

CONSTITUTION
OF
SCOTTISH ALLOTMENTS AND GARDENS SOCIETY



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GENERAL

Name & Principal Office

- 1 The SCIO is called Scottish Allotments and Gardens Society, and will operate as a SCIO (Scottish Charitable Incorporated Organisation) and the principal office will be, and remain, in Scotland.

Charitable Purposes

- 2 The SCIO will operate as a charitable organisation and its purposes are:
 - 2.1 The advancement of education by:
 - 2.1.1 supporting allotment holders and groups through the provision of information, training and events.
 - 2.1.2 acting as the focal point for allotment holders and groups, providing guidance and support;
 - 2.1.3 researching, informing, educating and reporting on matters relevant to allotments both locally and nationally, and to actively inform and consult members about issues which impact on allotments.
 - 2.2 The advancement of community development, urban and rural development by:
 - 2.2.1 preserving existing allotments;
 - 2.2.2 promoting the cultivation of all suitable ground and generally to foster and interest in sustainable allotment gardening and promote new allotments in Scotland;
 - 2.2.3 protecting the interests of allotment gardeners and representing them effectively;
 - 2.2.4 encouraging and supporting the formation of allotment groups and encouraging the sharing of site resources, skills, knowledge and equipment.
 - 2.3 To advance sustainable environmental improvement and protection by:
 - 2.3.1 encouraging the effective use of allotments and the adoption of good practice in sustainable management of the land;
 - 2.3.2 advocating the benefits of environmentally sustainable allotment gardening;
 - 2.3.3 promoting and protecting the conservation of allotments as places of great bio-

diversity.

Powers

- 3 The SCIO has power to do anything which is calculated to further its purposes or is conducive or incidental to doing so.
- 4 No part of the income or property of the SCIO may be paid or transferred (directly or indirectly) to the members - either in the course of the organisation's existence or on dissolution - except where this is done in direct furtherance of the SCIO's charitable purposes.

Liability of members

- 5 The members of the SCIO have no liability to pay any sums to help to meet the debts (or other liabilities) of the SCIO. If the SCIO is unable to meet its debts, the members will not be held responsible.
- 6 The members and charity Trustees have certain legal duties under the Charities and Trustees Investment (Scotland) Act 2005; and clause 5 does not exclude (or limit) any personal liabilities they might incur if they are in breach of those duties.

General Structure

- 7 The structure of the SCIO consists of:
 - 7.1 the MEMBERS - who have the right to attend and vote at members' meetings (including any annual general meeting) and have important powers under the constitution; in particular, the members appoint persons to serve on the board and take decisions on changes to the constitution itself;
 - 7.2 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.
- 8 The persons serving on the Board are referred to in this constitution as CHARITY TRUSTEES.

MEMBERSHIP

Qualifications for membership

- 9 Membership shall be open to:
 - 9.1 Federation of Allotment Sites: any federation, forum or Groupings of Allotment Association Sites who shall be entitled to nominate two delegates to vote at General Meetings;

- 9.2 Individual Allotment Associations: any individual allotment association or society who shall be entitled to nominate one delegate for every 50 members or fractional part of 50 members, up to a membership of 150, to vote at AGM. If the membership exceeds 150, 3 delegates shall be nominated to attend and vote at General Meetings;
- 9.3 Individual Allotment Holders: any individual plot holders who shall be entitled to vote at General Meetings.
- 9.4 Developing Group: any developing group that does not yet have a site but is aspiring and shall be entitled to nominate 1 delegate to vote at General Meetings.

Application for membership

- 10 Any person or group who wishes to become a member must lodge with the SCIO an online or paper application for membership along with any payment to meet the annual membership subscription.
- 11 The Board shall consider each application for membership at the first board meeting which is held after receipt of the application; the board, within a reasonable time after the meeting, shall notify the applicant of their decision on the application. If the decision was to refuse admission, the board shall return to the applicant the remittance lodged.
- 12 If an application has been refused, an appeal may be made in writing to the Board, who shall consider the appeal at its next meeting after the appeal is received, and who shall respond in writing to the applicant within 21 days of the meeting. The decision on such appeals is final.

Membership subscription

- 13 The members shall be required to pay an annual membership subscription.
- 14 The amount of the annual membership subscription shall be determined by the Board, and on the basis that:
- 14.1 the membership subscription may differ as between categories of member; and
- 14.2 such categories may be set by reference to criteria as the Board may determine.
- 15 The annual membership subscriptions shall be payable on or before such date in each year as the Board may determine.
- 16 An organisation which ceases (for whatever reason) to be a member shall not be entitled to a refund of the membership subscription.

Register of members

- 17 The board must keep a register of members, setting out:

17.1 for each current member:

17.1.1 his/her/its full name and address; and

17.1.2 the date on which his/her/it was registered as a member of the organisation;

17.2 for each former member - for at least six years from the date on she/he/it ceased to be a member:

17.2.1 his/her/its name; and

17.2.2 The date on which she/he/it ceased to be a member.

18 The board must ensure that the register of members is updated within 28 days of any change:

18.1 which arises from a resolution of the board or a resolution passed by the members of the organisation; or

18.2 Which is notified to the organisation.

19 If a member or charity trustee of the SCIO requests a copy of the register of members, the board must ensure that a copy is supplied to him/her within 28 days, providing the request is reasonable; if the request is made by the representative of a member (rather than a charity trustee), the board may provide a copy which has the addresses and/or other contact details blanked out.

Withdrawal from membership

20 Any individual or group who wants to withdraw from membership must give a written notice of withdrawal to the organisation, signed by the individual member or an appropriate officer of the member organisation; she/he/it will cease to be a member as from the time when the notice is received by the organisation.

Transfer of membership

21 Membership of the SCIO may not be transferred.

Conduct of Members

22 Members should act in good faith at all times to ensure that the SCIO acts in a manner that is consistent with its purposes.

23 Members must act in the best interests of the SCIO.

Expulsion from membership

- 24 Any member (as defined in clause 9) 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 :-
- 24.1 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;
- 24.2 The member concerned will be entitled to nominate an authorised representative to be heard on the resolution at the members' meeting at which the resolution is proposed.

DECISION-MAKING BY THE MEMBERS

Members' meetings

- 25 The board must arrange a meeting of members (an annual general meeting or "AGM") in each calendar year.
- 26 The gap between one AGM and the next must not be longer than 15 months.
- 27 The business of each AGM must include:-
- 27.1 a report by the President on the activities of the organisation;
- 27.2 consideration of the annual accounts of the organisation;
- 27.3 The election/re-election of charity trustees;
- 28 The board may arrange a special members' meeting at any time providing 14 days' notice.

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

- 29 The board must arrange a special members' meeting (EGM) if they are requested to do so by a notice signed by representatives of the members who amount to 10% or more of the total membership of the SCIO at the time, providing:
- 29.1 the notice states the purposes for which the meeting is to be held; and
- 29.2 Those purposes are not inconsistent with the terms of this constitution, the Charities and Trustee (Investment) Scotland Act 2005 or as amended.
- 30 If the board receive a notice under clause 29, 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

- 31 At least 14 clear days' notice must be given for General Meetings (AGMs or EGMs).
- 32 The notice calling a members' meeting must specify in general terms what business is to be dealt with at the meeting; and
- 32.1 in the case of a resolution to alter the constitution, must set out the exact terms of the proposed alteration(s); or
- 32.2 In the case of any other resolution requiring a two-thirds majority must set out the exact terms of the resolution.
- 33 The reference to "clear days" in clause 31 shall be taken to mean that, in calculating the period of notice,
- 33.1 the day after the notices are posted (or sent by e-mail) should be excluded; and
- 33.2 The day of the meeting itself should also be excluded.
- 34 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 members who may not have updated contact details will not invalidate the proceedings at the meeting.
- 35 Any notice which requires to be given to a member under this constitution must be: -
- 35.1 sent by post to the member, at the address last notified by him/her to the organisation;
or
- 35.2 Sent by e-mail to the member or to their representative, at the e-mail address last notified by him/her to the organisation.

Procedure at members' meetings

- 36 No valid decisions can be taken at any members' meeting unless a quorum is present.
- 37 The quorum for a members' meeting is 20 delegates based on the allowance of authorised delegates referred to in Clause 9.
- 38 Each member who is a group shall be entitled to authorise delegates (as permitted in Clause 9) to attend and vote at members' meetings; he/she will then be entitled to exercise the same powers on behalf of the member which he/she represents as that member could have exercised if it had been an individual member of the organisation.
- 39 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.

- 40 The President of the SCIO should act as chairperson of each members' meeting.
- 41 If the President of the SCIO is not present within 15 minutes after the time at which the meeting was due to start (the Vice-President shall act in his/her place).

Voting at members' meetings

- 42 Every delegate has one vote which must be given personally.
- 43 All decisions at members' meetings will be made by majority vote - with the exception of the types of resolution listed in clause 44.
- 44 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:
 - 44.1 a resolution amending the constitution;
 - 44.2 a resolution expelling a person or group from membership;
 - 44.3 a resolution directing the board to take any particular step (or directing the board not to take any particular step);
 - 44.4 a resolution approving the amalgamation of the SCIO with another SCIO (or approving the constitution of the new SCIO to be constituted as the successor pursuant to that amalgamation);
 - 44.5 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);
 - 44.6 A resolution for the winding up or dissolution of the organisation.
- 45 If there are an equal number of votes for and against any resolution, the President of the SCIO shall be entitled to a second (casting) vote.
- 46 A resolution put to the vote at a members' meeting will be decided on a show of hands - unless the President (or at least two other members' representatives present at the meeting and entitled to vote) ask for a ballot.
- 47 The President will decide how any ballot is to be conducted, and he/she will declare the result of the ballot at the meeting.

Minutes

- 48 The Board must ensure that proper minutes are kept in relation to all members' meetings.
- 49 Minutes of members' meetings must include the names of those present; and (so far as possible) should be signed by two nominated persons who were present at the members' meeting.

BOARD OF TRUSTEES

Eligibility

- 50 A person will not be eligible for election or appointment to the board unless he/she has been nominated for election by a Full Member and such a person will not be eligible for election or if he/she is:
- 50.1 disqualified from being a charity trustee under the Charities and Trustee Investment (Scotland) Act 2005; or
- 50.2 An employee of the organisation.

Maximum/minimum number of Charity Trustees

- 51 The maximum number of charity trustees shall be 16.
- 52 The minimum number of charity trustees shall be 5.

Initial charity trustees

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

Composition of Board

- 54 The Board shall comprise the following individual persons (a majority of whom shall always be Charity Trustees that are representing members), namely:
- 54.1 up to 13 individual persons, acting as individuals or representing a Member, and elected as Charity Trustees by the Members , made up as follows: -
- 54.1.1 President;
- 54.1.2 Vice-President;
- 54.1.3 Treasurer;

54.1.4 Secretary;

54.1.5 9 individuals representing the membership.

54.2 up to three individual persons co-opted in terms of Clause 60, so as to ensure a spread of skills and experience within the Board.

Election

- 55 At each AGM, the members may elect any individual member or delegate representing a member (unless he/she is debarred from membership under clause 50) to be a charity trustee.
- 56 The board may at any time appoint any member (unless he/she is debarred from membership under clause 50 to be a charity trustee.
- 57 At the annual general meeting, one third (to the nearest round number) of the Board members (with the exception of the Office-Bearers) shall retire from office; the question of which of them are to retire shall be determined by some random method.
- 58 The Board members to retire under the preceding article shall be those who have been longest in office since they were last appointed; as between two or more directors who were appointed on the same date, the question of which of them is to retire shall be decided by some random method.
- 59 The members may at any annual general meeting re-elect any Board member who retires from office at the meeting (providing he/she is willing to act); if any such director is not re-appointed, he/she shall retain office until the meeting appoints someone in his/her place or, if it does not do so, until the end of the meeting.

Appointment/re-appointment of co-opted charity trustees

- 60 In addition to their powers, the board may at any time appoint any non-member of the SCIO to be a charity trustee either on the basis that he/she has specialist experience and/or skills which could be of assistance to the board.
- 61 Any person outwith the membership who wishes to become a co-opted Charity Trustee must sign, and lodge with the SCIO, a written application to be decided upon by the Board.
- 62 At each AGM, all of the charity trustees appointed under clause 60 shall retire from office – but shall then be eligible for re-appointment under that clause.

Termination of office

- 63 A charity trustee will automatically cease to hold office if: -

- 63.1 he/she becomes disqualified from being a charity trustee under the Charities and Trustee Investment (Scotland) Act 2005;
 - 63.2 if he/she was a delegate of a member and the member ceases to be a member of the organisation;
 - 63.3 he/she becomes incapable for medical reasons of carrying out his/her duties as a charity trustee - but only if that has continued (or is expected to continue) for a period of more than six months;
 - 63.4 he/she becomes an employee of the organisation;
 - 63.5 he/she gives the SCIO a notice of resignation, signed by him/her;
 - 63.6 he/she is 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 him/her from office;
 - 63.7 he/she is removed from office by resolution of the board on the grounds that he/she is considered to have committed a material breach of the SCIO rules or any code of conduct for charity trustees;
 - 63.8 he/she is removed from office by resolution of the board on the grounds that he/she is considered to have been in serious or persistent breach of his/her duties under section 66(1) or (2) of the Charities and Trustee Investment (Scotland) Act 2005;
 - 63.9 He/she is removed from office by a resolution of the members passed at a members' meeting.
- 64 A resolution under paragraph 63.6, 63.7,63.8 or 63.9 shall be valid only if: -
- 64.1 the charity trustee who is the subject of the resolution is given reasonable prior written notice of the grounds upon which the resolution for his/her removal is to be proposed;
 - 64.2 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
 - 64.3 (In the case of a resolution under paragraph 63.7 or 63.8) 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

- 65 The board must keep a register of charity trustees, setting out:-
 - 65.1 for each current charity trustee:

- 65.1.1 his/her full name and address;
 - 65.1.2 the date on which he/she was appointed as a charity trustee; and
 - 65.1.3 any office held by him/her in the organisation;
 - 65.1.4 The name of the group member which nominated each charity trustee.
- 65.2 for each former charity trustee - for at least 6 years from the date on which he/she ceased to be a charity trustee:
- 65.2.1 the name of the charity trustee;
 - 65.2.2 any office held by him/her in the organisation; and
 - 65.2.3 The date on which he/she ceased to be a charity trustee.
- 66 The board must ensure that the register of charity trustees is updated within 28 days of any change:
- 66.1 which arises from a resolution of the board or a resolution passed by the members of the organisation; or
 - 66.2 Which is notified to the organisation.
- 67 If any person requests a copy of the register of charity trustees, the board must ensure that a copy is supplied to him/her 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 SCIO is satisfied that including that information is likely to jeopardise the safety or security of any person or premises.

Office-bearers

- 68 The charity trustees must elect (from among themselves) a President, a Vice-President, a treasurer and a secretary.
- 69 In addition to the office-bearers required under clause 68, the charity trustees may elect (from among themselves) further office-bearers if they consider that appropriate.
- 70 All of the office-bearers will cease to hold office at the conclusion of the third AGM following their appointment, but may then be re-elected.
- 71 A person elected to any office will automatically cease to hold that office: -
- 71.1 if he/she ceases to be a charity trustee; *or*

- 71.2 if he/she gives to the organisation a notice of resignation from that office, signed by him/her.

Powers of board

- 72 Except where this constitution states otherwise, the SCIO (and its assets and operations) will be managed by the board; and the board may exercise all the powers of the organisation.
- 73 The members may, by way of a resolution passed in compliance with clause 44 (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

- 74 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:-
- 74.1 seek, in good faith, to ensure that the SCIO acts in a manner which is in accordance with its purposes;
- 74.2 act with the care and diligence which it is reasonable to expect of a person who is managing the affairs of another person;
- 74.3 in circumstances giving rise to the possibility of a conflict of interest between the SCIO and any other party:
- 74.3.1 put the interests of the SCIO before that of the other party;
- 74.3.2 where any other duty prevents him/her from doing so, disclose the conflicting interest to the SCIO and refrain from participating in any deliberation or decision of the other charity trustees with regard to the matter in question;
- 74.4 Ensure that the SCIO complies with any direction, requirement, notice or duty imposed under or by virtue of the Charities and Trustee Investment (Scotland) Act 2005.
- 75 In addition to the duties outlined in clause 74, all of the charity trustees must take such steps as are reasonably practicable for the purpose of ensuring: -
- 75.1 that any breach of any of those duties by a charity trustee is corrected by the charity trustee concerned and not repeated; and
- 75.2 That any trustee who has been in serious and persistent breach of those duties is removed as a trustee.
- 76 Provided he/she has declared his/her interest - and has not voted on the question of whether or not the SCIO should enter into the arrangement - a charity trustee will not be debarred

from entering into an arrangement with the SCIO in which he/she has a personal interest and he/she may retain any personal benefit which arises from that arrangement.

- 77 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 SCIO for carrying out his/her duties as a charity trustee.

Code of conduct for charity trustees

- 78 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.
- 79 The code of conduct referred to in clause 78 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

- 80 Any charity trustee may call a meeting of the board or ask the secretary to call a meeting of the board.
- 81 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

- 82 No valid decisions can be taken at a board meeting unless a quorum is present; the quorum for board meetings is 5 of the total charity trustees.
- 83 If at any time the number of charity trustees in office falls below the number stated, 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.
- 84 If the President is not present within 15 minutes after the time at which the meeting was due to start (or is not willing to act as President) the Vice-President shall act in his/her place.
- 85 Every charity trustee has one vote, which must be given personally.
- 86 All decisions at trustee meetings will be made by majority vote.

- 87 If there are an equal number of votes for and against any resolution, the President of the meeting will be entitled to a second (casting) vote.
- 88 The board may allow any person to attend and speak at a board meeting notwithstanding that he/she is not a charity trustee - but on the basis that he/she must not participate in decision-making.
- 89 The board may take a unanimous decision without a board meeting by indicating to each other by any means, including without limitation by Electronic Means, that they share a common view on a matter.
- 90 A charity trustee must not vote at a board meeting (or at a meeting of a sub-group) on any resolution which relates to a matter in which he/she has a personal interest or duty which conflicts (or may conflict) with the interests of the organisation; he/she must withdraw from the meeting while an item of that nature is being dealt with.
- 91 For the purposes of clause 90: -
- 91.1 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;
- 91.2 A charity trustee will be deemed to have a personal interest in relation to a particular matter if a body in relation to which he/she is an employee, director, member of the management committee, officer or elected representative has an interest in that matter.

Minutes

- 92 The board must ensure that proper minutes are kept in relation to all board meetings and meetings of sub-groups.
- 93 The minutes to be kept under clause 92 must include the names of those present; and (as far as possible) should be signed by the President.

ADMINISTRATION

Delegation to sub-groups

- 94 The board may delegate any of their powers to sub-groups; a sub-group must include at least one charity trustee, but other members of a sub-group need not be charity trustees.
- 95 The board may also delegate to the President of the SCIO (or the holder of any other post) such of their powers as they may consider appropriate.

- 96 When delegating powers under clause 94 or 95, the board must set out appropriate conditions (which must include an obligation to report regularly to the board).
- 97 Any delegation of powers under clause 94 or 95 may be revoked or altered by the board at any time.
- 98 The rules of procedure for each sub-group, and the provisions relating to membership of each sub-group, shall be set by the board.

Operation of accounts

- 99 Subject to clause 100, the signatures of two out 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.
- 100 Where the SCIO 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 99.

Accounting records and annual accounts

- 101 The board must ensure that proper accounting records are kept, in accordance with all applicable statutory requirements.
- 102 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 if required.

MISCELLANEOUS

Winding-up

- 103 If the SCIO 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.
- 104 Any surplus assets available to the SCIO 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 SCIO as set out in this constitution.

Alterations to the constitution

- 105 This constitution may be altered by resolution of the members passed at a members' meeting (subject to achieving the two thirds majority referred to in clause 44).
- 106 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

- 107 References in this constitution to the Charities and Trustee Investment (Scotland) Act 2005 should be taken to include: -
- 107.1 any statutory provision which adds to, modifies or replaces that Act; and
- 107.2 Any statutory instrument issued in pursuance of that Act or in pursuance of any statutory provision falling under paragraph 107.1 above.
- 108 In this constitution: -
- 108.1 "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 2006, providing (in either case) that its objects are limited to charitable purposes;
- 108.2 "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.