

CONSTITUTION

of

ENVIRONMENTAL RIGHTS CENTRE FOR SCOTLAND

a Scottish Charitable Incorporated Organisation (“the Organisation”)

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GENERAL

Type of organisation

- 1 The Organisation will, upon registration, be a Scottish Charitable Incorporated Organisation (SCIO).

Scottish principal office

- 2 The principal office of the Organisation will be in Scotland (and must remain in Scotland).

Name

- 3 The name of the Organisation is **Environmental Rights Centre for Scotland (SCIO)**.

Purposes

- 4 The Organisation will, through public education, advice, assistance and representation, advocacy in policy and law reform, and strategic public interest litigation, fulfil the following charitable purposes:
 - 4.1 the advancement of human rights, specifically the right to a clean, healthy and sustainable environment – by raising the public’s awareness of and ability to exercise their procedural rights of access to information, participation in decision-making and access to justice in environmental matters, and by promoting a fairer distribution of environmental benefits, burdens and responsibilities;
 - 4.2 the advancement of environmental protection and improvement – by providing our services to individuals, community groups and organisations with the same purpose, and by seeking to improve the quality and accountability of environmental decision-making;
 - 4.3 the advancement of health - by raising awareness of the detrimental impact of poor environmental quality on health outcomes, and by challenging environmental decisions which harm human health and may exacerbate health inequalities;
 - 4.4 the advancement of citizenship and community development - by raising awareness of and working with individuals, community groups and organisations to exercise their rights in environmental law and to engage more fully with the land-use planning and legal systems; and
 - 4.5 the advancement of education - by providing information and educational resources to increase the public’s knowledge and awareness of environmental law and of their rights under environmental law;

The Organisation understands environmental law to include law relating to land-use planning, climate change, pollution control, environmental health, the conservation of biodiversity, and any other field (e.g. cultural heritage, transport, energy) to the extent that it impacts on the natural environment in Scotland.

Powers

- 5 The Organisation has power to do anything which is calculated to further its purposes or is conducive or incidental to doing so.
- 6 In particular, the Organisation has power to enter into an agreement with a duly regulated provider of legal services for the provision of legal services to assist in achieving the Organisation's purposes.
- 7 No part of the income or property of the Organisation may be paid or transferred (directly or indirectly) to the members - either in the course of the Organisation's existence or on its dissolution - except where this is done in direct furtherance of the Organisation's charitable purposes.

Liability of members

- 8 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 will not be held responsible.
- 9 The members and charity trustees have certain legal duties under the Charities and Trustee Investment (Scotland) Act 2005; and clause 8 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.

General structure

- 10 The structure of the Organisation consists of:
 - 10.1 the MEMBERS - who have the right to attend members' meetings (including any annual general meeting) and have important powers under this constitution; in particular, the members appoint people to serve on the board and take decisions on changes to this constitution;
 - 10.2 the BOARD - who hold regular meetings, and generally control the activities of the Organisation; for example, the board is responsible for monitoring and controlling the financial position of the Organisation.
- 11 The people serving on the board are referred to in this constitution as CHARITY TRUSTEES.

MEMBERS

Eligibility for membership

12 Membership of the Organisation shall be open to:

12.1 any individual aged 16 or over; or

12.2 any other organisation, whether incorporated or not;

provided that individual or organisation supports the purposes of the Organisation under clause 4, applies for membership in accordance with clause 15 and pays any subscription due in accordance with clauses 18 to 20.

13 Any organisation under clause 12.2 shall, on application for membership, appoint one named authorised representative to represent, act and vote on its behalf at all members' meetings, and may change that appointment at any time by written notice served to the Organisation, to take effect in respect of any members' meeting taking place 48 hours or more after receipt of the notice by the Organisation.

14 Employees of the Organisation are not eligible for membership.

Application for membership

15 Any individual or organisation that wishes to become a member must complete an application for membership (in electronic form or in writing), which includes agreeing to the Organisation's charitable purposes, mission and values, and submit this to the Organisation along with a remittance to meet the annual membership subscription; in the case of an organisation, the application must be signed by an appropriate officer or office-bearer of that organisation; and the application will be considered by the board by an agreed process.

16 The board may, at its discretion, refuse to admit any person to membership but not for reasons of age, religion and belief, race, disability, sex, sexual orientation, pregnancy and maternity, marriage and civil partnership or gender reassignment.

17 The board must notify each applicant promptly (in writing or by e-mail) of its decision on whether or not to admit them to membership; and if the decision was to refuse admission, the board shall return to the applicant the remittance lodged by them under clause 15.

Membership subscription

18 No membership subscription will be payable by individual members.

19 Members which are organisations may be required to pay an annual membership subscription at such amount (or amounts) as may be

- determined by the members by way of a resolution to that effect passed at an annual general meeting under clause 33.
- 20 The annual membership subscriptions, if any, shall be payable on or before 30 December in each year.
- 21 If the membership subscription payable by any member which is an organisation remains outstanding more than 13 weeks after the date on which it fell due - and providing the organisation has been given at least one written reminder - the board may, by resolution to that effect, remove that organisation from membership.
- 22 An organisation which ceases (for whatever reason) to be a member shall not be entitled to any refund of the membership subscription.

Register of members

- 23 The board must keep a register of members, setting out:
- 23.1 for each current member:
- 23.1.1 their full name and address; and
- 23.1.2 the date on which they were registered as a member of the Organisation;
- 23.2 for each former member - for at least six years from the date on which they ceased to be a member:
- 23.2.1 their name; and
- 23.2.2 the date on which they ceased to be a member.
- 24 The board must ensure that the register of members is updated within 28 days of any change:
- 24.1 which arises from a resolution of the board or a resolution passed by the members of the Organisation; or
- 24.2 which is notified to the Organisation.
- 25 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

- 26 Any person or organisation that wants to withdraw from membership must give a written notice of withdrawal to the Organisation (in writing or by email), signed by them or, in the case of an organisation, by an

appropriate officer or office-bearer of that organisation; and their membership will cease from the time when the notice is received by the Organisation.

Transfer of membership

27 Membership of the Organisation may not be transferred by a member.

Re-registration of members

28 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.

29 If a member fails to provide confirmation to the board (in writing or by e-mail) that they wish to remain as a member of the Organisation before the expiry of the 28-day period referred to in clause 28, the board may remove them from membership.

30 A notice under clause 28 will not be valid unless it refers specifically to the consequences (under clause 29) of failing to provide confirmation within the 28-day period.

Removal from membership

31 Without prejudice to clause 16 of this constitution, any person may be removed 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:

31.1 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 removal;

31.2 the member concerned will be entitled to be heard on the resolution at the members' meeting at which the resolution is proposed.

Termination of membership

32 Membership of the Organisation will terminate on an individual member's death or, if the member is an organisation, when it goes into receivership, liquidation, dissolution or otherwise ceases to exist.

DECISION-MAKING BY THE MEMBERS

Members' meetings

- 33 The board must in each calendar year arrange a meeting of members (an annual general meeting or "AGM"). Such a meeting may be a virtual meeting or a hybrid meeting as referred to in clauses 128.4 to 128.6.
- 34 The gap between one AGM and the next must not be longer than 15 months.
- 35 Notwithstanding clause 33, 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.
- 36 The business of each AGM must include:
- 36.1 a report by the chair on the activities of the Organisation;
 - 36.2 consideration of the annual accounts of the Organisation;
 - 36.3 the election/re-election of charity trustees, as referred to in clauses 65 to 76.
- 37 The board may arrange an extraordinary members' meeting at any time.

Power to request an extraordinary members' meeting

- 38 The board must arrange an extraordinary 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 members, and in the case of a member which is an organisation, by an appropriate officer or office-bearer of that organisation) by members who amount to 5% or more of the total membership of the Organisation at the time, providing:
- 38.1 the notice states the purposes for which the meeting is to be held; and
 - 38.2 those purposes are not inconsistent with the terms of this constitution, the Charities and Trustee (Investment) Scotland Act 2005 or any other statutory provision.
- 39 If the board receives a notice under clause 38, 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

- 40 At least 14 clear days' notice must be given of any AGM or any extraordinary members' meeting. Where arrangements have been

- made for a meeting to be held as a virtual meeting or as a hybrid meeting, the notice calling the meeting shall state that fact and include details of the means by which a person may attend the meeting virtually.
- 41 The reference to “clear days” in clause 40 shall be taken to mean that, in calculating the period of notice,
- 41.1 the day after the notices are posted (or sent by e-mail) should be excluded; and
- 41.2 the day of the meeting itself should also be excluded.
- 42 The notice calling a members' meeting must specify in general terms what business is to be dealt with at the meeting; and
- 42.1 in the case of a resolution to alter the constitution, must set out the exact terms of the proposed alteration(s); or
- 42.2 in the case of any other resolution falling within clause 52 (requirement for two-thirds majority) must set out the exact terms of the resolution.
- 43 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.
- 44 Any notice which requires to be given to a member under this constitution must be:
- 44.1 sent by post to the member, at the address last notified by them to the Organisation; *or*
- 44.2 sent by e-mail to the member, at the e-mail address last notified by them to the Organisation.

Procedure at members' meetings

- 45 No valid decisions can be taken at any members' meeting unless a quorum is present.
- 46 The quorum for a members' meeting shall be whichever is the greater of 8 members or 10% of the membership present in person or, in the case of a member which is an organisation, represented by its authorised representative under clause 13. A person shall be deemed to be present in person by attending either in person or attending virtually where arrangements for virtual attendance have been made.
- 47 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; and fresh

notices of meeting will require to be sent out, to deal with the business (or remaining business) which was intended to be conducted.

48 The chair of the Organisation should act as chairperson of each members' meeting.

49 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

50 Every member has one vote, which must be given personally or, in the case of a member which is an organisation, given by its authorised representative under clause 13; for the avoidance of doubt, a vote given by a member participating in a virtual meeting or a hybrid meeting will be taken to be given personally for the purposes of this clause.

51 All decisions at members' meetings will be made by majority vote - with the exception of the types of resolution listed in clause 52.

52 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 56):

52.1 a resolution amending the constitution or the name of the Organisation;

52.2 a resolution proposing that the Organisation enter into an agreement under clause 6 with a specified provider of legal services for the purposes of procuring such services;

52.3 a resolution directing the board to take any particular step (or directing the board not to take any particular step);

52.4 a resolution removing a person from membership under clause 31;

52.5 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);

52.6 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);

52.7 a resolution for the winding up or dissolution of the Organisation.

- 53 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.
- 54 A resolution put to the vote at a members' meeting will be decided on a show of hands - unless the chairperson (or at least two other individuals present at the meeting and entitled to vote, whether as members or as authorised representatives of organisations that are members) ask for a secret ballot.
- 55 The chairperson will decide how any secret ballot is to be conducted and will declare the result of the ballot at the meeting. Where a vote is to be taken by means of a secret ballot at a virtual meeting or a hybrid meeting, the arrangements shall include a means for those attending virtually to cast their vote secretly.

Written resolutions by members

- 56 A resolution agreed to in writing (or by e-mail) 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 of members' meetings

- 57 The board must ensure that proper minutes are kept in relation to all members' meetings.
- 58 Minutes of members' meetings must include the names of those present without distinction between those who attended in person and those who attended virtually; and (so far as possible) should be signed by the chairperson of the meeting.
- 59 The board shall make available copies of the minutes referred to in clause 57 to any member of the public requesting them; but on the basis that the board may exclude confidential material to the extent permitted under clause 113.

BOARD (CHARITY TRUSTEES)

Number of charity trustees

- 60 The maximum number of charity trustees is 12; of which:
- 60.1 no more than 8 shall be charity trustees who were elected under clause 65 or appointed under clause 66 (or were the initial charity trustees under clause 64); and
- 60.2 no more than 4 shall be charity trustees who were co-opted under the provisions of clause 77, no more than 2 of whom were nominated by Scottish Environment LINK.

61 The minimum number of charity trustees is 4.

Eligibility

62 A person shall not be eligible for election to the board under clause 65 or appointment to the board under clause 66 unless they are a member of the Organisation or have been nominated for election/appointment to the board by an organisation that is a member; a person co-opted to the board under clause 77 need not, however, be a member of the Organisation.

63 A person will not be eligible for election or appointment to the board if:

63.1 they are disqualified from being a charity trustee under the Charities and Trustee Investment (Scotland) Act 2005; or

63.2 they are an employee of the Organisation;

63.3 they are an employee of a legal services provider with which the Organisation has an agreement for the provision of legal services; or

63.4 they have been serving continuously as a charity trustee of the Organisation for the six previous years.

Initial charity trustees

64 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.

Election, appointment, retiral, re-election

65 At each AGM, the members may elect any member (unless they are debarred under clause 63) to be a charity trustee.

66 The board may, by way of a resolution passed by majority vote at a board meeting, at any time appoint any member (unless they are debarred under clause 63) to be a charity trustee.

67 A member which is an organisation may (subject to clause 68) nominate any individual for election/appointment to the board, who will then be deemed to be a member of the Organisation for the purposes of clauses 65 and 66.

68 No more than one individual nominated under clause 67 by any organisation may serve as a charity trustee at any given time.

69 The board shall use its power under clause 66, as far as possible, to achieve gender balance and otherwise to represent the diversity of Scottish society.

- 70 At the first AGM, one third (to the nearest round number) of the charity trustees appointed under clause 66 and deemed to have been appointed under clause 64 shall retire from office, the question of which of them shall retire being determined by some random method.
- 71 At each AGM other than the first:
- 71.1 any charity trustees deemed to have been appointed under clause 64 or appointed under clause 66 during the period since the preceding AGM shall retire from office;
- 71.2 out of the remaining charity trustees elected under clause 65, one third (to the nearest round number) shall retire from office.
- 72 The charity trustees to retire under clause 71.2 shall be those who have been longest in office since they were last elected or re-elected, and as between persons who were last elected/re-elected on the same date, the question of which of them is to retire shall be determined by some random method.
- 73 A charity trustee who retires from office under clause 70 or 71 shall, subject to clause 75, be eligible for re-election.
- 74 A charity trustee retiring at an AGM shall, subject to clause 75, be deemed to have been re-elected unless:
- 74.1 they advise the board prior to the conclusion of the AGM that they do not wish to be re-elected as a charity trustee; or
- 74.2 an election process was held at the AGM and they were not among those re-elected through that process; or
- 74.3 a resolution for the re-election of that charity trustee was put to the AGM and was not carried.
- 75 A person who has served on the board for a period of 6 years shall automatically vacate office on expiry of that 6-year period and shall then not be eligible for re-election until a further year has elapsed.
- 76 For the purposes of clause 75:
- 76.1 the period from the date of the formation of the organisation to the first AGM shall be deemed to be a period of one year, unless it is of less than six months' duration (in which case it shall be disregarded);
- 76.2 the period between the date of appointment of a charity trustee and the AGM which next follows shall be deemed to be a period of one year, unless it is of less than six months' duration in which case it shall be disregarded;

- 76.3 the period between one AGM and the next shall be deemed to be a period of one year;
- 76.4 if a charity trustee ceases to hold office but is reappointed to that office within a period of six months, they shall be deemed to have held office as a charity trustee continuously.

Co-option of non-members as charity trustees

- 77 In addition to their powers under clause 66, the board may at any time appoint any non-member of the Organisation to be a charity trustee (subject to clause 60, and providing they are not debarred under clause 63) either on the basis that they have been nominated by Scottish Environment LINK or on the basis that they have specialist experience and/or skills which could be of assistance to the board.
- 78 At the end of each AGM, all of the charity trustees appointed under clause 77 shall retire from office – but shall then be eligible for re-appointment under that clause, but no more than five times.

Termination of office

- 79 A charity trustee will automatically cease to hold office if:
- 79.1 they become disqualified from being a charity trustee under the 2005 Act;
 - 79.2 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;
 - 79.3 (in the case of a charity trustee elected under clause 65 or appointed under clause 66) they cease to be a member of the Organisation or, if they were nominated by an organisation, the organisation which nominated them ceases to be a member;
 - 79.4 they become an employee of the Organisation;
 - 79.5 they give the Organisation a notice of resignation, signed by them;
 - 79.6 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;
 - 79.7 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 95);
 - 79.8 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 2005 Act; or

- 79.9 they are removed from office by a resolution of the members passed at a members' meeting.
- 80 A resolution under clause 79.7, 79.8 or 79.9 shall be valid only if:
- 80.1 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;
- 80.2 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
- 80.3 (in the case of a resolution under paragraph 79.7 or 79.8) 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

- 81 The board must keep a register of charity trustees, setting out:
- 81.1 for each current charity trustee:
- 81.1.1 their full name and address;
- 81.1.2 the date on which they were appointed as a charity trustee; and
- 81.1.3 any office held by them in the Organisation;
- 81.2 for each former charity trustee - for at least 6 years from the date on which they ceased to be a charity trustee:
- 81.2.1 the name of the charity trustee;
- 81.2.2 any office held by them in the Organisation; and
- 81.2.3 the date on which they ceased to be a charity trustee.
- 82 The board must ensure that the register of charity trustees is updated within 28 days of any change:
- 82.1 which arises from a resolution of the board or a resolution passed by the members of the Organisation; or
- 82.2 which is notified to the Organisation.
- 83 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 it is satisfied that including that information is likely to jeopardise the safety or security of any person or premises.

Office-bearers

- 84 The charity trustees must elect (from among themselves) a chair and a treasurer.
- 85 In addition to the office-bearers required under clause 84, the charity trustees may elect (from among themselves) further office-bearers if they consider that appropriate.
- 86 All of the office-bearers will cease to hold office at the conclusion of each AGM but may then be re-elected under clause 84 or 85.
- 87 A person elected to any office will automatically cease to hold that office:
- 87.1 if they cease to be a charity trustee; or
 - 87.2 if they give to the Organisation a notice of resignation from that office, signed by them.

Powers of board

- 88 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.
- 89 A meeting of the board at which a quorum is present may exercise all powers exercisable by the board.

Charity trustees – general duties

- 90 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:
- 90.1 seek, in good faith, to ensure that the Organisation acts in a manner which is in accordance with its purposes;
 - 90.2 act with the care and diligence which it is reasonable to expect of a person who is managing the affairs of another person;
 - 90.3 in circumstances giving rise to the possibility of a conflict of interest between the Organisation and any other party:
 - 90.3.1 put the interests of the Organisation before that of the other party; and

- 90.3.2 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; and
- 90.4 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.
- 91 In addition to the duties outlined in clause 90, all of the charity trustees must take such steps as are reasonably practicable for the purpose of ensuring:
- 91.1 that any breach of any of those duties by a charity trustee is corrected by the charity trustee concerned and not repeated; and
- 91.2 that any trustee who has been in serious and persistent breach of those duties is removed as a trustee.
- 92 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 93 and to the provisions relating to remuneration for services contained in section 67 of the 2005 Act), they may retain any personal benefit which arises from that arrangement.
- 93 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.
- 94 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

- 95 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.
- 96 The code of conduct referred to in clause 95 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

- 97 Any charity trustee may call a meeting of the board or ask the chair to call a meeting of the board.
- 98 At least 7 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

- 99 No valid decisions can be taken at a board meeting unless a quorum is present; the quorum for board meetings is 50% of the charity trustees, present in person.
- 100 If at any time the number of charity trustees in office falls below the quorum in clause 99, 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.
- 101 A charity trustee may participate in a meeting of the board by means of a conference telephone, video conferencing facility or similar communications equipment and, so long as all the charity trustees participating in the meeting can hear each other, a charity trustee participating in a meeting in this manner shall be deemed to be present in person at the meeting.
- 102 The chair of the Organisation should act as chairperson of each board meeting.
- 103 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.
- 104 Every charity trustee has one vote, which must be given personally; for the avoidance of doubt, a vote given by a charity trustee participating in the meeting through any of the methods referred to in clause 101 will be taken to be given personally for the purposes of this clause.
- 105 The chair of the meeting shall endeavour to achieve consensus wherever possible but, whenever necessary, decisions at board meetings will be made by majority vote.
- 106 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.
- 107 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.

- 108 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 appear to conflict) with the interests of the Organisation; they must withdraw from the meeting while an item of that nature is being dealt with.
- 109 For the purposes of clause 108:
- 109.1 an interest held by an individual who is “connected” with the charity trustee in terms of section 68(2) of the 2005 Act (husband/wife, partner, child, parent, brother/sister etc) or who is a business associate of the charity trustee shall be deemed to be held by that charity trustee;
- 109.2 a charity trustee will 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, partner, member of the management committee, officer or elected representative has an interest in that matter.

Minutes of board meetings

- 110 The board must ensure that proper minutes are kept in relation to all board meetings and meetings of sub-committees.
- 111 The minutes to be kept under clause 110 must include the names of those present; and (so far as possible) should be signed by the chairperson of the meeting.
- 112 The board shall (subject to clause 113) make available copies of the minutes referred to in clause 110 to any member requesting them.
- 113 The board may exclude from any copy minutes made available to a member under clause 112 any material which the board considers ought properly to be kept confidential - on the basis that the material contains reference to employee, legal or other matters which the board has resolved it would be inappropriate to divulge to members.

ADMINISTRATION

Delegation to sub-committees

- 114 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.
- 115 The board may also delegate to the chair of the Organisation (or the holder of any other post) such of their powers as they may consider appropriate.

- 116 When delegating powers under clause 114 or 115, the board must set out appropriate conditions (which must include an obligation to report regularly to the board).
- 117 Any delegation of powers under clause 114 or 115 may be revoked or altered by the board at any time.
- 118 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

- 119 Subject to clause 120, the signatures of two out of a minimum of three signatories appointed by the board will 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 or delegated officer in line with the policy on internal financial controls.
- 120 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 119.

Accounting records and annual accounts

- 121 The board must ensure that proper accounting records are kept, in accordance with all applicable statutory requirements.
- 122 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

- 123 If the Organisation is to be wound up or dissolved, the winding-up or dissolution process will be carried out in accordance with the procedures set out under the Charities and Trustee Investment (Scotland) Act 2005.
- 124 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

- 125 This constitution may (subject to clause 7) be altered by resolution of the members passed at a members' meeting (subject to achieving the two thirds majority referred to in clause 52) or by way of a written resolution of the members.
- 126 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

- 127 References in this constitution to the Charities and Trustee Investment (Scotland) Act 2005 should be taken to include:
- 127.1 any statutory provision which adds to, modifies or replaces that Act; and
 - 127.2 any statutory instrument issued in pursuance of that Act or in pursuance of any statutory provision falling under clause 127.1 above.
- 128 In this constitution:
- 128.1 "charity" means a body which is either a "Scottish charity" within the meaning of section 13 of the 2005 Act 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;
 - 128.2 "charitable purpose" means a charitable purpose under section 7 of the 2005 Act which is also regarded as a charitable purpose in relation to the application of the Taxes Acts;
 - 128.3 "the 2005 Act" means the Charities and Trustee Investment (Scotland) Act 2005, as amended or replaced from time to time;
 - 128.4 "meeting" means a meeting in person, a virtual meeting or a hybrid meeting;
 - 128.5 "virtual meeting" means a meeting of members of the charity or a meeting of the charity trustees where arrangements have been made in advance to allow participants to attend the meeting by means of a conference telephone, video link or similar means of electronic communication at which all participants can be heard and can hear each other without the need for them to be physically present at the same location. A person participating in a meeting by such means shall be deemed to be "attending virtually";

128.6 “hybrid meeting” means a meeting of members of the charity or a meeting of the charity trustees at which some participants are attending the meeting in person and others are attending virtually;

128.7 any reference to the signing of minutes (but not of any other document) shall include electronic signing.