 and Annex 1).

## **8. Duration and absences**

In our Institute, the novitiate “lasts at least eighteen months or, at the most, twenty-four months” (C 100). The Formation Guide recommends having a duration as close as possible to two years (cf. Guide 238).

Each Province therefore has to specify the length of its novitiate and stipulate it in its Province Norms. The duration of the novitiate that is to be determined must be the sum of time that the novices will spend in the community of the novitiate (at least twelve months) and of planned periods of apostolic activity.

For the validity of the novitiate (cf. C 100) one must conform to the following conditions:

- a presence of twelve months in the community is required,
- the absence of more than fifteen days must be made up (an absence of less than fifteen days is thus tolerated),
- the absence from the house of the novitiate of more than three months, continuous or not, makes the novitiate invalid.
- the periods of apostolic activity do not count as an absence from the novitiate or as a presence in the community of the novitiate (cf. c 649 §1).

## **9. Prolongation**

If there is some doubt as to the suitability of a novice at the end of the novitiate, the time of the novitiate may be prolonged, but not for more than SIX additional months.

The Brother Provincial, after consulting his Council, is responsible for this prolongation (cf. C 100.3 and 150.1.3).

## **10. Periods of apostolic activity**

“With the consent of the Brother Provincial, the Master of Novices can organize one or more periods of apostolic activity outside the Novitiate house” (C 101).

These stages are made “under the direction of the Master of Novices” (C 101.2.3).

“At least six months are to be spent in the Novitiate before any apostolic activity is undertaken. This work must end at least three months before first profession” (C 101.1).

## **11. Direction of the Novitiate**

The Master of Novices is appointed by a collegial decision of the Brother Provincial and his Council (cf. C 150.3.4).

He must be at least ten years perpetually professed and free of any responsibility that would impede him in carrying out his task (cf. C 108.1).

## **12. Validity of the Novitiate** (conditions to be met)

At the start of the novitiate, he must be free from the impediments noted in c 643 §1:

- to have completed 17 years of age;
- not to be married;
- not to be a member of another Institute of Consecrated Life or of a Society of Apostolic Life;
- not to enter the Institute through the fact of violence, grave fear or deceit, nor to be admitted for these same reasons;
- not to have hidden his possible membership of an Institute of Consecrated Life or of a Society of Apostolic Life.

He must be admitted by the Brother Provincial (cf. C 112).

He must have accomplished what is established above as to the duration, absences and the house of the novitiate.

## **B - RELIGIOUS PROFESSION**

### **13. General observations**

Religious profession must be by public vows (cf. c 654). Vows are public when they are received by the legitimate Superior in the name of the Church (cf. c 1192 §1). Religious Profession is not restricted to the vows as such: it involves also a commitment to live according to Canon Law and the Proper Law of the Institute (cf. C 15).

### **14. Admission to First Profession**

The novice sends a letter requesting admission, written and justified, to the Brother Provincial three months before the end of the novitiate (cf. C 102.1 and 113.1).

For first profession to be valid, it is necessary:

- that the candidate is at least 18 years of age complete,
- that he has made a valid novitiate,
- that the Council has voted in favour (cf. C 150.2.1),
- that the Brother Provincial freely accepts his admission,
- that the admission has been approved by the Brother Superior General,
- that the profession is explicit and made without force, grave fear or deceit,
- that it is received by the Brother Provincial himself or his delegate.

### **15. Years of Temporary Profession**

- In our Institute, the period of temporary profession must not be less than four years (cf. C 113.3.2) and normally must not exceed six years (cf. c 655).
- In exceptional cases, the Brother Superior General may prolong the period of temporary profession to nine years (cf. c 657 §2).
- Beyond nine years, permission is given only by the Holy See.

#### **Note:**

In some cases it is necessary to prolong temporary profession beyond six years before admission to perpetual profession, so that the Brother can have at least two years apostolic experience in a Marist community (cf. C 113.4).

Although it is the Brother Superior General who grants this permission, the advice of the Brother Provincial is an important element, especially in certain cases. The object of the period of temporary profession is to lead the professed to a level of spiritual maturity that enables him to undertake a commitment for life. In some cases, prolonging the period of probation can help reach such maturity; in others, no. In some cases, the basic problem is indecision and merely prolonging the period of temporary profession may only reinforce the indecision.

It is important then, when making a request to the Brother Superior General, to give reasons why it is believed that prolonging the period of temporary profession will be beneficial. It is not sufficient to have the Brother himself write. The Brother Superior General will normally need the assistance of the Brother Provincial to determine the validity of the reasons presented. A letter from the Brother Provincial should accompany the request of the Brother himself.

In some cases, perhaps the best solution would be to advise the Brother not to renew his vows, and allow him some time of freedom, outside the Institute, but providing him with appropriate accompaniment. If, subsequently, he wants to re-enter the Institute, he can apply for re-admission (cf. V 32 and C 113.9).

## **16. Duration of the year of Vows**

Temporary profession is made for one or three years (cf. C 113).

If the vows are made “annually”, the year of temporary profession is generally calculated as the time from one annual retreat to the next (cf. C 113.6).

Please note well that there is no longer any provision for renewal of vows based on six-month or eighteen-month periods. If there is no “annual” retreat in the Province, then the Brother must renew his vows at the end of the time for which they were made.

There are inter-provincial novitiates where the Brothers make their first profession at dates very different from the date of the annual retreat of the Brothers of their respective Provinces. In these cases the novice might be advised to



make vows “to the next annual retreat”. In this way complications about duration of the “year of vows” might be avoided.

It often happens that Brothers who are due for Perpetual Profession make their retreat with the other Brothers at the usual time, but do not make profession until some later date. In these cases the Brothers renew their temporary profession for the period up till their perpetual profession. There is no provision for a simple prolongation of the profession. The profession must be renewed at the time of the annual retreat, as the year of vows lasts generally from one retreat to the next.

### **17. Admission to renewal of Vows**

- The Brother in temporary profession makes a request in writing, to the Brother Provincial, indicating his motivation for the request.
- The Brother Provincial seeks the advice of the Community to which the Brother is attached (cf. C 113.5 and 165.1).
- It is the Provincial Council that gives its agreement for the admission (cf. C 150.2.1).
- The Brother Provincial accepts the renewal of profession.
- EACH admission must ALSO be approved by the Brother Superior General.

#### **Important comments**

(renewal of temporary profession)

It is necessary to specify that:

- each admission to vows must be approved by the Brother Superior General. (Use Annexes 2-4.)
- to prolong the period of temporary profession of a Brother beyond six years, the Brother Provincial must write to the Brother Superior General, giving the reasons for it.
- if the Brother already has nine years of temporary profession, he will need an indult coming from the Holy See to prolong the time of profession.

### **18. Admission to Perpetual Profession** (cf. C 113.3)

Here are the conditions required for the validity of perpetual profession, as well as those that are for the first profession:

- the minimum age of 24 years completed,
- the temporary profession of a duration of at least four complete years.

A Brother must not be admitted to perpetual profession if he has not had at least two years of apostolic activity in a Marist community (cf. C 113.4). If this condition is lacking, the profession remains valid.

The Provincial Secretary must communicate the perpetual profession to the parish where the Brother was baptised, for this to appear in the Register of Baptisms (cf. c 535 § 2).

### **19. Anticipation of the date of Profession**

First profession should be made as soon as possible after the end of the novitiate. The Brother Provincial can anticipate the date by up to fifteen days (cf. c 649 § 2).

For perpetual profession he may anticipate the date by up to three months. (cf. C 113.3.2).

### **20. Authorisation to make the Vow of Stability** (cf. C 170)

The vow of stability is not provided for in the universal law of the Church. It finds its place only in the Institute's own law.

#### *Requirements:*

- at least ten years of perpetual profession,
- the Brother makes his request to the Brother Provincial,
- the Brother Provincial seeks the advice of his Council (cf. C 150.1.1),
- the Brother Provincial gives the authorisation,
- the authorisation is confirmed by the Brother Superior General.

## 21. Important remarks

The General Secretariat sends the forms for the admission to temporary profession, to perpetual profession and to the vow of stability (cf. Annexes 2-4) to the different Provincial Secretariats, with the directions for completing them. These forms must be returned by fast courier to the Brother Superior General, at least two months before the date planned for the profession, so that he can confirm the decision. In the same way, after each profession of vows, the acts of profession must be sent to the Brother Secretary General (cf. Annexes 5-7).

Each Province and each District must have a Register of Vows, which collects the signature of the Brothers who have made profession.

## 22. Convalidation

Canon Law uses the Latin word “*Sanatio*”: the English word for this is “validation” or, more correctly, “convalidation”.

In Canon Law the term is used only in reference to marriage (cf. c 1156-1165). It can be applied in an analogous way to the acts of a Superior who exceeds his powers, or the acts of an Econome who acts beyond his powers or without the requisite permission, and especially when there is some doubt about vows.

For the two first cases cf. V 49. For the moment, we are going to refer only to doubtful vows.

In the latter case, convalidation can validate the novitiate, temporary or perpetual profession when some requirement necessary for validity is lacking.

Each case would need to be studied separately, as there are many elements involved. In general, there are two types of “convalidation”:

### 22.1. *Simple convalidation*

This is possible if the impediment which caused the invalidation ceases or is dis-

pensed. In other words, what is lacking is made up. The person must renew the act that was invalid. “The convalidation” is effective from the date it is made.

### *22.2. Retroactive convalidation...” sanatio in radice”*

This involves a dispensation from the impediment, and/or from the canonical form required. It is not necessary that the person renew the act that was invalid, or even know about the process. It renders the act valid from the time it was authorised and restores us to the canonical effects at the time of the original invalid act. Only a competent authority can grant it. The competent authority, in the case of religious vows, is the Holy See.

#### **Procedure**

An admission to the novitiate or to profession carried out in an irregular manner is validated either by means of an indult of the Holy See, or a convalidation granted by the Brother Superior General and his Council, according to the case. It will be necessary to explain clearly the situation that has been created and in particular what was the irregularity committed. As well, the person responsible for the irregular step must request the convalidation of his conduct in writing, explaining why he was mistaken.

## **C - SEPARATION FROM THE INSTITUTE** (cf. C 115-117)

Separation from the Institute may occur in several ways:

- Absence,
- Exclaustation,
- Transfer to another Religious Institute,
- Transfer to a Secular Institute or to a Society of Apostolic Life,
- Transfer to the Diocesan Clergy,
- Separation at the end of the time of temporary profession,
- Indult to leave the Institute for a Brother in temporary vows,
- Indult to leave the Institute for a Brother in perpetual vows,
- Dismissal from the Institute.

### **23. Absence** (cf. c 665 § 1; C 61.1 and 150.2.2)

Community living is one of the distinguishing marks of religious life. Article 61 of our Constitutions expresses the obligation to live in community and to observe the common life according to the prescriptions of canon 665.

There do arise, however, just reasons for a Brother to spend some time outside a house of the Institute. For reasons of health, study or apostolate carried out in the name of the Institute, the Brother Provincial, with the consent of his Council, can give permission for as long as is necessary.

For other just reasons the Brother Provincial, with the consent of his Council, can give permission for one year of absence. Some such just reasons would be: to care for sick or elderly parents, the need to spend some time in a different environment, the need for a rest. There may be reasons arising from the Institute such as the examination of a new foundation, Institute business to be transacted, helping a special benefactor of the Institute. This absence of one year can be renewed, either for the same reason or for another valid one, after having obtained an indult from the Holy See, which can grant the time of absence necessary, if valid reasons are given.

Since such permissions require that the Brother Provincial has the consent of his Council, the request should be made in writing by the Brother and the reasons stated so that a proper judgement can be made.

It is important that a Brother to whom such permission is given should not feel himself separated from the Institute. He should be encouraged to participate in community or Province functions. Above all he should be followed up spiritually by the Brother Provincial or some other capable Brother.

Depending on the reasons for the absence, clear arrangements should also be made for the Brother's keep during his absence. If he is in receipt of a salary during his absence, details should be arranged for his practice of poverty.

Normally, a Brother on leave of absence from the community retains his active and passive voting rights.

Finally, if a Brother is absent from the house without permission he must be, “carefully sought out and helped to return and to persevere in his vocation” (c 665 §2). An unauthorised absence which lasts “for more than six months” is sufficient cause for sending a Brother away from the Institute (c 696 §1).

**Note:** “*Absence*” is granted to a Brother whose health, studies, or apostolate etc. require that he live outside of community. If it is decided that a Brother should separate from the community for some time, in the process of discerning a doubt about his vocation, he should seek “*exclaustration*”.

#### **24. Exclaustration** (cf. c 686-687, C 117, 117.1)

Exclaustration is a permission to live outside of the community with the suspension of certain rights and obligations that are incompatible with living outside the community. It represents a “partial separation” and is sometimes granted as the beginning of a complete separation. Exclaustration ought to be granted for a grave reason.

A Brother has neither active nor passive voice during the time of exclaustration.

The exclaustrated Brother must provide for his own needs. (cf. C 117.1).

*There are two types of exclaustration:*

##### *24.1. That requested by a Brother*

It is granted by the Brother Superior General, with the consent of his Council (cf. C 137.3.6).

The time limit for the Superior General is three years. To go beyond this time you must go to the Holy See.

Here are some reasons that justify exclaustration:

- difficulties in community,
- an experience of life outside the Institute, (in preparation for dispensation),
- to carry out an activity that does not fall within the scope of the Institute.

#### 24.2. *An imposed exclaustation*

In this case:

- there must be grave reasons, for example, community life problems,
- the request is made to the Holy See by the Brother Superior General with the consent of his Council.

This is a serious step that can be considered only when all else has failed. The Institute must see to it that the religious is capable of providing for himself. The Brother has the right to put his case to the Holy See before the exclaustation is imposed.

In the case of an imposed exclaustation, the Brother cannot return to live in community if the Holy See does not authorise this.

#### **Procedure to be followed**

(Exclaustation)

##### 1. *For exclaustation requested by a Brother, there must be:*

- a request from the Brother addressed to the Brother Superior General.
- a written report from the Brother Provincial and from his Council in which he gives his opinion on the appropriateness or not of granting exclaustation.
- the authorisation of the Brother Superior General with the consent of his Council.

##### 2. *For an imposed exclaustation:*

- Before commencing the process, the Brother Provincial should consult the Brother Superior General and obtain expert advice.

## **25. Transfer to another Religious Institute** (cf. c 684-685; C 117)

If a Brother finds that he is sincerely drawn to another Institute he should enter into a serious discernment together with his Brother Provincial to examine the situation of his present vocation. If, before God, he is convinced that he should no longer remain as a Marist Brother, he may request the necessary permission to transfer to another Institute.

Canon Law clearly states:

“Perpetually professed members cannot transfer from their own Religious Institute to another, except by permission of the Superiors General of both Institutes, given with the consent of their respective Councils” (c 684 § 1).

“On completion of the probationary period of THREE YEARS at least, the member can be admitted to perpetual profession in the new Institute. A member who refuses to make this profession, or is not permitted to do so by the competent superiors, is to return to the original Institute, unless an Indult of secularisation has been obtained” (c 684 § 2).

“The Institute’s own law is to determine the time and the manner of the probation which must precede the member’s profession in the new Institute” (c 684 § 4).

“Until profession is made in the new Institute, the rights and obligations of the member in the previous Institute are suspended, but the vows remain. From the beginning of probation, the member is bound to observe the laws of the new Institute” (c 685 §1). During this time, our Institute will not recognise any financial claims made as a result of accident, sickness or any other cause.

“By profession in the new Institute the member is incorporated into it and the earlier vows, rights and obligations cease” (c 685 § 2).

The above speaks of PROFESSION because it is a matter of transferring from one Institute to another in the first place.



Even if a Brother is to eventually be ordained to the priesthood, nothing further is required.

**Procedure to be followed**

(transfer to another religious Institute)

- The Brother Provincial helps the Brother to make a serious discernment.
- An official request is sent by the Brother to the Brother Superior General, to which is attached the notice of acceptance of the other Superior General.
- The Brother Provincial also sends his opinion and that of other competent persons.
- The Brother Superior General studies the request and makes a decision with the consent of his Council.

## **26. Transfer to a Secular Institute or a Society of Apostolic Life**

Canon Law says: “To transfer to a Secular Institute or to a Society of Apostolic Life, as for transferring from a secular Institute or from a Society of Apostolic Life to a religious Institute, permission is required from the Holy See whose mandates must be observed.” (c 684 §5 )

**Procedure to be followed**

(transfer to a Secular Institute or a Society of Apostolic Life)

The same preliminary steps are necessary to obtain the permission from the Superiors General concerned. When these are obtained, the matter can be handed over to the Brother Procurator General who will see to obtaining the necessary Indult from the Holy See.

## **27. Transfer to the Diocesan Clergy**

The present code of Canon Law provides for a variety of procedures to be followed when a Brother wishes, for grave reasons, to leave the Institute. Nothing specific, however, is mentioned for the case of a Brother who wishes to leave the Institute to become a diocesan priest.

While the General Chapter did make a decision that the introduction of the priesthood into the Institute was not accepted, it made no specific provision for a Brother leaving to become a diocesan priest.

The General Council, after seeking advice of competent persons, made a study of this question and on the 31<sup>st</sup> March 1987 it decided that it should apply the same provisions as the code envisages for a Religious priest who wishes to go to a diocese.

In practice this means that a Brother who, after serious discernment, considers that he should become a diocesan priest, must first obtain a written statement from a Bishop that he is prepared to accept him into his diocese.

Once he has obtained this assurance, the Brother will write to the Superior General asking the necessary indult to leave the Institute in order to become a priest in the said diocese. This request is to be accompanied by a letter from the Brother Provincial, as is the case for all Brothers who make the request to leave the Institute.

These two documents are to be sent by the Brother Provincial to the Brother Superior General who will forward them, with his advice and that of his Council, to the Holy See in order to obtain the necessary indult.

Should it happen, in the course of his studies, that the Brother and/or the Bishop find that, for some valid reason, he is not really called to the priesthood, the former Brother may request re-admission to the Institute. His re-admission will be considered by the Superior General in accordance with C 113.9 (cf. V 32).

**Procedure to be followed**  
(transfer to Diocesan Clergy)

If a Brother desires to become a diocesan priest, he must:

- make a serious discernment, helped by the Brother Provincial.
- request from the Brother Superior General the dispensation from his vows and include with his request the declaration of the Bishop who is willing to accept him into his diocese.

The Brother Provincial will send his opinion and that of competent people (cf. V 30).

The Brother Superior General studies the request and sends it to the Holy See.

**Comments on numbers 25-27:** During the time the transfer lasts, the Brother loses his rights and obligation regarding our Institute and we do not accept any financial claims caused by accident, sickness or for any other cause. An agreement, in writing, with the other Institute or Society of Apostolic Life will be necessary.

**28. Separation at the end of the period of Temporary Profession** (cf. C 116)

During the period of temporary profession, cases may be presented where a Brother finds, after prayer and reflection, that his vocation is not in the Institute. The competent authority can also arrive at this decision. In this case, the Brother will leave the Institute at the end of his temporary profession.

When the time of a temporary profession has expired, the religious is free to leave the Institute (cf. c 688 § 1). The canon does not require any degree of motivation - just, serious or grave. It is simply a matter of a free decision.

On the other hand, to exclude a person from continuing in the Institute at this stage, the Brother Provincial must have just reasons and must consult his Council before refusing admission to renewal of vows (cf. c 689 § 1).

*Two cases to be considered*

- a. An illness contracted even during the time of the novitiate or of temporary profession, that renders a person unsuitable for our particular type of religious life can be a reason for refusing admission (cf. c 689 § 2). An expert medical opinion should be sought. If the illness is due to negligence on the part of the Institute or due to work carried out in the Institute, one cannot refuse admission to vows.
- b. If a person in temporary profession becomes insane, an expert medical opinion is necessary. In this situation, the Brother can neither renew his profession nor be sent away (cf. c 689 § 3). He must remain in the care of the Institute.

**Note:** What does the expression “At the end of temporary profession” mean? The Brother is bound by his vows for the time for which he has made them (cf. C 113). For a just reason he could be given permission to live outside the community, but his vows would remain until the date on which he made them.

**29. Indult to leave the Institute: a Brother in Temporary Vows**

(cf. c 688 § 2 – C 116)

For a Brother in temporary vows to be able to obtain an indult to leave the Institute, there must be some serious reason. There is both a moral obligation to be faithful to the grace given and a juridical one, arising from profession. The first is a matter of conscience from which no one can dispense. The second can be dispensed by the Brother Superior General with the consent of his Council.

*Recommendations*

- a) In general it is better not to grant an indult to leave the Institute to a Brother in temporary vows unless it is absolutely necessary. Such a dispensation risks downgrading the religious commitment in the eyes of other members of the Institute.

- b) The Brother might be transferred to another community where he can better live out his commitment or, at least, where any impression of scandal is avoided.
- c) The Brother might be allowed a period of absence to live with his family. This would presume that he still has the support necessary to enable him to live out his vows, particularly his vow of chastity.

**Procedure to be followed**

(indult to leave the Institute while in temporary vows)

In the final analysis it may be decided that a dispensation is the only solution to avoid scandal or to prevent more serious harm. In this case the matter should be presented to the Brother Superior General for his decision and the process to follow is the same as for the dispensation from perpetual vows, except that the intervention of the Holy See is not required.

### **30. Indult to leave the Institute: A Brother in Perpetual Vows**

(cf. c 691 § 1 - C 116)

#### *30.1 Discernment of the Brother*

The first things that a Brother should do when he starts to think about the possibility of leaving the Institute is to weigh before God the reasons that he believes he has for doing this. The Brother needs to be helped to analyse the reasons, to verify them, to employ all the material, psychological and spiritual means, possible and accessible, that facilitate this discernment. Be that as it may, it is important that in the documentation that is sent to the General House, everything concerning this “pastoral accompaniment” of the Brother during the decision making process appears clearly.

#### *30.2 The dossier that the Brother Provincial must prepare*

In order to see the formalities through in view of obtaining an indult to leave

the Institute, it is necessary firstly to have the original request of the Brother. In his letter, he will need to mention clearly the “very grave reasons” (cf. c 691 § 1) for which he is requesting the indult. For reasons of conscience, the Brother can send his request directly to the Brother Superior General, but he must let the Brother Provincial know about this arrangement.

It is possible that the Brother Provincial does not know the Brother or the circumstances which surround the case sufficiently. For that, and to have different points of view, it is appropriate to send the opinion of other Brothers who know the Brother making the request rather well (formators, former Provincials, community Superior or confreres...).

The reports must be original, signed and dated. The letter from the Brother who is requesting the indult must be addressed to the Brother Superior General and indicate clearly the reasons for the request. The Brothers should also know that they are requesting “a favour” from the Congregation for Religious and that it is appropriate that the tone of the letter reflects the style of one who is requesting a favour.

The Congregation for Religious always requests the opinion of the Brother Provincial on the appropriateness or not of granting the indult. This opinion must appear clearly in the letter from the Brother Provincial.

### *30.3 Obtaining the indult from the Holy See*

It is not necessary that the Superior General and his Council give an opinion in favour of granting the Indult. They might well decide that the Brother does not have sufficient grounds for making the request, or that he has not taken all possible means to renew his religious spirit and persevere in his vocation.

Once the Brother Superior General and his Council have given an opinion in favour of granting the indult, the Brother Procurator General looks after the obtaining of the indult from the Holy See.

When the indult is granted, it is registered by the Brother Procurator General and sent to the Brother Provincial along with two papers, one for acceptance

and the other for refusal. The Brother Provincial or his delegate must hand the indult to the Brother with the two papers so that he signs one of them, and then sends the signed paper to the Brother Procurator General. It is recommended that a copy of the indult and the signed acceptance paper be kept at the Provincial Secretariat.

**Note:**

- a) If the Brother leaves without leaving his address and before his indult arrives, the Brother Provincial must then send a note to the last address of the Brother declaring that the request to leave the Institute made by the Brother has been granted and that, if someone knows where the Brother is living could they communicate this information. The note will remain posted for ten days, then it will be sent to the Procurator with a letter from the Brother Provincial.
- b) It can happen that a Brother regrets having requested to leave the Institute and, when the indult arrives, does not want to accept it. The Brother is not obliged to accept it. If he refuses it, he continues being a Brother and the indult loses all its effects. The Brother Provincial will then send the indult to the Brother Procurator General and will write a note to explain what has happened. When the indult has been refused, it is necessary to inform the Congregation for Religious.
- c) The indult produces all its effects unless the Brother concerned refuses it at the time it is presented to him. If the Brother does not sign either of the two papers, the indult produces its effects and the Brother concerned leaves the Institute. In this case, the Brother Provincial will send a letter to the Brother Procurator General to explain what has happened.

**Procedure to be followed**  
(to leave the Institute)

The Brother Provincial helps the Brother resolve his crisis or discern his vocation.

The Brother, once he has decided to leave the Institute, sends his request to the Brother Superior General, through the Brother Provincial. If he wishes to include matters which touch the internal forum of the conscience, the Brother is free to include these in a sealed envelope addressed to the Brother Superior General or to the Congregation for Religious.

The Brother Provincial will send to the Brother Superior General:

- a dossier that he will have produced on the life of the Brother, the discernment followed, and will clearly give his opinion on the appropriateness or not of granting the indult.
- reports from other Brothers who know the Brother concerned.

*The indult:*

- the Brother Procurator General will send it to the Brother Provincial,
- the Brother Provincial will assure that it reaches the Brother who has requested it, employing, if necessary, valid juridical means.

*Financial assistance to the Brother:* cf. V 61.4

### **31. Dismissal from the Institute (C 117)**

There are three types of dismissal:

- dismissal “ipso facto” - automatic,
- dismissal that is obligatory - no warnings are necessary,
- cases when a Brother “can be dismissed”.



31.1. Dismissal “*ipso facto*” (cf. c 694)

There are only two cases in which a Religious is considered dismissed “*ipso facto*”. No decree is necessary, but a copy of the relevant documents has to be sent to the Holy See:

- a) “Notorious” defection from the Catholic faith. “Notorious” implies that it is public, that is to say that the fact must be known, either because the Brother has made a verbal or written declaration, or because he has acted publicly rejecting the Catholic faith and joined another religion, by being ordained or taking an active part.
- b) One who contracts, or attempts to contract marriage, even a civil marriage. (Note that a Brother in perpetual profession cannot marry validly. Hence he can only “attempt” marriage. A Brother in temporary profession can marry validly, but the act is illicit, and he incurs the penalty of dismissal “*ipso facto*”, automatically.)

**Procedure to be followed**  
(for a dismissal “*ipso facto*”)

In these two cases, no decree is necessary, but the Brother Provincial must:

- Inform the Brother Superior General of the state of affairs and collect documentary evidence of the facts, for example a copy of the marriage certificate if it can be obtained or other documents signed or notarised, certificates or public notices, etc.
- Sign and seal a form that the Brother Procurator General will provide, in view of making a public declaration on the matter.
- Present the declaration to the Brother concerned, make it known to the Province and send a copy to the Brother Procurator General.

31.2. Dismissal is obligatory (cf. c 695) in the following cases:

- a) “who commits a homicide or who kidnaps, detains, mutilates, or gravely wounds a person by force” (c 1397)

- b) “who procures an abortion” (c 1398)
- c) who lives in concubinage or who commits public and scandalous faults against the sixth commandment (cf. c 1395 § 1)

Other faults against the sixth commandment committed with violence or threat, or publicly or with a minor less than 16 years of age (cf. c 1395 § 2) also incur obligatory dismissal, unless the Superior judges that the fault can be corrected, scandal avoided and justice restored by other means (cf. c 695 § 1).

“In these cases, after the proofs regarding the facts and imputability have been collected, the Major Superior is to make known the accusation and proofs to the member to be dismissed, giving the member the opportunity for self-defence. All the acts, signed by the Major Superior and a notary, together with the responses of the member, put in writing and signed by that member, are to be transmitted to the Superior General” (c 695 § 2).

When it is said that the dismissal is obligatory, that means that a warning does not have to be given to the Brother and that the Provincial and General Councillors, as the Brother Provincial and the Brother Superior General, are obliged to vote in favour of dismissal if the proofs collected demonstrate that the Brother concerned has committed the act of which he is accused and if he is responsible for it.

When we speak of proofs, we employ this word in the juridical sense, that is to say that one must necessarily present the pertinent written documents (notarised acts, signed declarations, documents having a public value, reports from professionals and experts, etc.) The confession signed by the Brother concerned is considered as a proof, but also the declarations of at least two witnesses to the fact. Testimonies on hearsay or opinions do not constitute a proof.

For a person to be responsible for an act (imputability), it is necessary that he be the material author of it and that he committed it in a free and conscious manner.

The notary about whom we are speaking for cases of dismissal is the ecclesiastic notary. The Provincial Secretary is a notary by his office. The Brother Provincial can appoint as many notaries for one of these cases as he wants. The notary must certify that all the documents are authentic, put in writing the declarations of the accused or even his confession, sign them and seal them. In all cases, the Brother Provincial will need to make the appointment of the notary in writing.

**Procedure to be followed**  
(for obligatory dismissal)

- The Brother Provincial informs the Brother Superior General of the fact and obtains the consent of his Council to start the procedure of dismissal (cf. C 150.2.3).
- The Brother Provincial appoints a notary for the case, collects the proofs, presents the accusation and the proofs to the Brother concerned and sends all of this to the Brother Superior General, appropriately signed and sealed.
- The Brother Superior General proceeds as in V 31.1

**Note:** See information on the right of appeal (cf. V 31.3.1.f).

*31.3. Dismissal for other causes (cf. c 696-700)*

The causes must be grave, external, imputable and juridically proven. A list of the causes is given in canon 696.1. Other offences are outlined in Canons 1364 to 1399. Some of these could apply to Religious and be serious enough to warrant dismissal.

Our own law does not specify any particular faults for which a Brother is to be dismissed. Cases we have experienced are, unlawful absence, and serious faults against the vows.

**Procedure to be followed**  
(dismissal from the Institute)

- Since it is always a very sensitive matter, it is important that the Provincial inform the Brother Superior General right at the outset, be advised by him and some canonical expert, and that he follow the procedures indicated here.
- The procedure is clearly outlined in Canons 697 to 700.

One can distinguish two levels: Provincial and General.

*31.3.1 Steps to be taken by the Brother Provincial in the case of a dismissal* (cf. c 697 and 698)

- a) In the first place, the Brother Provincial must obtain the consent of his Council to commence proceedings for the dismissal of a Brother (cf. C 150.2.3).
- b) He will appoint, in writing, a notary for the case (cf. V 31.2).
- c) He is to collect or complete all the evidence (cf. V 31.2).
- d) He is to warn the member in writing, or before two witnesses, with an explicit caution that dismissal will follow unless the member reforms. The reasons for dismissal are to be clearly expressed and the member is to be given every opportunity for defence. If the warning has no effect, another warning is to be given after an interval of at least fifteen days (cf. V 33).
- e) If this warning is also ineffectual, and the Brother Provincial with his Council judges that there is sufficient proof of incorrigibility, and that the defence by the member is insufficient, after fifteen days from the last warning have passed in vain, all the acts, signed by the Provincial and the notary who has written them, are to be forwarded, together with the signed replies of the member, to the Brother Superior General (cf. c 697 § 3).

- f) “In all the cases mentioned in canons 695 and 696, the right of the member to communicate with and to offer defences directly to the Superior General always remains intact” (c 698).

*31.3.2 Steps to be taken by the Brother Superior General in the case of a dismissal (cf. c 699 and 700)*

- a) “The Brother Superior General and his Council, which for the validity of the act must count at least four members, are to proceed in collegial fashion in accurately weighing the evidence, the arguments and the defence; and if by a secret vote it is decided to dismiss the religious, a decree of dismissal is to be drawn up by the Superior General, which in order to be valid must express, at least in summary form, the reasons in law and in fact” (c 699 § 1).
- b) It should be noted that the decree of dismissal has no effect unless it is confirmed by the Holy See, to whom the decree and all the acts are to be forwarded. For validity the decree must indicate the right of the person dismissed to have recourse to the competent authority (cf. c 700).
- c) The Brother has ten days from the date he receives the decree in which he may appeal to the Holy See. The recourse has a suspensive effect (cf. c 700).

**Note:** The conditions for dismissal are the same for those in temporary or perpetual profession. The causes for dismissal of one in temporary profession can be less serious (cf. c 695 § 2).

*31.4 Dismissal from a house*

“In the case of grave external scandal or of most grave imminent harm to the institute, a member can be expelled immediately from a religious house by the Major Superior or, if there is danger in delay, by the local Superior with the consent of the Council. If it is necessary, the Major Superior is to take care to begin a process of dismissal according to the norm of law or is to refer the matter to the Apostolic See” (c 703).

As can be seen in this canon, in reality it is not a matter of an expulsion from the house where the Brother concerned resides. It is a matter of an urgent measure to shelter the Institute from the case where it is necessary to be dissociated from the scandal given or to avoid serious harm.

If the Brother is already outside the house, there could be a declaration equivalent to a sending away, forbidding his return and stating that proceedings have been initiated against him, as provided for in the law of the Church.

In any way, the expulsion from the house is a temporary measure which allows for action with urgency faced with a grave danger. As soon as possible, it is necessary to treat the case as one of a normal dismissal or request the Holy See, through the Brother Superior General, to decide. The Holy See can decide on the readmission of the Brother concerned or impose on him an indult to leave the Institute, or opt for a forced exlaustration or any other measure.

**Procedure to be followed**  
(special case of dismissal)

If a Brother has been expelled from his house, it is necessary to look after the affair with urgency. The Brother Provincial must be well informed, inform the Brother Superior General and choose on of the following solutions:

- Readmit the Brother in his community or in another,
- Start the process in view of a dismissal (cf. V 31.1),
- Send the case to the Holy See, through the Brother Superior General, for the Holy See to decide.

## **D — READMISSION TO THE INSTITUTE**

### **32. Readmission of a Brother or of a novice**

It is the responsibility of the Brother Superior General with the consent of his Council to admit or re-admit to the Institute, without the obligation of re-mak-

ing the novitiate, any Brother in temporary or perpetual profession, who has legitimately left (cf. c 690 § 1 and C 113.9).

The Brother Provincial, with the consent of his Council, presents the request for admission or re-admission to the Brother Superior General.

At the same time as the Brother Superior General admits the person, he must fix the time of probation that the candidate must serve before being admitted to temporary profession and the number of years of temporary profession before being admitted to perpetual profession. He will bear in mind the number of years of profession, if any, already made (cf. c 690 § 1).

The Brother Provincial should suggest what he considers appropriate for the particular case of the applicant on the duration of the probation and on the number of years of temporary profession. The Brother Superior General will keep these suggestions in mind when he decides the details.

**Procedure to be followed**  
(readmission)

- The person concerned makes a request in writing to the Brother Provincial,
- The Brother Provincial, with the consent of his Council, accepts the request and sends it to the Brother Superior General,
- The Brother Superior General studies the request.

## **E — VARIOUS MATTERS**

### **33. Formal Warning**

In the normal exercise of his pastoral responsibilities, the Superior will, from time to time, have to ask a Brother to amend his conduct.

When it is a question of some grave fault, he should warn him in writing (cf. C 37.2).

The warning can make reference to a possible censure to be imposed on the Brother in the case that he does not reform his behaviour. One can consult a list of possible censures in canons 1336 and 1340.

In exceptional circumstances regarding possible cases of dismissal, the major superior can give “a warning in writing, or before two witnesses, with an explicit caution that dismissal will follow, unless the member reforms” (c 697 § 2).

The Brother always retains the right of appeal to the Brother Superior General (cf. c 698).

### **34. Formal Order**

This terminology which has become common with us is not found in Canon Law. The word used there is “precept”, and is provided for in Book 1 of the Code, Canon 49.

*A singular precept is:*

- a decree,
- given in writing,
- by which it is imposed, directly and legitimately,
- on a specific person or persons,
- to do or to omit something,
- especially to urge the observance of a law.

We should not associate the idea of a formal order only with the idea of sending a Brother away from the Institute. A formal order may be given in circumstances that are meant simply to strengthen the will of the person concerned.

Note: If the Brother to whom one wants to give a formal order and who has been duly called does not present himself or refuses to sign, a report will need to be formulated. From the juridical point of view, it is considered that the Brother has received the order (cf. c 56).



**Procedure to be followed**

(formal order)

A formal order must be given only in exceptional cases and it is the domain of a major Superior to give such orders (cf. C 37.1).

The Superior will take care:

- to furnish evidence of the seriousness of the situation (cf. c 50),
- to give the order in writing or verbally in front of a notary or two witnesses who sign the acts (cf. c 55),
- to explain the reasons for the decision (cf. c 51).

## IV. ADMINISTRATION OF TEMPORAL GOODS

### 35. Some general principles

The governing principle here is that the goods of the Institute constitute part of the goods of the Church and are to be administered according to its laws (cf. c 635). The laws governing goods of the Church are to be found in Book V of the Code of Canon Law and in the Canons 634 to 640.

The goods of the Institute can be classified as short term assets, investments and fixed assets.

The administration of short term assets and investments is done by the respective Brother Econome, according to the investment policies adopted by the Brother Superior General, or by the Brother Provincial, according to the case. This constitutes ordinary administration.

The administration of what constitutes the stable patrimony of the Institute is the domain of the Brother Provincial, in the limits established by Canon Law and of the amount authorised for a Province. At the level of the General Administration, permissions are requested, if necessary. This constitutes extraordinary administration (cf. C 155.2).

### 36. Principles of our Proper Law

- a) There are many elements involved in the term “administration”. Brothers should refer to Chapter 10 of the Constitutions and, for the Provinces, especially to Articles 156, 157, 158, and 159, for the general principles, and to Article 161 and its Statutes for what concerns the Province in particular. For the administration of the house, see Article 162 and its Statutes.
- b) The nature of the Institute, its spirit and its purpose must be taken into

account (cf. C 5, 16, 32, 33, 34). In all matters, we must safeguard the spirit and the fact of poverty. Our schools are instruments for an apostolate “to make Jesus Christ known and loved” (C 2), and should not be organised solely on an economic basis.

In the Institute, guided by a higher purpose, it is necessary that the particular character of religious poverty be safeguarded, defended and witnessed to. Pastoral concern and a conscience attuned to religious poverty are a part of the spiritual patrimony of the Institute and are an invitation to make our administration an effective instrument in the evangelical use of goods (cf. C 32, 34 and 35).

- c) According to our Proper Law, Provinces and Districts, as well as the Institute itself, may acquire property. A particular House cannot acquire property in its own name (cf. C 155). Only the Institute, the Provinces (and the Districts if their Statutes allow them) may augment capital (cf. C 159). Houses may neither possess nor alienate material goods (cf. C 155).
- d) Four characteristics of our administration of goods:
  - 1) CO-ORDINATED management throughout the Province or District (cf. C 161),
  - 2) SEPARATION of the accounts of the apostolic work and of the community (cf. C 162.2),
  - 3) PREPARATION of an annual budget (cf. C 160.6, 161.3 and 162.3),
  - 4) THE COMMUNITY SURPLUS is sent to the Provincial fund (cf. C 162.4).
- e) For us, it is not just a matter of maintaining standards of productivity and safeguarding goods. Obtaining the necessary approval does not, in itself, safeguard poverty (cf. C 32).
- f) Although the Brother Econome can carry out acts of administration within his power, he must remember that it is under the control of the respective Superior and his Council that he must act. In all cases of extraordinary expenditure he requires a specific permission (cf. C 157-158).

- g) In decisions with a financial dimension, attention must be paid to the advice of the Finance Committee (cf. C 161.2) which is appointed by the Brother Provincial with the consent of his Council (cf. C 150.2.5). This committee has the following functions:
- 1) Assists the Brother Bursar,
  - 2) Prepares a provisional budget (cf. C 161.3),
  - 3) Studies requests for permission with a financial dimension that are made to the Brother Provincial (cf. C 161.14).
- h) In order to protect the interests of the Institute, it is appropriate that the Institute, the Provinces and the Districts be juridic persons in civil law (cf. C 155.1).

### **37. Principal responsibilities of the Brother Econome of a Province or District**

**ADMINISTRATION - EXTRAORDINARY:** For the affairs concerning the administration of the stable patrimony of the Institute, he must have recourse to the Brother Provincial (cf. C 155.2).

**ADMINISTRATION - ORDINARY:** For the affairs concerning the administration of short term assets and investments, he can decide by himself, according to the investment policies adopted by the Brother Provincial (cf. C 155.2).

**APOSTOLATE:** He should be attentive to the apostolic ministry of the Brothers (cf. C 156 and 161.7), to the needs of the world and the poor (cf. C 159).

**ARCHIVES:** He sees to it that the titles to properties are valid in accordance with civil law. He should see that these titles are kept in a safe place as well as any documentation related to them. Documents relating to the foundation of houses are also to be preserved (cf. C 161.6.1-2).

**BUDGET:** He draws up the provisional budget for his Administrative Unit and submits it to the Brother Provincial or the District Superior (cf. C 161.3).

**COMMITTEE:** He convokes the Committee to develop the provisional budg-

ets and studies the requests for authorisations of a financial character presented by the Brother Provincial (cf. C 161.3 and 161.14).

**CONSTRUCTIONS:** As a rule, he supervises construction work (cf. C 161.13).

**DECISIONS:** He has the power to make his own decisions in the day to day matters of his administration (cf. C 157), that is to say in the administration of short term assets and investments.

**DOCUMENTS:** He keeps the approved books of accounts (cf. C 161.5).

**FINANCE REPORTS:** He presents them to the Brother Provincial and sends a copy to the Brother Econome General (cf. C 161.4) adopting the form established by the Brother Econome General (cf. C 161.10).

**GIFTS:** He ensures that the intentions of those who make gifts are respected in accord with civil law (cf. c 1299 § 2 and 1300). He can, within the limits fixed by his Superior, make gifts for pious purposes or Christian charity (cf. c 1285).

**JUSTICE:** He must observe the civil law in what concerns the employment of civilian personnel. He must pay a just wage, remembering that the law of the country is not always just in this regard (cf c 1286; C 156.2). If a loss is sustained by an Econome who acts in the name of the Institute and with the regular permissions, the Administrative Unit to which he belongs becomes responsible. If the Econome acts without the necessary permission, or if he acts in his own interests, he alone is responsible (cf. c 639 § 3, C 161.12).

**LOCAL ECONOMES:** He gives directives to local Economes (cf. C 161). He has the right of access to the account books and associated documents. He receives reports on their administration (cf. C 161.5).

**OBEDIENCE:** He carries out his role under the authority of his Superior and gives him an account of his administration (cf. C 158 and 161, c 1287). He must not engage in a civil court case on behalf of the Institute, the Province or a house without having obtained the written permission of the Brother Provincial, or if necessary, of the Brother Superior General (cf. c 1288).

**PATRIMONY:** He must preserve and maintain the value of the goods confided to his administration, within the limits of his authority (cf. C 159 and 161).

**SIGNATURES:** All accounts, whether in banks or elsewhere, must be accessible to more than one authorised person (cf. C 157.1).

### **38. Other responsibilities of the Province as to temporal matters**

ADMINISTRATION OF STABLE PATRIMONY (cf. C 155.2).

ALLOCATION OF REVENUE SURPLUS (cf. C 159.2).

CONTROL OF FINANCIAL TRANSACTIONS (cf. C 157.1).

EXTERNAL PROFESSIONALS (cf. C 161.2a).

JURIDIC PERSONS IN CIVIL LAW OF PROVINCES, DISTRICTS OR HOUSES (cf. C 155.1).

OUTSIDE AUDITOR FOR THE ACCOUNTS (cf. C 161.21).

PERIODIC REVISION OF THE INCREASE OF CAPITAL (cf. C 159.1).

REGISTER OF STABLE PATRIMONY (cf. C 155.2).

### **39. Reflection prior to a decision of a financial character**

When decisions of a financial character need to be made, it is desirable that the Province's Finance Committee, the Provincial Council and the Brother Provincial take into account the criteria emanating from our documents and the General Council.

It is especially recommended that the Criteria be consulted that appear in the Plan of Discernment for the Evangelical Use of Goods, approved by the Gen-

eral Council on the 5<sup>th</sup> February 2004 (cf. respective section in the Institute’s webpage).

#### **40. Acquiring Property**

1. Beyond giving a warning against luxury, excessive gain and the needless accumulation of goods (cf. c 634 § 2), the Church puts no restriction on the Institute’s acquiring of property. Brothers, however, must keep in mind our own spirit in this regard. While Father Champagnat was always attentive to the real needs of the Brothers, he was clearly opposed to anything that savoured of superfluity or gave even an appearance of being rich. Our Constitutions speak of revealing “the face of a Church that is poor and at the service of the people” (C 35) and remind us that “in what we buy, as in what we build, we are careful to preserve simplicity” (C 32.3).
2. For the Institute, that is to say, for the Brother Superior General and his Council, there is no limit set by the law of the Church or of the Institute. But for Provinces and Districts, a limit is set (the ceiling), and this is the amount they can spend without permission (cf. C 158.1, c 634 § 1). The Brother Provincial and his Council should set limits for what a House can spend without permission.

**Procedure to be followed**  
(acquiring property)

Before proceeding to acquire property, Provinces and Districts must submit the project to the Brother Superior General if the price involved exceeds the amount that can be spent without permission. They should supply all the details that appear in Annex 11 and send all the information requested.

The Brother Superior General will submit the matter to the study of the Finance Committee of the Institute (cf. C 160.5). Before giving permission for the project, the Brother Superior General must receive the consent of his Council. (cf. C 137.3.11).

#### **41. Alienation and change of property (Sale of property)**

- a) Before proceeding with the alienation of a property, the Provinces and the Districts must obtain the permission of the Brother Superior General if the price exceeds the maximum amount that can be spent without authorisation (cf. c 1291).

If a property is sold in sections, each request must indicate any other sections already sold (cf. c 1292 § 3).

- b) The price obtained for the sale must not be lower than what is stated in the evaluation (cf. c 1294 § 1). If there are special reasons to the contrary, they must be stated: (for example, because of its structural nature, a school building may not have the same commercial value as its estimated value. Such a building is often sold for “demolition only”, and so the price is much different from what might be expected if the building were to be used by the buyer).

It sometimes happens that the Brothers “hand over” a property to the local Church authorities, or even to a committee of parents, for a nominal sum. In such a case, the Holy See readily grants the necessary permission to sell the property for less than its commercial value. The same would apply to leasing a property for a nominal rent.

- c) In some cases a sale is effected by exchanging the property for another. This makes no difference to the nature of the act. The property is effectively alienated. It simply means that the payment is made in kind rather than in money. The same procedure is to be followed, and an official evaluation of the property being received would be necessary, to show how its value corresponds with that of the property being alienated.



**Procedure to be followed**

(alienation, sale)

For every sale or exchange of properties that exceeds the limit set for the Province or District, the permission of the Brother Superior General is required. It is necessary to following the indications that appear in Annex 12 and send all the information noted.

The Brother Superior General will submit the matter to the study of the Finance Committee of the Institute (cf. C 160.5). Before giving his agreement, he must receive the consent of his Council (cf. C 137.3.11).

If the sum exceeds the maximum amount fixed for the country, the Brother Procurator General will request the authorisation from the Holy See (cf. c 638 § 3).

## 42. Constructions

### *42.1 In general*

The 18<sup>th</sup> General Chapter decided that before proceeding with a construction, the Provinces and Districts must obtain the permission of the Brother Superior General if the price exceeds the maximum amount that can be spent without authorisation (cf. C 137.3.11). This is a serious responsibility which the Brother Provincial and his Council share with the Brother Superior General and his Council. Together they must see that everything is done in accordance with our Constitutions and the laws of the Church.

Our Constitutions indicate some criteria:

- The poverty and simplicity that is to characterise our approach to life, our style of living and our apostolic action (cf. C 32 and 167).
- Simplicity in what we buy and build (cf. C 32.1 and 32.3).
- Our lodgings must meet the needs of community living but in a way

that visibly reflects our poverty (cf. C 61).

- Before permitting any new construction, the Brother Provincial should make a detailed study to make sure that it is needed, to see the impact it would have on the social milieu and to see whether it meets the requirements of evangelical poverty (cf. C 161.13).

#### *42.2 Approval in principle*

Since putting up a building, envisaged for an apostolic work, requires the collaboration and approval of a number of people at different levels, it is necessary to have their approval in principle before proceeding with the details, which involve a fairly important expenditure even before the building begins.

The Brother Provincial and his Council can request an approval in principle when they consider that the nature of the project advises that, before spending large amounts of money, and assuring that the Brother Superior General and his Council in principle do not oppose the project.

In the cases where the project is complex due to the duration of the works, the cost or other causes of a social or legal kind, the Brother Superior General and his Council can also give an approval in principle, even if the Province has already requested a definitive approval.

An approval in principle is merely a preliminary survey. If the project proceeds, the definitive approval of the General Council is required.

#### **Procedure to be followed**

(constructions)

1. To obtain the approval in principle of the Brother Superior General and of his Council, it is necessary to follow the indications of Annex 13 and send all the documentation indicated.
2. For a construction whose cost exceeds the total fixed for the Province or the District, the permission of the Brother Superior General is re-

quired. It is necessary to follow the indications of Annex 11 and send all the documentation indicated.

The Brother Superior General will submit the matter to the study of the Finance Committee of the Institute (cf. C 160.5). Before giving his approval, he must receive the consent of his Council (cf. C 137.3.11).

Note: If the financial plan of the project anticipates a loan, another deliberation is necessary, which requests the permission to take out this loan, indicating the conditions. (cf. V 44)

#### **43. Maintenance of Properties**

Buildings and properties ought to be maintained in good order. What is done to MAINTAIN a building or property is ordinary expenditure. In a large college or similar apostolic work, that might involve expenditure beyond the limit set for the house or Province. It is, however, a recurrent expense, approved in the budget.

Nevertheless, when modifications are being made to buildings or property, those responsible should respect the limits which have been set. Such expenditure is extraordinary (cf. C 150.2.8).

#### **44. Borrowing and lending**

Actually, the request for a loan can prove to be an advantageous operation if one obtains the appropriate interest so that it is not a matter of using money placed in more profitable investments. However, the non-payment of the loan can cause harm to the patrimony of the Province; that is why these two operations are considered by Canon Law as alienations (cf. c 638 § 3).

**Procedure to be followed**  
(borrowing and lending)

Before taking out a loan, the Provinces and the Districts must obtain the permission of the Brother Superior General if the sum exceeds the maximum amount that can be spent without authorisation. It is necessary to follow the indications of Annex 14 and send all the documentation indicated (cf. C 161.11).

The Brother Superior General will submit the matter to the study of the Finance Committee of the Institute (cf. C 160.5). Before giving his approval, he must receive the consent of his Council (cf. C 137.3.11).

#### **45. Leasing of property**

There are no specific canons which refer to leasing a property. It is very important to engage an experienced lawyer to draw up a contract of lease. There are often hidden dangers in the laws of some countries, for example if the lease exceeds a certain time, which make it almost impossible to reclaim a property after a certain time, should it be required for the use of the Institute. In general, short term leases are safer.

When Provinces lease their property, the Brother Provincial and his Council are responsible for seeing that an appropriate rent is received. If, for example, a fee-paying school is rented to a Committee of parents, it would be normal to require rent.

#### **46. Contracts**

Except where it is in conflict with Canon Law, the civil law must be observed for all contracts (cf. c 1290).

The principal cases of contracts that we envisage are the following:

- a) Work contracts for civilian personnel come under ordinary administration. The same is true for insurance policies and social service agreements.
- b) Contracts governing the rights of authorship should be in accord with the civil law. C 29.7 regulates this in the case of a Brother.
- c) Contracts for buying, selling, loans - borrowing and lending - and any contract that involves financial arrangements that go beyond the amount fixed for a particular Administrative Unit come under the heading of EXTRAORDINARY administration, and the details of the contract should accompany the appropriate request for permission (cf. V 40, 41 and 44).
- d) Special contracts: It sometimes happens that a Province or District enters into a contract with a private organisation for the investment of money that would normally be put in a bank or invested in some company where civil law is necessarily respected. In these special circumstances, care should be taken to ensure that the contract is valid in civil law so that, should there be some problem, the matter can be taken up in the courts.

#### **47. Investments**

Investments exist at the General and Provincial levels. The Brother Econome is responsible for investments, which he manages under the direction of his particular superior. Superiors should not allow Economes to act alone in this matter (cf. C 159 and 159.1-2).

In principle, investments made on behalf of a Province do not require the permission of the Brother Superior General. However, if the funds are invested in the purchase of property or in construction projects, the permission of the Superior with the consent of his Council is required (cf. C 161.13-14 and 137.3.11).

#### **48. The foundation or suppression of a house or work**

In Canon Law (cf. c 608) the term HOUSE means the lawfully constituted

residence of a religious community, with an oratory, while in everyday language house does not necessarily imply a residence.

We understand by:

- to close a house: to withdraw the Brothers from it.
- to suppress a work of the Marist Brothers: to cease all participation of the Brothers in the work.

#### *48.1. Establishment of a work or house*

The establishment of a work or of a house is the responsibility of the Brother Provincial and his Council. Prior to this, it is necessary to obtain the written consent of the Diocesan Bishop (cf. c 609 § 1).

#### *48.2. Suppression of a work or closing a house*

The request to withdraw the Brothers from a work or to close a house is submitted to the Brother Superior General by the Brother Provincial with the consent of his Council, after consulting the Diocesan Bishop (cf. c 616 §1 and C 137.3.1; 150.2.13).

#### *48.3. The Novitiate house*

The Novitiate house is established by written decree of the Brother Superior General (cf. C 100).

The establishment, transfer and suppression of the Novitiate house are the responsibility of the Brother Superior General with the consent of his Council.

### **Procedure to be followed**

(house or work)

1. The establishment of a house is the responsibility of the Brother Provincial with the consent of his Council. It is necessary:
  - to obtain beforehand the written consent of the Diocesan Bishop and
  - to send the information to the General Secretariat.

2. The suppression or the closure of a community is the responsibility of the Brother Superior General with the consent of his Council. The Brother Provincial must send him the pertinent request, attaching to it:
  - the deliberation of the Provincial Council and
  - the advice of the Diocesan Bishop.
3. For the novitiate cf. V 6.

#### **49. Convalidation**

The acts of convalidation are necessary to repair an abuse when a decision has been made and make it valid.

In V 22, we spoke of the convalidation regarding the profession of vows. Here, we are speaking of the convalidation of actions committed by any person who has exceeded his powers in a juridical or financial sense.

In these cases, the Brother Provincial will ask the Brother Superior General to regularise, or convalidate, the action. To this effect, he will send:

- a) the dossier which should normally have been put together before the work in question,
- b) an explanation of the actions of the person who took the decision and exceeded his powers,
- c) a request for regularisation or convalidation, on the part of the Brother Provincial and his Council.

## V. GOVERNMENT

### 50. Elections

The following are the elections provided for by our Constitutions:

#### *50.1. General Level*

- a) Election of delegates to the General Chapter. The details will be given in the Circular of Convocation (cf. C 141-142),
- b) The election of the Brother Superior General (cf. C 131) and the Brother Vicar General (cf. C 133),
- c) The election of General Councillors:
  - At the General Chapter (cf. C 136),
  - Outside the General Chapter. There are two situations possible (cf. C 136.1 and 137.4.2).

#### *50.2. Provincial level*

- a) The election of delegates to the Provincial Chapter in accordance with the regulations for the particular Province (cf. C 151.3 and 151.4),
- b) The election of the Provincial Councillors by the Provincial Chapter (cf. C 149, 149.1 and 151.1.2),
- c) If a Provincial Councillor elected by the Provincial Chapter ceases to be a Provincial Councillor, if he is dismissed or of his resignation is accepted, it is the responsibility of the Brother Provincial, acting collegially with his Council, to elect his replacement (cf. C 153.1),
- d) The Brother Provincial is appointed by the Brother Superior General and his Council after a consultation of the Brothers (cf. C 144 and 144.1). In special cases he can be elected. If the Brother Superior General approves an election of a Brother Provincial, one follows what is indicated by C 144 and 144.2. In consultation with the Province, he will determine those who have the right to vote and any procedural aspects he considers advisable.



**Note:** In every election, it is appropriate to be precise about who has active and passive voting rights:

- \* active voting rights means that the person has the right to vote,
- \* passive voting rights means that the person is eligible for election.

### *50.3. Some procedural details*

The details for a canonical election are found in canons 164 to 179 inclusive. The following points may be helpful:

- a) If there is any doubt as to who is eligible or who has the right to vote, it is recommended that a written list be provided.
- b) Anyone who does not belong to the college or group has no right to vote. The election is invalidated if he votes. For example, the observers or those invited to a Chapter cannot take part in the elections.
- c) More than half the members must be present for an election to be valid.
- d) Unless special provisions are made, the election is decided by an absolute majority of those present. An absolute majority means the next full number following the half of those present, e.g. if there are 25 present the half is 12.5; the absolute majority is 13. If there are 26 present, the half is 13; the absolute majority is 14.
- e) When there is question of a postal vote, as in the case of members of a Chapter, “the number of members present” is the number of votes received by the date indicated.
- f) In elections, the President does not have a casting vote to break a tie.
- g) The rules of procedure should provide a method to break a tie, and also to limit the number of ballots (cf. c 119, C 131).
- h) When someone receives an absolute majority, the person concerned is informed and he must tell the President whether he accepts or not.
- i) In a direct election there is no provision for an eligible person to withdraw his name before the election.<sup>3</sup>

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<sup>3</sup> If the procedure provides for nominations to be made, from those eligible, before the election, then an eligible person may decline to be nominated. No-one should be placed on a nomination list without his approval (cf. c 159).

- j) When several persons are to be elected to form a Council, this is best done by electing them one at a time. This provides the electors with the possibility of electing individuals who complement one another.
- k) Our spirit on the question of accepting the office of Superior is expressed in Article 42 of our Constitutions. It was certainly the idea of Father Champagnat.

## **51. Consultation before the appointment of Superiors**

The Constitutions recommend that the Superior listen to and consult with the Brothers, to discover, with them, the will of God (cf. C 121 and 122). Consultation is obligatory before the appointment of a Provincial (cf. C 144), of the Superior of a District or Sector, or of a local superior (cf. c 625 §3 and C 150.3.3; 153). “Consultation” (that is to say “sondage”) should not be confused with “election”. After an election, the decision is reached according to a majority of votes. After a consultation, the decision is taken collegially by the appropriate Superior and Council.

Whether the consultation is taking place at the Province, District, or community level, it is a good idea that each Brother concerned be asked to give in writing, the names of those he considers most suited for the particular appointment, and the reasons why he proposes them. It is an important help to the Brothers being consulted and also to those who will have to analyse the results of the consultation, that the method chosen for the consultation be such as to encourage reflection, discernment, and docility to the inspiration of the Holy Spirit.

### *51.1. The Local Superior (cf. C 153)*

This Article leaves the consultation fairly open, saying that it should be “suitable”. This is a simple repetition of what c 625 § 3 says. When it is a matter of a first appointment, the Provincial can hardly consult the members of the community concerned, unless the community is already set up, which is not always the case. If there is question of a re-appointment, such a consultation of the community is more feasible.

On the other hand, nothing is said about the members of the community being the only ones to consult. It would be possible, for example, to consult the Brothers of the Province in order to establish a list from which Superiors could be chosen for local communities.

For his appointment, the Provincial must act collegially with his Council (cf. C 150.3.4).

### *51.2 A District Superior, or a Brother in charge of a Sector*

In this case, it is obviously the Brothers of the District or of the Sector who would be consulted.

It would be well to establish something of a method in the Statute of the District or Sector, even if it is only an application of C 144.1.

### *51.3 The Brothers Vicar Provincial*

The 20<sup>th</sup> General Chapter, in accordance with what is fixed in C 123.1 and 143.7, gave to the Provinces the possibility of appointing a Vicar Provincial.

The appointment of Brothers Vicar Provincials has as its aims:

- to make the animation and the government of the Province more effective,
- to develop new and more effective administrative structures,
- to develop a collegial direction of the Province.

The Brother Vicar Provincial is a Major Superior (cf. C 123.1). He substitutes the Brother Provincial and helps him in accordance with his directions.

In his appointment, domains can be established where he will be able to exercise his authority and responsibility, as for example, a given territory, a specific function, a specific group of Brothers, etc.

The duration of the mandate of the Brother Vicar Provincial is the same as that of the mandate of the Brother Provincial.

The initiative of appointing a Vicar Provincial in a Province is the responsibility of the Brother Provincial. The process to be followed is the following:

- a) To appoint one or several Brothers Vicar Provincial (cf. C 143.7), the Brother Provincial requests the authorisation from the Brother Superior General, using Annex 16.
- b) The approval of the request and the method to be followed are the responsibility of the Brother Superior General (cf. C 137.3.13) who grants it for the duration of the mandate of the Brother Provincial.

#### *51.4 The Brother Provincial* (cf. C 144)

“The way in which the consultation for the appointment is to be carried out is determined by the Brother Superior General” (cf. C 144.1). It is obligatory to consult all the Brothers of the Province (cf. C 144).

There are Provinces which prefer a consultation in two rounds. In the first consultation a list of eligible Brothers, those who belong to the Province and who have completed at least ten years of perpetual profession, is presented, and Brothers indicate their choice. In the second round the Brother Superior General proposes at least two Brothers who are willing to accept appointment if nominated.

#### **Procedure to be followed**

(Appointment of the Brother Provincial)

Six months before the end of his mandate, the Brother Provincial will communicate with the Brother Secretary General concerning appropriate dates to proceed with a consultation and suggestions as to how this might be done.

The Brother Secretary General will write to him setting out details of the correct procedure to be followed.

## 52. The Superior and his Council

There is a brief explanatory note at the end of the Constitutions on how a Superior is to act in relationship with his Council. The purpose of this text is to fill out the ideas of that note and explain it more fully. There is a great variety in practices, and not all are valid!

The confusion arises in part from the fact that often, we have membership of other groups whose Rules and Constitutions are different from ours. For example there are many Assemblies or Councils whose President is himself a member of the group and has the right to vote like all the other members. Sometimes the rules even allow the President a casting vote when the votes on a motion are equal.

The rule which we follow is quite different. We have a COUNCIL, which gives its advice to the Superior. For certain other acts, it has also to give its consent. The Superior is not a member of the Council. Superior and Council are two distinct entities. The Superior does not have a vote. There is no reason for him to have one.

There do exist, however, instances in which the two entities, Superior and Council, unite, and act collegially. As a rule, this is the case for elections, appointments, dismissals and the acceptance of resignations. In these cases, all the members of the Council Meeting (the Brother Provincial and the members of the Council) have the right to vote.

We will consider the different possibilities that can arise with respect to the Brother Provincial and his Council.

### *52.1. The Brother Provincial acts alone*

There are quite a few things for which the Provincial is personally responsible. In general these points are mentioned in C 143, 145-147 and their Statutes. Other points are found in V 3.

Often however, the Constitutions say the Provincial is responsible for a cer-

tain matter, e.g. Statute 34.1, but at the end of the Statute there is a reference to another Statute, in this case 150.2.6, where it is indicated that, in this matter, he does not act alone but with his Council. This brings out two important ideas:

- a) The Superior is the one ultimately responsible to perform the act or not. Even when he obtains the consent or advice of his Council on a given issue, it is the Superior who ultimately performs the act or not.
- b) The Superior in a Religious Institute is not, and must not act as, an absolute authority. There are times when his action is restrained and limited by advice and particularly by the consent of his Council. A Provincial, for example, may not, on his own, admit a person to the Institute (C.113), nor allow him to be absent for a long period (C. 61.1).

### *52.2. The Brother Provincial must consult his Council*

C 150 states the general rule and the following Statutes give examples of where such consultation is obligatory.

While it is not obligatory to convoke the Council for such a consultation, no member should be omitted. In principle, for the items mentioned in C 150.1, the consultation is best made at a Council meeting.

The c 127 § 2, 2 which treats juridical acts points out that, “the Superior is not in any way bound to accept their advice, even if it is unanimous, nevertheless without what is, in his judgement, an overriding reason, the Superior is not to act against their advice, especially if it is unanimous”.

Some time or other, for example, there may be a case in which a Provincial does not agree with the advice of his Council concerning the admission of someone to religious profession. The Council might have given its consent to the admission to profession, but the Provincial is convinced in conscience that he cannot accept the person. He has the right and the duty to follow his conscience.

### *52.3. The Brother Provincial must have the consent of his Council*

C 150.2 gives the list of matters where the Provincial cannot act without the consent of his Council. Consent is given when an absolute majority of the members of the Council are in favour. Such a vote is best given by secret ballot.

The following points are to be observed.

- The Superior does not vote, for he is seeking the consent of his Council.
- The absolute majority is the whole number following the half of the number of Councillors: e.g. if there are four Councillors, the absolute majority is three; if there are five councillors, the absolute majority is three.
- A divided vote does not give the consent of the Council and the Superior, in such a situation, does not have the right to resolve the question. It is as if there had been a negative vote.
- If the Brother Provincial considers it necessary, he can always allow a certain time to pass and present the matter again at another time.

### *52.4. The Brother Provincial acts collegially with his Council*

C 150.3 gives a list of items, elections, appointments, dismissals and the acceptance of resignations of people who have the responsibility of canonical or civil directions. In this case the Brother Provincial and his Council act like “an electoral college”.

This means that each one, including the Brother Provincial, has one vote. The person is chosen, or the decision made, by an absolute majority of those present. For example, if there is a Brother Provincial with a Council of four, the absolute majority is three. If it is a Brother Provincial with a Council of six, the absolute majority is four. Some method should be established beforehand to resolve the question where one must have recourse to supplementary ballots. (for example cf. C 131.3 or c 119, 1-2).

It is necessary, however, to make a distinction between

- \* *elections* (cf. C 150.3.1). In these cases, the Brother Provincial does not have the casting vote to resolve the cases of equal votes after arriving at the last planned ballot (cf. c 119, 1).
- \* and *all the other cases* (cf. C 150.3.2-5). In these cases, the Brother Provincial has a casting vote and by his vote can break the tie if there are equal votes after the last planned ballot (cf. c 119, 2).

## CONCLUSION

Such are the juridical aspects of this matter and some might seem unduly complicated. Nevertheless, we must observe Canon Law. At the same time, if we are clear on these points, we will avoid other complications. On evidence, most of our Councils try to reach consensus on important decisions. Whenever reasonable consensus has not been reached, however, it is wise to postpone important decisions.

### **53. The Local Superior: Term of Office**

It is a general principle which we find expressed in practice at all levels of government in the Institute, that the term of office of all Superiors is for a limited time. Also the lower the level of responsibility, the shorter the term of office.

In accordance with c 624 § 2 which states that, “Superiors constituted for a defined time do not continue in offices of governance for too long a period without an interval”, our Constitutions provide specifically for the number of times each Superior can be re-elected: (Superior General: C 113, Provincial: C 144, Local Superior: C 153).

In the case of the Local Superior, the fact that a third term is a matter to be approved by the Brother Superior General and his Council indicates that this



should be considered a matter of importance and quite exceptional. It should not be considered as an easy solution to a routine problem.

The fact that the local Superior should not be appointed at all without previous suitable consultation indicates the concern that a Brother Provincial should show towards the members of the community before choosing the one who is to lead them in their service of God.

The fact that the Superior should not be re-appointed consecutively too often (cf. C 153.1), is evidence of the concern that the Brother Provincial should show for the person of the Superior himself.

The welfare of the community depends to a great extent on the Superior. C 109.2 puts a responsibility on the Brother Provincial to see that the local Superiors are provided with the formation required to fulfil their function. After some years of exercising that function, it would be well to see to their ongoing formation. This is one reason behind the provision that they should not be re-appointed indefinitely.

**Procedure to be followed**  
(Local Superior, 3<sup>rd</sup> Mandate)

For a third consecutive mandate as Superior in the same house, the authorisation of the Brother Superior General is required. The Brother Provincial and his Council will seek this approval by providing the report of a deliberation on the standard form (use Annex 10).

#### **54. Brothers responsible for a work of the Institute**

The government and apostolic animation of works should be adapted to the principles indicated in the Constitutions. Here are some:

- The Brother Provincial has the primary responsibility for the spiritual and apostolic animation of the Province and for the administration of

Province resources (cf. C 143). Collegially with his Council, he appoints the Directors and the Economes of works belonging to us.

- Engaged in schools or in other forms of education, we put our heart and soul into serving the human person for the sake of the Kingdom (cf. C 85).
- The Brother in charge of a work is the animator of the apostolic spirit of the work according to the charism of Marcellin Champagnat and our Constitutions (cf. C 87 and immediately after C 154).

The Brother Provincial and his Council should indicate precisely (cf. C 150.2.16 and immediately after C 154):

- the objectives of any apostolic work, and its extent,
- the animation team,
- the competence of each of its members,
- the duration of their mandate, taking into account that in these cases the rule planned for the Superiors and Economes of communities is not applied,
- the degree of responsibility of each for the accomplishment of his commitments.

Periodically, they should review and evaluate the adaptation of the work to the calls of the Church and to the needs of young people (cf. C 168).

## **55. Affiliation to the Institute**

Our Institute, in addition to Brothers, comprises also affiliated members who share fully in its life, as members of a religious family (cf. C 8).

The Province which has had them affiliated should keep contact with affiliated members and invite them to participate in significant events in the life of the Province and of the Institute.

It should also help them to grow in their Christian life and support them in their apostolic endeavours.

### *55.1 Conditions*

To be an affiliated member of the Institute the person chosen must:

- lead an exemplary Christian life,
- adhere to the charism and to the mission of the Institute,
- show outstanding attachment to the Institute.

Affiliation is granted to men and women who have been devoted in a remarkable and prolonged way to supporting the mission and the life of the Institute and who give an authentic Christian life witness. Thus, this affiliation should not be offered to too many people. In many cases, recognition at the Provincial level proves to be more appropriate<sup>4</sup>.

### *55.2. Procedure*

Following a proposal by a community or by the Province, the Brother Provincial, with the consent of his Council, makes a well-founded request to the Brother Superior General, forwarding with it the Registration Form (cf. Annex 17).

To safeguard the liberty of the decision of the Brother Superior General, it is necessary that the person for whom these steps are being taken in view of affiliation remains unaware of what is happening.

After having received confirmation of the acceptance of the request, the Brother Provincial communicates it to the person concerned and asks him or her to accept it. If the person accepts the affiliation, the Brother Provincial asks the Secretary General to prepare a diploma giving him a suggested wording of the text. This diploma will be returned to him duly signed and carrying the seal of the Institute.

### *55.3. Relationship with the General Government*

The Brother Provincial should communicate to the Brother Secretary Gener-

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<sup>4</sup> A Province can envisage a public recognition for whom it desires, including affiliating a person to the Province. Affiliation to the Province does not need to be communicated to the General Administration.

al, without delay, the important events which occur in the life of an affiliated member. Above all, when an affiliated member dies, the Brother Provincial should inform the General Secretariat of that fact and of the date of decease.

**Procedure to be followed**  
(affiliation to the Institute)

The request for affiliation must include:

- the well-founded request of the Brother Provincial,
- the deliberation of the Provincial Council (Annex 10),
- the completed Registration Form (Annex 17).

**Note:** Regarding the diploma, cf. V 55.2.

## 56. Transfer of a Brother

The transfer of a Brother may be temporary or permanent (cf. C 143.4).

Transfers can only be made between Provinces. If it concerns a transfer to a District or from a District that depends directly on the Brother Superior General, the corresponding Major Superior is the Brother Superior General himself.

### *56.1. Temporary Transfer*

Temporary transfer responds to various reasons, including: personal reasons, collaboration in solidarity projects, evangelisation and education, sharing and solidarity, collaboration with interprovincial formation centres, etc.

In all cases there should be a written agreement between the parties concerned. The agreement should also be signed by the Brother. If the Brother himself initiates the transfer, there should be a letter to his Brother Provincial making the request.

The agreement should stipulate, amongst other things, the duration of the

agreement, holidays and family visits, economic responsibilities, the name of the Province in which the Brother is to exercise active and passive voting rights for any elections or nominations.

As for the General Chapter, the Brother exercises his active and passive voting rights in his Province of origin. He is to figure on the list that is made up on the date of the Circular of Convocation (cf. C 141 and 142).

### *56.2. Permanent transfer*

A permanent transfer is usually preceded by some years of temporary transfer. Confirmation by the Superior General is required.

**Procedure to be followed**  
(transfer)

1. *For a temporary transfer*, it is necessary to have a written agreement signed by the Brother and the two Major Superiors.
2. *For a permanent transfer*, it is necessary to have:
  - the request coming from the Brother concerned,
  - the approval of the Brother Provincial of his Province of origin,
  - the acceptance of the Brother Provincial of the Province the Brother wants to transfer to,
  - the confirmation of the Brother Superior General (cf. C 143.4).

## **57. Brothers on loan to the General Administration**

### *57.1. The Brothers concerned*

Certain communities depend directly on the General Administration. The Brothers who form these communities have as their immediate Major Superior, the Brother Superior General. They are said to be “on loan” to the General Administration (cf. C 129.3).

### *57.2. Their Rights*

These Brothers continue to be members of their Province. They have active and passive voting rights in the consultation for the appointment of the Brother Provincial. During their time of service to the General Administration, they do not have a passive voice in any other election occurring in their Province. The Brother Provincial may ask that exceptions be made, and these will be submitted to the decision of the Brother Superior General (cf. C 129.3; 137).

### *57.3. Their contract*

These Brothers are chosen by the Brother Superior General and his Council, in consultation with the Brothers Provincial (cf. C 137.4.4; 137.5.4).

The precise arrangements of the appointment of a Brother “on loan” to the General Administration are contained in a written contract between the Brother Superior General and the Brother Provincial. This contract is also witnessed by the Brother Secretary General and the Brother “on loan”. Normally such an appointment lasts for three years and is renewable.

The contract document is prepared by the Brother Secretary General.

#### **Procedure to be followed**

(Brothers on loan)

- The Brother Secretary General sends to the Brother Provincial several copies, signed by him and by the Brother Superior General.
- The Brother Provincial adds his signature to the contract and sends it to the Brother concerned.
- The Brother concerned also signs the contract, keeping a copy and returning the rest to the Brother Secretary General.

## **58. Maximum authorised amount**

For the sale or purchase of property, for constructions or refurbishments, for

borrowing and lending, there exists a maximum amount that the Province can spend without requesting authorisation from the Brother Superior General and from his Council (cf. C 137.4.10 and 150.2.8).

The conditions vary a great deal from one country to another. The General Council will establish the quantity, taking into account geographical and economic situations (cf. Annex 15).

There are three types of decision that require the authorisation of the Superior General and Council:

- a) The sale of property. If the amount determined by the Holy See for each country is exceeded, it is necessary to request authorisation from the Holy See.
- b) Constructions, purchases, refurbishments.
- c) Borrowing or lending.

## **59. Financing of the General Administration**

### *59.1. Origin of resources*

The financial resources of the General Administration essentially come from:

- the Per Capita. This mode of financing was initiated by the General Chapter of 1977. It is the annual contribution that the General Council fixes for each Province. The calculation of the Per Capita depends on the number of the Brothers belonging to the Province on the 31<sup>st</sup> December of the preceding year.
- the profitability of its own resources, that is to say the goods that belong to the General Administration.
- the voluntary contributions of the Provinces in view of promoting the solidarity of the Institute and of providing for needs caused by special situations.

### 59.2. *Destination of the funds*

The resources of the General Administration are essentially destined to:

- Finance the activities that the General Administration carries out in the service of the Institute.
- Assure the solidarity ad intra in the Institute, that is to say the annual amount that the General Administration uses for the financing of activities of Provinces in need (special projects, help given to Provincial budgets, formation...).
- Create the Institute's Solidarity Fund with the annual voluntary contributions from the Provinces. With this fund, the solidarity ad intra and other solidarity projects approved by the General Council are financed.

## 60. Personal Goods: Will

Juridic acts concerning PERSONAL GOODS are often a source of difficulty for the Brothers. The Brother Provincial should see that all are well informed on those matters which are treated in the Constitutions in Article 29.

### *Reminders:*

- A Brother retains the ownership of his goods, the right to acquire more, and to add to his possessions the profits accruing from them (cf. C 29). In the case where a novice or Brother possesses goods, one must proceed as follows:
- Before profession, the novice must cede the administration of his goods (cf. C 29.3).
- Before perpetual profession, or when a Brother possesses some goods, he must make a will that is valid in civil law (cf. C 29.4).
- To change these arrangements, the permission of the Brother Provincial is required (cf. C 29.5).
- After ten years of perpetual profession, a Brother may renounce his possessions (cf. C 29.8).



**Procedure to be followed**  
(to renounce patrimony)

- The Brother makes a request to the Brother Provincial.
- The Brother Provincial, after consulting his Council, forwards the request to the Brother Superior General, with whom the final decision rests (cf. C 29.8, 150.1.4).

**61. Assistance to those who have left the Institute** (cf. C 117.2)

*61.1. The Effects of the Indult*

The Indult to leave the Institute, as well as the Decree of Sending away, carries with it the dispensation from vows and the cessation of all obligations, spiritual or temporal, that arise from the person's membership of the Institute. The person is completely separated from the Institute, with all that this implies. He is no different from someone who has never been a member of the Institute. This is clearly stated in Canon 702 § 1.

*61.2. Equity and Evangelical Charity*

In Canon 702 § 2, however, we are reminded that we are to treat those Brothers with, "equity and evangelical charity". C 117.2, which is based on this Canon, says that we must help them, "materially and spiritually to establish themselves in their new way of life".

*61.3. A Brother's Personal Goods and what belongs to the Institute*

We should make clear during the period of formation, and even remind Brothers from time to time, that everything they earn and everything that comes to them as members of the Institute, from whatever source, excepting only inheritance, belongs to the Institute. When they are separated from the Institute they have no claim whatever on such income (cf. C 117.2, which translates C 702 § 1).

In the first place, a Brother's personal property should be returned to him if it is in the hands of the Institute. In all cases, any deed of cession concerning such property is to be returned to the Brother.

If he is entitled to a personal pension, any entitlement to this held by the Institute should be handed over to the Brother. Likewise, his will should be returned to him.

#### *61.4. Material Help*

After these matters which apply to all, each case needs to be considered with equity. A young man who leaves, equipped with his degree and good prospects of employment, needs less financial help than one who leaves later in life with less chance of immediate employment. As it is not possible to give any definite rules in this matter, the following might serve as a guide.

- In each country, Provinces could establish general criteria to arrive at a just arrangement. Some calculate something on an average annual salary of a teacher. Others provide loans.
- Much depends on the financial status of the Province itself. Those who are separated from us cannot, "in equity", expect to be treated over generously if those who remain are living in real poverty.
- The question of Social Security needs to be kept in mind. In some countries it is possible to "buy up" a certain number of years of insurance that have not been formerly paid. One who is separated from us is at a distinct disadvantage if he cannot do this. Provinces are advised to foresee this by establishing a fund to cover this eventuality (cf. C 161.8).

#### *61.5. Spiritual Aid*

The help that such people need goes beyond merely economic aid. They need moral support to help them insert into a new way of life. Charity of this type

must be harmonised with what is due also to the Institute. Customs and attitudes vary greatly according to the culture of the country. We should be guided rather by Gospel values. It is not for us to judge people, but we do have an obligation of charity towards all and of support for those in real need.

## **VI. DOCUMENTS TO BE SENT TO THE GENERAL ADMINISTRATION**

The Brother Provincial ensures that the different documents required by the General Administration are sent at the time indicated (cf. C 143.6).

The documents that are sent to the General Administration must be originals. In urgent cases, the use of a fax or e-mail can speed up the process, but this does not remove the need to send the original documents by mail.

### **62. To the Brother Superior General**

1. Request for an indult to leave the Institute.
2. Request for exlaustration.
3. Dossier for the dismissal of a Brother.
4. Information about possible irregular situations of Brothers of the Province.
5. Request for the appointment of Vicar Provincials (cf. Annex 16).

### **63. To the Brother Secretary General**

1. Admission to the Novitiate (cf. Annex 1).
2. Admission to vows (First profession, renewals, perpetual profession, vow of stability) for approval, two months before the planned date (cf. Annexes 2-4).
3. The account of each profession (cf. Annexes 5-7).
4. Information about the Provincial Chapter and the form for the approval of the Norms of the Province (cf. Annex 8).
5. Information of the death of a Brother or an affiliated member.
6. Replies to the sondage for the appointment of the Brother Provincial following the mode approved by the Brother Superior General.
7. Deliberations of the Provincial Council in all those cases in which a de-

- cision of the Provincial Council needs the approval of the Brother Superior General and his Council (cf. Annex 10).
8. Dossiers for the authorisation of sales, purchases, constructions, refurbishments and loans, as well as the respective requests in principle (cf. Annexes 11-14).
  9. The situation of the Province and statistics at the 31st December of each year, following the indications of the General Secretariat.
    - The list of all the Brothers of the Province who live in the Province, by communities, indicating the function of each one.
    - The list of the Brothers of the Province who are living outside the Province.
    - The list of the Brothers belonging to other Provinces who live in the Province.
    - The list of the Brothers who have left the Institute or who have died.
    - The list of current novices.
    - The list of novices who left during the year.
    - The distribution of Brothers by countries of origin.
  10. A short history of the Province for the year that has passed by (Annals), following the indications of the General Secretariat.
  11. Publications of the Province: magazines, bulletins, etc.
  12. Responses to different questionnaires requested.

#### **64. To the Brother Econome General**

The Brother Provincial Econome will send these documents to the Brother Econome General:

1. The annual Financial Report, adopting the form fixed by the Brother Econome General (cf. C 161.4).
2. The response to enquiries that the Brother Econome General will make.

#### **65. To the Brother Procurator General**

The written proof of the delivery, acceptance or refusal of any dispensation from vows and the documentation that the Brother Procurator General requests regarding possible cases of dismissal or other irregular situations of Brothers of the Province.

**Annex 1**

**ADMISSION TO THE NOVITIATE**

<p><b>PROVINCE:</b> ..... <b>DISTRICT:</b> .....</p> <p>Novitiate: .....</p> <p>Address: .....</p> <p>City: ..... Country: .....</p>	<p>Identity photo (passport type)</p>
--	---

> Attach a photocopy of an official identity document and two photos

<p><b>FAMILY NAME(S):</b> .....</p> <p><b>CHRISTIAN NAME(S):</b> .....</p> <p><b>CURRENT NAME:</b> .....</p> <p><b>PLACE OF BIRTH:</b></p> <p>Town/City/Civil Centre: ..... Province/State: .....</p> <p>Country: ..... Current nationality: .....</p> <p>Date of birth (day / month / year): .....</p> <p><b>PARENTS:</b></p> <p>Father's Family name(s): .....</p> <p>Father's Christian name: .....</p> <p>Mother's Family name(s): .....</p> <p>Mother's Christian name: .....</p>
--

<p><b>BAPTISM:</b> ..... Date (dd-mm-yyyy): .....</p> <p>Parish: ..... Diocese: .....</p> <p><b>CONFIRMATION:</b> ..... Date (dd-mm-yyyy): .....</p> <p>Parish: ..... Diocese: .....</p>
--

<p><b>POSTULANCY:</b> Place: ..... Duration: .....</p> <p><b>NOVITIATE:</b> Official date of admission (dd-mm-yyyy): .....</p>
--

*Signature of the Brother Master of Novices*

## ADMISSION TO TEMPORARY PROFESSION



**PROVINCIAL COUNCIL OF:** ..... **DATE OF MEETING:** .....

The Brother Provincial, having obtained the consent of his Council, in accordance with Article 113 of the Constitutions, admits the following brothers to Temporary Profession and respectfully submits this admission to the Brother Superior General.

### Annex 2

LAST NAME(S)	CHRISTIAN NAME(S)	DATE First profession	DATE start of novitiate or last profession	DATE of the future profession (day, month, year)	VOTES in favour	OBSERVATIONS

SIGNATURE of the Provincial and at least one Councillor	Acceptance by the Superior General
---	------------------------------------

This sheet, signed by the Provincial and at least one Councillor, must be sent to the Brother Secretary General at least two months before the Profession.



## ADMISSION TO PERPETUAL PROFESSION

**PROVINCIAL COUNCIL OF:** ..... **DATE OF MEETING:** .....

The Brother Provincial, having obtained the consent of his Council, in accordance with Article 113 of the Constitutions, admits the following brothers to Perpetual Profession and respectfully submits this admission to the Brother Superior General.

### Annex 3

LAST NAME(S)	CHRISTIAN NAME(S)	DATE First profession	DATE last temporary profession	DATE of the future profession (day, month, year)	VOTES in favour	OBSERVATIONS

SIGNATURE of the Provincial and at least one Councillor	Acceptance by the Superior General
---	------------------------------------

This sheet, signed by the Provincial and at least one Councillor, must be sent to the Brother Secretary General at least two months before the Profession..



**Annex 4**

**ADMISSION TO THE VOW OF STABILITY**



PROVINCIAL COUNCIL OF: ..... DATE OF MEETING: .....

The Brother Provincial, after having consulted his Council, in accordance with Statute 150.1.1., authorises the following brothers to make the vow of stability, and respectfully submits this admission to the Brother Superior General.

LASTNAME(S)	CHRISTIAN NAME(S)	DATE of making the vow of stability	DATE of the future ceremony (day, month, year)	REMARKS

SIGNATURE of the Provincial and at least one Councillor

Acceptance by the Superior General

This sheet, signed by the Provincial and at least one Councillor, must be sent to the Brother Secretary General at least two months before the Profession..



# ACCOUNT OF TEMPORARY PROFESSION

PROVINCE: ..... DISTRICT: .....

DATE OF THE PROFESSION CEREMONY: .....

The ACCOUNT of each profession must be sent, without delay, to the General Secretariat (Constitutions 113.8)

## Annex 5

LAST NAME(S)	CHRISTIAN NAME(S)	DATE of the approval by the Brother Superior General	SIGNATURE OF THE BROTHERS WHO PROFESSED THEIR VOWS

NAME and SIGNATURE of the Brother who received the vows

NAME and SIGNATURE of the Celebrant

# ACCOUNT OF PERPETUAL PROFESSION


 PROVINCE: ..... DISTRICT: .....

**DATE OF THE PROFESSION CEREMONY:** .....  
 The ACCOUNT of each profession must be sent, **without delay**, to the General Secretariat (Constitutions 113.8)

## Annex 6

LAST NAME(S)	CHRISTIAN NAME(S)	DATE of the approval by the Brother Superior General	SIGNATURE OF THE BROTHERS WHO PROFESSED THEIR VOWS

NAME and SIGNATURE of the Brother who received the vows	NAME and SIGNATURE of the Celebrant
---	-------------------------------------



**ACCOUNT OF THE VOW OF STABILITY**

**PROVINCE:** ..... **DISTRICT:** .....

**DATE OF THE PROFESSION CEREMONY:** .....

The ACCOUNT of each ceremony must be sent, without delay, to the General Secretariat (Constitutions 113.8)

**Annex 7**

LAST NAME(S)	CHRISTIAN NAME(S)	DATE of the approval by the Brother Superior General	SIGNATURE OF THE BROTHERS WHO MADE THEIR VOWS

NAME and SIGNATURE of the Brother who received the vows

NAME and SIGNATURE of the Celebrant

## Annex 8

# FORM FOR PRESENTING THE NORMS OF THE PROVINCE

Constitutions and Statutes	Norms of the Province
<p><b>29.7</b> Whatever comes to a Brother from royalties belongs to the Institute. The Norms of the Province fix, in a way that is consonant with the laws of the country, the ways of regulating whatever concerns these royalties.</p>	
<p><b>29.11</b> The Provincial Chapter should draw up Norms concerning those things which are allowed for personal use, as well as Norms relating to the money given to the Brothers for various purposes, such as studies, travel, holidays. Taking the local situation into account, the Chapter can also draw up other Norms which it deems necessary or useful concerning the practice of poverty. The Brother Provincial and his Council will then discuss these Norms with the Brother Superior General.</p>	
<p><b>50.1</b> An important way of building up Marist community is the plan for community life, which gives us the opportunity to exercise co-responsibility in the search for God's will. The Provincial Chapter decides whether the communities are obliged to draw up such a plan.</p> <p>This plan for community life deals with some points of the Constitutions in relation to the concrete situation of the community. It takes into account the priorities of the Province as proposed by the Chapter and made specific by the Brother Provincial. The plan is to be approved by the Brother Provincial.</p> <p><b>50.2</b> Where the plan for community life is not obligatory, the Provincial Chapter will find some suitable way of replacing it.</p>	
<p><b>56.1</b> Contact with the family, especially visits to the family, is defined by the Norms of the Province, account being taken of the differences in cultures and of the demands of Marist religious life.</p>	
<p><b>60.4</b> Holidays are times to regain our strength and to draw closer together in our life as Brothers. Following what is laid down in the Norms of the Province, the community plans ahead for its holiday times, part of which is to be spent together.</p>	
<p><b>61.3</b> Our habit is a type of attire, such as a suit, which is appropriate for a member of a lay Institute. Alternatively, it may be a soutanes, with Roman collar or rabat, a cord, and for the perpetually professed, a crucifix. The Norms of the Province fix the details of dress.</p> <p>Whatever way we are dressed, we are always careful to avoid vanity or negligence.</p>	
<p><b>150.2.11</b> [The Brother Provincial cannot act without the consent of his Council when there is a question of:] authorising long journeys and time spent outside the country, in keeping with the Norms of the Province.</p>	

**Annex 9**

**A MODEL OF A FORMAL WARNING**

First Canonical Warning

*(Name of religious)*

In accordance with the Provisions of Canon Law and the law of our Institute, you are hereby given the first canonical warning required by c 697 §2 prior to being dismissed from our Institute. Having heard the advice of my Council, I now declare that you will be dismissed from our Institute unless you:

*(e.g. return to the Provincial House within fifteen days of the issuance of this warning. You have been unlawfully absent from the Institute for more than six months, and have refused previous requests and admonitions to return to community life.) (More details may be added.)*

If you fail to comply within fifteen days of the receipt of this first canonical warning, you will be given a similar second warning. If you fail to comply with the second warning, I will proceed with the process of dismissal.

You have the right under law, to self defence, including canonical counsel, in this matter at all stages. You have the right to present your defence to me in person or in writing, against this canonical warning and proposed dismissal within fifteen days of issuance of this warning. You also have the right to communicate with and offer a defence directly to the Superior General in Rome.

Please be advised of the seriousness of this matter.

Given at....., on .....

Provincial  
*(signature)*

**Annex 10**

**DELIBERATION OF THE PROVINCIAL COUNCIL<sup>5</sup>**

**PROVINCE** ..... **SESSION of the**.....

The Brother Provincial, having received the consent of his Council (cf. Statute 150.2), respectfully submits the following to the Brother Superior General.

VOTE:

Yes..... No..... Abs..... out of..... members present

---

<sup>5</sup> Only put one subject per sheet.  
If the case arises, justify the absence of a Councillor.  
Each deliberation must be signed by the Brother Provincial and, at least, one Councillor.

**Annex 11****REQUEST FOR CONSTRUCTION, MAINTENANCE  
OR BUYING PROPERTY**

The pieces to be attached to the request are the following:

1. Identification of the Administrative Unit which is making the request;
2. The deliberation of the Provincial Council through which the request has been approved (use Annex 10)
3. A brief description of the project and its reason for being;
4. A written report from the Province's Commission for Economic Affairs;
5. The plans, if applicable;
6. The builder's estimate of the cost of the project;
7. Detailed information on the mode of financing the project (if it is a matter of a loan, see **LOAN**)

In the Province's annual report sent to the Secretary General, it will be specified according to the following cases:

- if the purchase has taken place and if the price paid corresponds to that of the request, or
- the final report of the expenses of the construction or of the improvements will be presented.



## Annex 12

### REQUEST TO SELL PROPERTY

The documents to be included in the request are the following:

1. The identification of the Administrative Unit that is making the request;
2. The deliberation of the Provincial Council through which the demand has been approved (use Annex 10);
3. A brief description of the project and its reason for being;
4. The price requested and the anticipated purpose of the revenue of the sale;
5. The value of the building (two reliable sources );
6. A letter from the Bishop of the diocese ;
7. A written report emanating from the Province's Commission for Economic Affairs.

In the documentation, the following must appear clearly:

- The name and the description of the property. In presenting this request to the Vatican, the property that it concerns must be clearly indicated;
- The parts of the property previously sold, if the property is sold in lots (cf. c 1292 §3);
- An indication of how this property was acquired is also requested by the Vatican. For example, if a Province has acquired a property by a testimonial bequest, it is possible that there are certain important conditions to be fulfilled. If a sale refers to works of art or something valuable that can have a particular religious meaning (the case of an abandoned chapel), this fact must be made known to the Brother Superior General and also to the Vatican (cf. c 1292 § 2).

In the Province's annual report sent to the Secretary General, it will be specified if the sale has taken place.

---

<sup>6</sup> This is a requirement of the Vatican for a sale that exceeds the authorised ceiling.

<sup>7</sup> His approval is not needed. What is needed is the assurance that the bishop has been informed about the sale. If the bishop has serious objections concerning the sale, he can indicate these in a letter that will accompany the request. This letter will influence the decision of the Brother Superior General and subsequently the Holy See in their decision.

**Annex 13****REQUEST FOR APPROVAL IN PRINCIPLE**

The documents to be included with this request are the following:

1. The identification of the Administrative Unit that is making the request;
2. The written report of the Brother Provincial, describing the usefulness and the suitability of the project and a résumé of the plan that is going to be followed;
3. The estimate of the cost of the project and the way in which it is going to be financed;
4. The deliberation of the Provincial Council through which the request has been approved;
5. A written report from the Province's Commission for Economic Affairs.

**NOTA:** The agreement in principle given for a project does not replace the need to obtain approval for this project.

**Annex 14****REQUEST FOR A LOAN**

The documents to be included with this request are the following:

1. The identification of the Administrative Unit that is making the request;
2. The written request of the Brother Provincial, giving the reasons for requesting a loan<sup>8</sup>;
3. The deliberation of the Provincial Council through which the request has been approved;
4. A written report emanating from the Province's Commission for Economic Affairs;
5. Specify the technical aspect of the loan: amount, financial institution, rate, reimbursements, guarantee given.

---

<sup>8</sup> According to canon 1293 § 1.1 a "just cause" is required for any action or transaction that can have a harmful effect on the patrimony of an Administrative Unit.

## Annex 15

### MAXIMUM AUTHORISED AMOUNT

*In accordance with C 137.4.10, the Brother Superior General, acting collegially with his Council, has fixed the following maximum amounts that a Province or a District can spend without authorisation (ceiling).*

#### 1. For constructions, purchases, improvements and loans:

Africa	300,000.00 \$USA
Asia	300,000.00 \$USA
Latin America	400,000.00 \$USA
North America, Europe, Pacific	500,000.00 \$USA
MIC and MAPAC	200,000.00 \$USA

#### 2. For the sale of property:

The same amounts mentioned in point 1 apply. However, some Provinces and Districts will need to ask permission from the Holy See, if this amount exceeds the maximum amount fixed for their country.

**NOTE:** These ceilings apply according to the place where the activity is carried out and not according to the place where the Residence of the Province or District is located.

**Annex 16**

**APPLICATION FOR THE APPOINTMENT  
OF VICAR PROVINCIALS**

It is up to the Brother Provincial to take the initiative in this matter. The Brother Provincial must specify clearly the following points in his request:

1. What are the needs of the Province that justify the appropriateness of the appointment of Vicar Provincials?
2. How many Vicars does he propose to appoint and what will be their duties?
3. What process of appointment is he proposing and what will be the schedule for it?



**Annex 17**

**FILE OF AN AFFILIATED PERSON  
to the Institute of the  
Marist Brothers of the Schools**

**Marist Province:** .....

**Name of the affiliated:** .....  
*(in the case of a married woman, also give her maiden name)*

**First names:** .....

**Born on / at:** .....

**Country:** .....

**Day / month / year:** .....

**Nationality:** .....

**Curriculum vitae:** .....

*(summary)* .....  
.....

**Attitudes to religion, to the Institute:** .....

.....

**Services rendered:** .....

.....

**Date of the affiliation:**..... **Date of death :**.....

**NB: Add a curriculum vitae.** Make two copies: one to be put in the archives of the Province and the other to be sent to the Secretary General.

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<sup>9</sup> The numbering of this index corresponds to the articles and chapters of the Vademecum and not to the page number.



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