



# Constitution of Gairloch Boat Club SCIO

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# General

## Type of organisation

1 The organisation is registered as a *Scottish Charitable Incorporated Organisation* (SCIO).

## Scottish principal office

2 The principal office of the organisation is in Scotland (and must remain in Scotland).

## Name

3 The name of the organisation is *Gairloch Boat Club*.

## Purposes

4 The organisation exists to exercise the following purposes–

- 4.1 To benefit the Community of Gairloch as defined by Postcode districts IV21 and IV22,
- 4.2 To advance public participation in water sports, with particular emphasis on aspects of safety,
- 4.3 To provide, support and promote leisure and recreational facilities,
- 4.4 To organise regattas and other sporting events,
- 4.5 To follow the principles of sustainable development that meets the needs of the present without compromising the ability of future generations to meet their own needs.

## Powers

5 The organisation has power to do anything that is calculated to further its purposes or is conducive or incidental to doing so. In particular, but without limiting the range of powers available under the Charities and Trustee Investment (Scotland) Act 2005, the organisation has power–

- 5.1 To encourage and develop a spirit of voluntary or other commitment by, or in co-operation with, individuals, unincorporated associations, societies, federations, partnerships, corporate bodies, agencies, undertakings, local authorities, unions, co-operatives, trusts and others and any groups or groupings thereof willing to assist the organisation to achieve the purposes,
- 5.2 To promote and carry out research, surveys and investigations and to promote, develop and manage initiatives, projects and programmes,
- 5.3 To provide advice, consultancy, training, tuition, expertise and assistance,
- 5.4 To prepare, organise, promote and implement training courses, exhibitions, lectures, seminars, conferences, events and workshops; to collect, collate, disseminate and exchange information; and to prepare, produce, edit, publish, exhibit and distribute clauses, pamphlets, books and other publications, tapes, motion and still pictures, music and drama and other materials, all in any medium,
- 5.5 To register an interest in land and to exercise the right to buy land under Part 2 or Part 3A of the Land Reform (Scotland) Act 2003 including any statutory amendment or re-enactment thereof for the time being in force,
- 5.6 To purchase, take on lease, hire, or otherwise acquire any property suitable for the organisation,

- 5.7 To construct, convert, improve, develop, conserve, maintain, alter or demolish any buildings or erections whether of a permanent or temporary nature, and manage and operate or arrange for the professional (or other appropriate) management and operation of the organisation's property,
- 5.8 To sell, let, hire, license, give in exchange and otherwise dispose of all or any part of the property of the organisation,
- 5.9 To establish and administer a building fund or funds or guarantee fund or funds or endowment fund or funds,
- 5.10 To employ, contract with, train and pay such staff (whether employed or self-employed) as are considered appropriate for the proper conduct of the activities of the organisation,
- 5.11 To take such steps as may be deemed appropriate to raise funds for the activities of the organisation,
- 5.12 To accept subscriptions, grants, donations, gifts, legacies and endowments of all kinds, either absolutely or conditionally or in trust,
- 5.13 To borrow or raise money for the purposes and to give security in support of any such borrowings by the organisation and/or in support of any obligations undertaken by the organisation,
- 5.14 To set aside funds not immediately required as a reserve or for specific purposes,
- 5.15 To invest any funds which are not immediately required for the activities of the organisation in such investments as may be considered appropriate, which may be held in the name of a nominee organisation under the instructions of the organisation's Board of Trustees (see clause 9.2), and to dispose of, and vary, such investments,
- 5.16 To make grants or loans of money and to give guarantees,
- 5.17 To establish, manage and/or support any other charity, and to make donations for any charitable purpose falling within the purposes,
- 5.18 To establish, operate and administer and/or otherwise acquire any separate trading organisation or association, whether charitable or not,
- 5.19 To enter into any arrangement with any organisation, government or authority which may be advantageous for the purposes of the activities of the organisation and to enter into any arrangement for co-operation, mutual assistance, or sharing profit with any charitable organisation,
- 5.20 To enter into contracts to provide services to or on behalf of others,
- 5.21 To effect insurance of all kinds (which may include indemnity insurance in respect of the Board of Trustees and employees),
- 5.22 To oppose, or object to, any application or proceedings which may prejudice the interests of the organisation,
- 5.23 To pay the costs of forming the organisation and its subsequent development.

- 6 No part of the income or property of the organisation may be paid or transferred (directly or indirectly) to any members – either in the course of the organisation’s existence or on dissolution – except where this is done in direct furtherance of the organisation’s charitable purposes.

### Liability of members

- 7 The members of the organisation have no liability to pay any sums to help to meet the debts (or other liabilities) of the organisation if it is wound up; accordingly, if the organisation is unable to meet its debts, the members shall not be held responsible.
- 8 The members and Board of Trustees have certain legal duties under the Charities and Trustee Investment (Scotland) Act 2005; and clause 7 does not exclude (or limit) any personal liabilities they might incur if they are in breach of those duties or in breach of other legal obligations or duties that apply to them personally.

### Structure

- 9 The structure of the organisation consists of–
- 9.1 The **Members**, who have the right to attend members' meetings, including the obligatory annual general meeting (or AGM), and have important powers under the constitution; in particular, the members appoint people to serve on the Board and take decisions on changes to the constitution itself,
- 9.2 the **Board**, or Board of Trustees, who hold regular meetings and control the activities of the organisation; for example, the board is responsible for monitoring and controlling the financial position of the organisation.
- 10 The people serving on the board are referred to in this constitution as **Charity Trustees**.

## Members

### Qualifications for membership

- 11 The membership shall consist of ordinary, associate, family, student, life, and honorary members. Only those aged 18 or over shall be entitled to vote at members’ meetings. For the avoidance of doubt, each family member 18 years and over shall have an individual vote.
- 12 In addition, the board may from time to time create categories of non-voting membership including junior, visitor, temporary, and affiliated organisations who will not be entitled to vote at members’ meetings.
- 13 The definition of categories of membership and other matters such as the entitlements attaching to each category of membership and relevant subscription rates and any other charges shall be determined by the board from time to time and be presented as a resolution for a vote at a member’s meeting.
- 14 Employees of the organisation are not eligible for membership.

### Application for membership

- 15 Any person who wishes to become a member must sign a written application for membership; the application will then be considered by the board at its next board meeting. Between an application being submitted and the board reaching its decision, applicants may make use of the facilities of the organisation as if they were members, but shall not be entitled to vote.

- 16 The board may, at its discretion, refuse to admit any person to membership; but refusal of membership must not be on grounds of protected characteristics.
- 17 The board must notify each applicant promptly in writing (see clause 121.3) of its decision on whether or not to admit them to membership.
- 18 The organisation, on the recommendation of the board, may elect honorary members at a members' meeting.

### **Membership subscription**

- 19 Any decision by the board to admit an applicant to membership shall be deemed conditional upon the payment by the applicant of the full amount of any membership subscription at the time being in force.
- 19.1 Annual membership fees shall be agreed at a member's meeting (normally the AGM) and are payable–
- 19.1.1 upon admission to the organisation, and
- 19.1.2 on 31st of March of each subsequent year relating to the categories of membership set out in clauses 11 and 12.
- 19.2 No member may exercise any entitlements or privileges of the organisation until their annual subscription and arrears (if any) are fully paid.
- 20 Any member who has not paid their subscription by the due date may be requested by the board to pay the subscription, and if their subscription is not paid within 28 days, they shall be expelled from membership at the discretion of the board.

### **Register of members**

- 21 The board must keep a register of members, setting out–
- 21.1 for each current member–
- 21.1.1 their full name and address, and
- 21.1.2 the date on which they were registered as a member of the organisation.
- 21.2 for each former member – for at least six years from the date on which they ceased to be a member–
- 21.2.1 their name, and
- 21.2.2 the date on which they ceased to be a member.
- 22 The board must ensure that the register of members is updated within 28 days of any change–
- 22.1 which arises from a resolution of the board or a resolution passed by the members of the organisation, or
- 22.2 which is notified to the organisation.
- 23 Temporary members will not appear on the register of members.

- 24 If a member or charity trustee of the organisation requests a copy of the register of members, the board must ensure that a copy is supplied to them within 28 days, providing the request is reasonable; if the request is made by a member (rather than a charity trustee), the board may provide a copy which has the addresses blanked out.

#### **Withdrawal from membership**

- 25 Any person who wants to withdraw from membership must sign a written notice of withdrawal to the organisation; they will cease to be a member as from the time when the notice is received by the organisation.

#### **Transfer of membership**

- 26 Membership of the organisation may not be transferred by a member.

#### **Re-registration of members**

- 27 The board may, at any time, issue notices to the members requiring them to confirm that they wish to remain as members of the organisation and allowing them a period of 28 days (running from the date of issue of the notice) to provide that confirmation to the board.
- 28 If a member fails to provide confirmation to the board in writing (see clause 121.3) that they wish to remain as a member of the organisation before the expiry of the 28-day period referred to in clause 27, the board may expel them from membership.
- 29 A notice under clause 27 will not be valid unless it refers specifically to the consequences (under clause 28) of failing to provide confirmation within the 28-day period.

#### **Expulsion from membership**

- 30 Any person may be expelled from membership by way of a resolution passed by not less than two-thirds of those present and voting at a members' meeting, providing the following procedures have been observed—
- 30.1 at least 21 days' notice of the intention to propose the resolution must be given to the member concerned, specifying the grounds for the proposed expulsion,
- 30.2 the member concerned shall be entitled to be heard on the resolution at the members' meeting at which the resolution is proposed.

#### **Termination of membership**

- 31 Membership of the organisation will terminate on death.

## **Decision-making by the Members**

#### **Members' meetings**

- 32 The board must arrange a meeting of members, nominally an annual general meeting (or AGM), in each calendar year.
- 33 The gap between one AGM and the next must not be longer than 15 months.
- 34 Notwithstanding clause 32, an AGM does not need to be held during the calendar year in which the organisation is formed; but the first AGM must still be held within 15 months of the date on which the organisation is formed.

- 35 The business of each AGM must include–
- 35.1 a report by the chair on the activities of the organisation,
  - 35.2 consideration of the annual accounts of the organisation,
  - 35.3 the election/re-election of charity trustees, as referred to in clauses 72 to 74.
- 36 The board may arrange a members' meeting at any time.

**Power to request the board to arrange a members' meeting**

- 37 The board must arrange a members' meeting if they are requested to do so by a notice (which may take the form of two or more documents in the same terms, each signed by one or more voting members) by voting members who amount to 10% or more of the total voting membership of the organisation at the time, providing–
- 37.1 the notice states the purposes for which the meeting is to be held, and
  - 37.2 those purposes are not inconsistent with the terms of this constitution, the Charities and Trustee (Investment) Scotland Act 2005 or any other statutory provision.
- 38 If the board receive a notice under clause 37, the date for the meeting which they arrange in accordance with the notice must not be later than 28 days from the date on which they received the notice.

**Notice of members' meetings**

- 39 At least 14 clear days' notice must be given of any members' meeting, including and especially, the AGM.
- 39.1 The board may arrange, in advance of any members' meeting, that members participate in the meeting by means of a conference telephone, a video-conferencing facility, or any similar communications equipment as long as all those participating in the meeting can follow and contribute to the proceedings.
  - 39.2 A member participating in a members' meeting in this manner shall be deemed to be present in person at the meeting.
- 40 The notice calling a members' meeting must specify in general terms what business is to be dealt with at the meeting and–
- 40.1 in the case of a resolution to alter the constitution, must set out the exact terms of the proposed alteration(s), or
  - 40.2 in the case of any other resolution falling within Clause 58 (requirement for two-thirds majority) must set out the exact terms of the resolution.
- 41 The reference to *clear days* in Clause 39 shall be taken to mean that, in calculating the period of notice–
- 41.1 the day after the notices are posted (or sent by email) should be excluded, and
  - 41.2 the day of the meeting itself should also be excluded.



- 42 Notice of every members' meeting must be given to all the members of the organisation and to all the charity trustees; but the accidental omission to give notice to one or more members will not invalidate the proceedings at the meeting.
- 43 Any notice which requires to be given to a member under this constitution must be–
- 43.1 sent by post to the member, at the address last notified by them to the organisation, or
- 43.2 sent by email to the member, at the email address last notified by them to the organisation.

### **Procedure at members' meetings**

- 44 No valid decisions can be taken at any members' meeting unless a quorum is present.
- 45 The quorum for a members' meeting shall be 10 persons entitled to vote, each being a member or proxy for a member, or 50% of the voting membership if the membership falls below 20.
- 46 If a quorum is not present within 15 minutes after the time at which a members' meeting was due to start – or if a quorum ceases to be present during a members' meeting – the meeting cannot proceed. Fresh notices of meeting will require to be sent out, to deal with the business (or remaining business) which was intended to be conducted.
- 47 The chair of the organisation should act as chairperson of each members' meeting.
- 48 If the chair of the organisation is not present within 15 minutes after the time at which the meeting was due to start (or is not willing to act as chairperson), the charity trustees present at the meeting must elect (from among themselves) the person who will act as chairperson of that meeting.

### **Voting at members' meetings**

- 49 A member, who is qualified under clause 11, has one vote, which may be given either personally or by proxy.
- 49.1 For the avoidance of doubt, a vote given by a member participating in the meeting through any of the methods referred to in clause 39.1 will be taken to have been given personally.
- 50 A member who wishes to appoint a proxy to vote on their behalf at any members' meeting–
- 50.1 must give to the organisation a proxy form (in such terms as the board requires), signed by them, or
- 50.2 must send by electronic means to the organisation at the email address notified to the members for that purpose, a proxy form (in such terms as the board requires) providing (in either case) the proxy form is received by the organisation at the relevant address not less than 48 hours before the time for holding the members' meeting.
- 51 An instrument of proxy which does not comply with the provisions of clause 50, or which is not lodged or given in accordance with such provisions, shall be invalid.
- 52 A member shall not be entitled to appoint more than one proxy to attend on the same occasion.
- 53 A proxy need not be a member of the organisation.

- 54 Subject to clause 55, in relation to each resolution proposed at a members' meeting, an individual shall not be entitled to cast more than one vote as a proxy (in addition to any vote to which they are entitled, personally, if they are a member of the organisation).
- 55 Where members have appointed the chair of a members' meeting to vote as their proxy – and have directed the chair (through wording in the proxy form) on whether they should vote on their behalf in favour of, or against, each resolution – the provisions of clause 54 shall not apply in relation to the chair, in acting as proxy for those members.
- 56 A proxy appointed to attend and vote at any members' meeting instead of a member shall have the same right as the member who appointed them to speak at the meeting.
- 57 All decisions at members' meetings will be made by majority vote – with the exception of the types of resolution listed in clause 58.
- 58 The following resolutions will be valid only if passed by not less than two-thirds of those voting on the resolution at a members' meeting (or if passed by way of a written resolution under clause 62)–
- 58.1 a resolution amending the constitution,
  - 58.2 a resolution expelling a person from membership under clause 30,
  - 58.3 a resolution directing the board to take any particular step (or directing the board not to take any particular step),
  - 58.4 a resolution approving the amalgamation of the organisation with another SCIO (or approving the constitution of the new SCIO to be constituted as the successor pursuant to that amalgamation),
  - 58.5 a resolution to the effect that all of the organisation's property, rights and liabilities should be transferred to another SCIO (or agreeing to the transfer from another SCIO of all of its property, rights and liabilities),
  - 58.6 a resolution for the winding up or dissolution of the organisation.
- 59 If there is an equal number of votes for and against any resolution, the chairperson of the meeting will be entitled to a second (casting) vote.
- 60 A resolution put to the vote at a members' meeting will be decided on a show of hands – or similar public display – unless the chairperson, or at least two other members present at the meeting, ask for a secret ballot.
- 61 The chairperson will decide how any secret ballot is to be conducted, and will declare the result of the ballot at the meeting.

### **Written resolutions by members**

- 62 A resolution agreed to in writing (see clause 121.3) by all the members will be as valid as if it had been passed at a members' meeting; the date of the resolution will be taken to be the date on which the last member agreed to it.

### **Minutes**

- 63 The board must ensure that proper minutes are kept in relation to all members' meetings.

- 64 Minutes of members' meetings must include the names of those present; and (so far as possible) should be signed by the chairperson of the meeting.

## Board

### Number of charity trustees

- 65 The maximum number of charity trustees is eight.
- 66 The minimum number of charity trustees is three.

### Eligibility

- 67 A person shall not be eligible for election/appointment to the board under clauses 68, 71, 72 and 73 unless they are a member of the organisation. A person will not be eligible for election or appointment to the board if they are—
- 67.1 disqualified from being a charity trustee under the Charities and Trustee Investment (Scotland) Act 2005, or
- 67.2 an employee of the organisation.

### Initial charity trustees

- 68 The individuals who signed the charity trustee declaration forms which accompanied the application for incorporation of the organisation shall be deemed to have been appointed by the members as charity trustees with effect from the date of incorporation of the organisation.

### Office-bearers

- 69 The office-bearers of the organisation will serve on the board and shall consist of—
- 69.1 Chair,
- 69.2 Treasurer,
- 69.3 Club Secretary.
- 70 A person elected to any office will automatically cease to hold that office if they cease to be a charity trustee; or if the office is terminated under the provisions of clause 75.

### Ordinary board members

- 71 Up to five ordinary board members, in addition to the three office-bearers, can be elected. The board can appoint ordinary board members to specific roles for the management of club activities.

### Election, retiral, re-election

- 72 At each AGM, the members may elect any member (unless they are debarred from membership under clause 67) to the board. Office-bearers will be elected directly to an office by members.
- 73 In the event of a vacancy arising for a position of office, for whatever reason, or when there is a vacancy among the ordinary board members, the board may co-opt an organisation member to fill the vacancy until the next AGM (unless they are debarred from membership under clause 67).

- 74 At each AGM, one third (to the nearest whole number) of the charity trustees elected/appointed under clauses 72 and 73 (and, in the case of the first AGM, those deemed to have been appointed under clause 68) shall retire from office – but shall then be eligible for re-election under clause 72. The question of which of them is to retire shall be determined by some random method.

### Termination of office

- 75 A charity trustee will automatically cease to hold office if–
- 75.1 they become disqualified from being a charity trustee under the Charities and Trustee Investment (Scotland) Act 2005,
  - 75.2 they become incapable for medical reasons of carrying out their duties as a charity trustee – but only if that has continued (or is expected to continue) for a period of more than six months,
  - 75.3 (in the case of a charity trustee elected/appointed under clauses 68, 71, 72 and 73) they cease to be a member of the organisation,
  - 75.4 they become an employee of the organisation,
  - 75.5 they give the organisation a notice of resignation, signed by them,
  - 75.6 they are absent (without good reason, in the opinion of the board) from more than three consecutive meetings of the board – but only if the board resolves to remove them from office,
  - 75.7 they are removed from office by resolution of the board on the grounds that they are considered to have committed a material breach of the code of conduct for charity trustees (as referred to in clause 88 and 89),
  - 75.8 they are removed from office by resolution of the board on the grounds that they are considered to have been in serious or persistent breach of their duties under section 66(1) or (2) of the Charities and Trustee Investment (Scotland) Act 2005, or
  - 75.9 they are removed from office by a resolution of the members passed at a members' meeting.
- 76 A resolution under sub-clause 75.7, 75.8 or 75.9 shall be valid only if–
- 76.1 the charity trustee who is the subject of the resolution is given reasonable prior written notice of the grounds upon which the resolution for their removal is to be proposed,
  - 76.2 the charity trustee concerned is given the opportunity to address the meeting at which the resolution is proposed, prior to the resolution being put to the vote, and
  - 76.3 (in the case of a resolution under sub-clause 75.7 or 75.8) at least two-thirds (to the nearest round number) of the charity trustees then in office vote in favour of the resolution.

### Register of charity trustees

- 77 The board must keep a register of charity trustees, setting out–
- 77.1 for each current charity trustee–
    - 77.1.1 their full name and address,

- 77.1.2 the date on which they were appointed as a charity trustee, and
- 77.1.3 any office held by them in the organisation.
- 77.2 for each former charity trustee – for at least 6 years from the date on which they ceased to be a charity trustee–
  - 77.2.1 the name of the charity trustee,
  - 77.2.2 any office held by them in the organisation, and
  - 77.2.3 the date on which they ceased to be a charity trustee.
- 78 The board must ensure that the register of charity trustees is updated within 28 days of any change–
  - 78.1 which arises from a resolution of the board or a resolution passed by the members of the organisation, or
  - 78.2 which is notified to the organisation.
- 79 If any person requests a copy of the register of charity trustees, the board must ensure that a copy is supplied to them within 28 days, providing the request is reasonable; if the request is made by a person who is not a charity trustee of the organisation, the board may provide a copy which has the addresses blanked out – if the organisation is satisfied that including that information is likely to jeopardise the safety or security of any person or premises.

#### **Powers of the board**

- 80 Except where this constitution states otherwise, the organisation (and its assets and operations) will be managed by the board; and the board may exercise all the powers of the organisation.
- 81 A meeting of the board at which a quorum is present may exercise all powers exercisable by the board.
- 82 The members may, by way of a resolution passed in compliance with clause 58 (requirement for two-thirds majority), direct the board to take any particular step or direct the board not to take any particular step; and the board shall give effect to any such direction accordingly.

#### **Charity trustees – general duties**

- 83 Each of the charity trustees has a duty, in exercising functions as a charity trustee, to act in the interests of the organisation, and in particular must–
  - 83.1 seek, in good faith, to ensure that the organisation acts in a manner which is in accordance with its purposes,
  - 83.2 act with the care and diligence which it is reasonable to expect of a person who is managing the affairs of another person,
  - 83.3 in circumstances giving rise to the possibility of a conflict of interest between the organisation and any other party–
    - 83.3.1 put the interests of the organisation before that of the other party, or

- 83.3.2 where any other duty prevents them from doing so, disclose the conflicting interest to the organisation and refrain from participating in any deliberation or decision of the other charity trustees with regard to the matter in question,
- 83.4 ensure that the organisation complies with any direction, requirement, notice or duty imposed under or by virtue of the Charities and Trustee Investment (Scotland) Act 2005.
- 84 In addition to the duties outlined in clause 83, all of the charity trustees must take such steps as are reasonably practicable for the purpose of ensuring–
- 84.1 that any breach of any of those duties by a charity trustee is corrected by the charity trustee concerned and not repeated, and
- 84.2 that any charity trustee who has been in serious and persistent breach of those duties is removed as a charity trustee.
- 85 Provided they have declared their interest – and have not voted on the question of whether or not the organisation should enter into the arrangement – a charity trustee will not be debarred from entering into an arrangement with the organisation in which they have a personal interest; and (subject to clause 86 and to the provisions relating to remuneration for services contained in the Charities and Trustee Investment (Scotland) Act 2005), they may retain any personal benefit which arises from that arrangement.
- 86 No charity trustee may serve as an employee (full time or part time) of the organisation; and no charity trustee may be given any remuneration by the organisation for carrying out their duties as a charity trustee.
- 87 The charity trustees may be paid all travelling and other expenses reasonably incurred by them in connection with carrying out their duties; this may include expenses relating to their attendance at meetings.

#### **Code of conduct for charity trustees**

- 88 Each of the charity trustees shall comply with the code of conduct (incorporating detailed rules on conflict of interest) prescribed by the board from time to time.
- 89 The code of conduct referred to in clause 88 shall be supplemental to the provisions relating to the conduct of charity trustees contained in this constitution and the duties imposed on charity trustees under the Charities and Trustee Investment (Scotland) Act 2005; and all relevant provisions of this constitution shall be interpreted and applied in accordance with the provisions of the code of conduct in force from time to time.

## Decision-making by the Charity Trustees

#### **Notice of board meetings**

- 90 Any charity trustee may call a meeting of the board, or ask the club secretary to call a meeting of the board.
- 91 At least seven days' notice must be given of each board meeting, unless (in the opinion of the person calling the meeting) there is a degree of urgency which makes that inappropriate.

#### **Procedure at board meetings**

- 92 No valid decisions can be taken at a board meeting unless a quorum is present; the quorum for board meetings is three charity trustees, present in person.

- 93 A charity trustee may participate in a meeting of the board by means of a conference telephone, video conferencing facility or similar communications equipment – as long as all the charity trustees participating in the meeting can follow and contribute to the proceedings. A charity trustee participating in a meeting in this manner shall be deemed to be present in person at the meeting.
- 94 If at any time the number of charity trustees in office falls below the number stated as the quorum in clause 92, the remaining charity trustee(s) will have power to fill the vacancies or call a members' meeting – but will not be able to take any other valid decisions.
- 95 The chair of the organisation should act as chairperson of each board meeting.
- 96 If the chair is not present within 15 minutes after the time at which the meeting was due to start (or is not willing to act as chairperson), the charity trustees present at the meeting must elect (from among themselves) the person who will act as chairperson of that meeting.
- 97 Every charity trustee has one vote, which must be given personally.
- 98 All decisions at board meetings will be made by majority vote.
- 99 If there is an equal number of votes for and against any resolution, the chairperson of the meeting will be entitled to a second (casting) vote.
- 100 The board may, at its discretion, allow any person to attend and speak at a board meeting notwithstanding that they are not a charity trustee – but on the basis that they must not participate in decision-making.
- 101 A charity trustee must not vote at a board meeting (or at a meeting of a sub-committee) on any resolution which relates to a matter in which they have a personal interest or duty which conflicts (or may conflict) with the interests of the organisation; they must withdraw from the meeting while an item of that nature is being dealt with.
- 102 For the purposes of clause 101–
- 102.1 an interest held by an individual who is *connected* with the charity trustee under section 68(2) of the Charities and Trustee Investment (Scotland) Act 2005 (husband/wife, partner, child, parent, brother/sister etc) shall be deemed to be held by that charity trustee,
- 102.2 a charity trustee shall be deemed to have a personal interest in relation to a particular matter if a body in relation to which they are an employee, director, member of the management committee, officer or elected representative has an interest in that matter.
- 103 Charity trustees shall produce and maintain written procedures for the governance and management of the organisation. In particular, procedures for the following activities, elsewhere discussed in this constitution, must be described and disseminated–
- 103.1 how to follow proceedings and contribute at member's meetings when unable to attend in person,
- 103.2 how to vote at member's meetings when unable to attend in person,
- 103.3 similarly, how to participate and vote at board meetings when a charity trustee is unable to attend in person,

103.4 how to vote in case of a nominal show of hands or a secret ballot when unable to attend in person.

### **Minutes**

- 104 The board must ensure that proper minutes are kept in relation to all board meetings and meetings of sub-committees.
- 105 The minutes to be kept under clause 104 must include the names of those present; and (so far as possible) should be signed by the chairperson of the meeting.

## **Administration**

### **Delegation to sub-committees**

- 106 The board may delegate any of their powers to sub-committees; a sub-committee must include at least one charity trustee, but other members of a sub-committee need not be charity trustees.
- 107 The board may also delegate to the chair of the organisation (or the holder of any other role or office) such of their powers as they may consider appropriate.
- 108 When delegating powers under clause 106 or 107, the board must set out appropriate conditions (which must include an obligation to report regularly to the board).
- 109 Any delegation of powers under clause 106 or 107 may be revoked or altered by the board at any time.
- 110 The rules of procedure for each sub-committee, and the provisions relating to membership of each sub-committee, shall be set by the board.

### **Operation of accounts**

- 111 Subject to clause 112, the signatures of two out of four signatories appointed by the board shall be required in relation to all operations (other than the lodging of funds) on the bank and building society accounts held by the organisation; at least one out of the two signatures must be the signature of a charity trustee.
- 112 Where the organisation uses electronic facilities for the operation of any bank or building society account, the authorisations required for operations on that account must be consistent with the approach reflected in clause 111.

### **Accounting records and annual accounts**

- 113 The board must ensure that proper accounting records are kept, in accordance with all applicable statutory requirements.
- 114 The board must prepare annual accounts, complying with all relevant statutory requirements; if an audit is required under any statutory provisions (or if the board consider that an audit would be appropriate for some other reason), the board should ensure that an audit of the accounts is carried out by a qualified auditor.

## **Miscellaneous**

### **Winding up**

- 115 If the organisation is to be wound up or dissolved, the winding up or dissolution process shall be carried out in accordance with the procedures set out under the Charities and Trustee Investment (Scotland) Act 2005.



- 116 Any surplus assets available to the organisation immediately preceding its winding up or dissolution must be used for purposes which are the same as – or which closely resemble – the purposes of the organisation as set out in this constitution.

### Alterations to the constitution

- 117 This constitution may (subject to clause 118) be altered by resolution of the members passed at a members' meeting (subject to achieving the two-thirds majority referred to in clause 58) or by way of a written resolution of the members.
- 118 The Charities and Trustee Investment (Scotland) Act 2005 prohibits taking certain steps (e.g. change of name, an alteration to the purposes, amalgamation, winding up) without the consent of the Office of the Scottish Charity Regulator (OSCR).

### Interpretation

- 119 References in this constitution to the Charities and Trustee Investment (Scotland) Act 2005 should be taken to include–
- 119.1 any statutory provision which adds to, modifies, or replaces that Act, and
- 119.2 any statutory instrument issued in pursuance of that Act or in pursuance of any statutory provision falling under sub-clause 119.1 above.
- 120 In this constitution–
- 120.1 **charity** means a body which is either a *Scottish charity* within the meaning of section 13 of the Charities and Trustee Investment (Scotland) Act 2005 or a *charity* within the meaning of section 1 of the Charities Act 2011, providing (in either case) that its objects are limited to charitable purposes,
- 120.2 **charitable purpose** means a charitable purpose under section 7 of the Charities and Trustee Investment (Scotland) Act 2005 which is also regarded as a charitable purpose in relation to the application of the Taxes Acts,
- 120.3 Any reference to *written* or *in writing* for communications between members and the board may include any method by which the source of the communication can normally be legally verified. For example, email is usually considered an acceptable alternative to hand-written communications.