

CONSTITUTION
of
The Lochgair Association (SCIO)

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GENERAL

Type of SCIO

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

Scottish principal office

- 2 The principal office of the SCIO will be in Lochgair, Lochgilphead, Argyll, Scotland .

Name

- 3 The name of the SCIO is The Lochgair Association (SCIO)

Purposes

- 4 The purposes of the SCIO are:
 - 4.1 To provide recreational facilities and activities with the object of improving the conditions of life for the residents of Lochgair and adjacent settlements, and the public at large, for whom these facilities and activities are primarily intended by:
 - 4.2 Improving community facilities and amenities in Lochgair and adjacent remote rural settlements which lack the range of facilities or activities available in urban areas;
 - 4.3 Promoting community-led educational, recreational, and social activities, and volunteer services, geared to the needs of all.

Powers

- 5 The SCIO has power to do anything which is calculated to further its purposes or is conducive or incidental to doing so.
- 6 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 SCIO's existence or on dissolution - except where this is done in direct furtherance of the SCIO's charitable purposes.

Liability of members

- 7 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 it is wound up; accordingly, if the SCIO is unable to meet its debts, the members will not be held responsible.
- 8 The members and charity 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.

General structure

- 9 The structure of the SCIO consists of:-
- 9.1 the MEMBERS - who have the right to attend members' meetings (including annual and extraordinary general meetings) 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 - who hold regular meetings, and generally control the activities of the SCIO; for example, the board is responsible for monitoring and controlling the financial position of the SCIO.
- 10 The people serving on the board are referred to in this constitution as CHARITY TRUSTEES.

MEMBERS

Qualifications for membership

- 11 Membership is open to any individual aged 16 or over who resides in the Lochgair area between Gortonronach to the north, and Middle Kames to the south; and also to any person with ongoing associations with the Lochgair area because of family connections.
- 12 Employees of the SCIO are not eligible for membership.

Application for membership

- 13 Any person who wishes to become a member must sign a written application for membership and lodge this with the SCIO along with a remittance to meet the annual membership subscription; the application will then be considered by the board at its next board meeting.

Membership subscription

- 14 Members shall require to pay an annual membership subscription of £5; unless and until otherwise determined by the members.
- 14.1 The annual membership subscription shall be payable on or before the AGM in each year.
 - 14.2 The members may vary the amount of the annual membership subscription and/or the date on which it falls due in each year, by way of a resolution to that effect passed at an AGM.
 - 14.3 If the membership subscription payable by any member remains outstanding more than 12 weeks after the date on which it fell due - and providing he/she has been given at least three written reminders - the board may, by resolution to that effect, expel him/her from membership.
 - 14.4 A person who ceases (for whatever reason) to be a member shall not be entitled to any refund of the membership subscription.

Register of members

- 15 The board must keep a register of members, setting out
- 15.1 for each current member, their full name and address; and the date on which they were registered as a member of the SCIO;
 - 15.2 for each former member - for at least six years from the date on which they ceased to be a member: their name; and the date on which they ceased to be a member.
- 16 The board must ensure that the register of members is updated within 28 days of any change:
- 16.1 which arises from a resolution of the board ; or
 - 16.2 which is notified to the SCIO.
- 17 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 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 postal and email addresses blanked out.

Withdrawal from membership

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

Transfer of membership

- 19 Membership of the SCIO may not be transferred by a member.

Re-registration of members

- 20 The board may, at any time, issue notices to the members requiring them to confirm that they wish to remain as members of the SCIO, and allowing them a period of 28 days (running from the date of issue of the notice) to provide that confirmation to the board.
- 21 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 SCIO before the expiry of the 28-day period referred to in clause 20, the board may expel them from membership.
- 22 A notice under clause 20 will not be valid unless it refers specifically to the consequences (under clause 21) of failing to provide confirmation within the 28-day period.

Termination

- 23 Membership of the SCIO will terminate on death.

DECISION-MAKING BY THE MEMBERS

Members' meetings

- 24 The board must arrange a meeting of members (an annual general meeting or "AGM") in each calendar year.
- 25 The gap between one AGM and the next must not be longer than 15 months.
- 26 Notwithstanding clause 24, an AGM does not need to be held during the calendar year in which the SCIO is formed; but the first AGM must still be held within 15 months of the date on which the SCIO is formed.
- 27 The business of each AGM must include:-
- 27.1 a report by the chair on the activities of the SCIO;
 - 27.2 consideration of the annual accounts of the SCIO;
 - 27.3 the election/re-election of charity trustees, as referred to in clauses 54 to 57.
 - 27.4 the appointment of an auditor
- 28 The board may arrange a special members' meeting at any time.

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

- 29 The board must arrange a special members' meeting if they are requested to do so by a notice by 10 members, 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 any other statutory provision.
- 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 of any AGM or any special members' meeting.
- 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 falling within clause 43 (requirement for 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 SCIO, 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.
- 35 Any notice which requires to be given to a member under this constitution must be: -
- 35.1 sent by e-mail to the member, at the e-mail address last notified by them to the SCIO; *or*
 - 35.2 if the member has no email address, delivered in person to the member, at the address last notified by them to the SCIO.

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 members, present in person.
- 38 If a quorum is not present within 30 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.
- 39 The chair of the SCIO should act as chairperson of each members' meeting.
- 40 If the chair of the SCIO is not present within 30 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

- 41 Every member has one vote, which must be given personally.
- 42 All decisions at members' meetings will be made by majority vote - with the exception of the types of resolution listed in clause 43.
- 43 The following resolutions will be valid only if passed by not less than two thirds of those voting on the resolution at a members':
- 43.1 a resolution amending the constitution;
 - 43.2 a resolution directing the board to take any particular step (or directing the board not to take any particular step);
 - 43.3 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);
 - 43.4 a resolution to the effect that all of the SCIO'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);

43.5 a resolution for the winding up or dissolution of the SCIO.

44 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.

45 A resolution put to the vote at a members' meeting will be decided on a show of hands.

Minutes

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

47 Minutes of members' meetings must include the names of those present; and should be signed by the chairperson of the meeting.

48 The board shall make available copies of the minutes referred to in clause 46 to any member of the public requesting them.

BOARD

Number of charity trustees

49 The maximum number of charity trustees is 10; out of that:

49.1 no more than 9 shall be charity trustees who were elected/appointed under clauses 54 and 55 (or deemed to have been appointed under clause 53); and

49.2 no more than 2 shall be charity trustees who were co-opted under the provisions of clauses 58 and 59.

50 The minimum number of charity trustees is 4.

Eligibility

51 A person shall not be eligible for election/appointment to the board under clauses 53 to 56 unless they are a member of the SCIO; a person appointed to the board under clause 58 need not, however, be a member of the SCIO.

52 A person will not be eligible for election or appointment to the board if they are: -

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

52.2 an employee of the SCIO.

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 SCIO.

Election, retiral, re-election

- 54 At each AGM, the members may elect any member (unless they are debarred from membership under clause 52) to be a charity trustee.
- 55 The board may at any time appoint any member (unless they are debarred from membership under clause 52) to be a charity trustee.
- 56 At each AGM, all of the charity trustees elected/appointed under clauses 54 and 55 (and, in the case of the first AGM, those deemed to have been appointed under clause 53) shall retire from office – but shall then be eligible for re-election under clause 54.
- 57 A charity trustee retiring at an AGM will be deemed to have been re-elected unless: -
- 57.1 they advise the board prior to the conclusion of the AGM that they do not wish to be re-appointed as a charity trustee; or
 - 57.2 an election process was held at the AGM and they were not among those elected/re-elected through that process; or
 - 57.3 a resolution for the re-election of that charity trustee was put to the AGM and was not carried.

Appointment/re-appointment of co-opted charity trustees

- 58 In addition to their powers under clause 55, the board may at any time appoint any non-member of the SCIO to be a charity trustee (subject to clause 49, and providing they are not debarred from membership under clause 52) on the basis that they have specialist experience and/or skills which could be of assistance to the board.
- 59 At each AGM, all of the charity trustees appointed under clause 58 shall retire from office – but shall then be eligible for re-appointment under that clause.

Termination of office

- 60 A charity trustee will automatically cease to hold office if: -
- 60.1 they become disqualified from being a charity trustee under the Charities and Trustee Investment (Scotland) Act 2005;
 - 60.2 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;
 - 60.3 (in the case of a charity trustee elected/appointed under clauses 53 to 57) they cease to be a member of the SCIO;
 - 60.4 they become an employee of the SCIO;
 - 60.5 they give the SCIO a notice of resignation, signed by them;
 - 60.6 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;
 - 60.7 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 77);
- 60.8 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
 - 60.9 they are removed from office by a resolution of the members passed at a members' meeting.
- 61 A resolution under paragraph 60.7, 60.8 or 60.9 shall be valid only if: -
- 61.1 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;
 - 61.2 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
 - 61.3 (in the case of a resolution under paragraph 60.7 or 60.8) 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

- 62 The board must keep a register of charity trustees, setting out
- 62.1 for each current charity trustee:
 - 62.1.1 their full name and address;
 - 62.1.2 the date on which they were appointed as a charity trustee; and
 - 62.1.3 any office held by them in the SCIO;
 - 62.2 for each former charity trustee - for at least 6 years from the date on which they ceased to be a charity trustee:
 - 62.2.1 the name of the charity trustee;
 - 62.2.2 any office held by them in the SCIO; and
 - 62.2.3 the date on which they ceased to be a charity trustee.
- 63 The board must ensure that the register of charity trustees is updated within 28 days of any change:
- 63.1 which arises from a resolution of the board or a resolution passed by the members of the SCIO; or
 - 63.2 which is notified to the SCIO.
- 64 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 SCIO, 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.

Office-bearers

- 65 The charity trustees must elect a chair, a treasurer and a secretary.

- 66 In addition to the office-bearers required under clause 65, the charity trustees may elect (from among themselves) further office-bearers if they consider that appropriate.
- 67 All of the office-bearers will cease to hold office at the conclusion of each AGM, but may then be re-elected under clause 65 or 66.
- 68 A person elected to any office will automatically cease to hold that office: -
68.1 if they cease to be a charity trustee; *or*
68.2 if they give to the SCIO a notice of resignation from that office, signed by them.

Powers of board

- 69 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 SCIO.
- 70 A meeting of the board at which a quorum is present may exercise all powers exercisable by the board.
- 71 The members may, by way of a resolution passed in compliance with clause 43 (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

- 72 Each of the charity trustees has a duty, in exercising functions as a charity trustee, to act in the interests of the SCIO; and, in particular, must:-
72.1 seek, in good faith, to ensure that the SCIO acts in a manner which is in accordance with its purposes;
72.2 act with the care and diligence which it is reasonable to expect of a person who is managing the affairs of another person;
72.3 in circumstances giving rise to the possibility of a conflict of interest between the SCIO and any other party:
72.3.1 put the interests of the SCIO before that of the other party;
72.3.2 where any other duty prevents them 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;
72.4 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.
- 73 In addition to the duties outlined in clause 72, all of the charity trustees must take such steps as are reasonably practicable for the purpose of ensuring: -
73.1 that any breach of any of those duties by a charity trustee is corrected by the charity trustee concerned and not repeated; and
73.2 that any trustee who has been in serious and persistent breach of those duties is removed as a trustee.

- 74 Provided they have declared their interest - and have 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 they have a personal interest; and (subject to clause 75 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.
- 75 No charity trustee may serve as an employee (full time or part time) of the SCIO; and no charity trustee may be given any remuneration by the SCIO for carrying out their duties as a charity trustee.
- 76 The charity trustees may be paid all travelling and other expenses reasonably incurred by them in connection with carrying out their duties, provided this has been approved in advance by the Board.

Code of conduct for charity trustees

- 77 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.
- 78 The code of conduct referred to in clause 77 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

- 79 Any charity trustee may call a meeting of the board *or* ask the secretary to call a meeting of the board.
- 80 At least 14 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

- 81 No valid decisions can be taken at a board meeting unless a quorum is present; the quorum for board meetings is 4 charity trustees, present in person.
- 82 If at any time the number of charity trustees in office falls below the number stated as the quorum in clause 81, 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.

- 83 The chair of the SCIO should act as chairperson of each board meeting.
- 84 If the chair is not present within 15 minutes after the time at which the meeting was due to start, the charity trustees present at the meeting must elect (from among themselves) the person who will act as chairperson of that meeting.
- 85 Every charity trustee has one vote, which must be given personally.
- 86 All decisions at board meetings will be made by majority vote.
- 87 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.
- 88 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.
- 89 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 SCIO; they must withdraw from the meeting while an item of that nature is being dealt with.
- 90 For the purposes of clause 89: -
- 90.1 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;
 - 90.2 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, member of the management committee, officer or elected representative has an interest in that matter.

Minutes

- 91 The board must ensure that proper minutes are kept in relation to all board meetings and meetings of sub-committees or working groups.
- 92 The minutes to be kept under clause 91 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 or working groups

- 93 The board may delegate any of their powers to any sub-committee or working group consisting of such other persons as the Board may determine.
- 94 The board may also delegate to the chair of the SCIO (or the holder of any other post) such of their powers as they may consider appropriate.
- 95 When delegating powers under clause 93 or 94, the board must set out appropriate conditions (which must include an obligation to report regularly to the board).
- 96 Any delegation of powers under clause 93 or 94 may be revoked or altered by the board at any time.
- 97 The rules of procedure for each sub-committee or working group, and the provisions relating to membership of each sub-committee or working group, shall be set by the board.

Operation of accounts

- 98 Subject to clause 99, 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 SCIO; at least one out of the two signatures must be the signature of a charity trustee.
- 99 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 98.

Accounting records and annual accounts

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

- 102 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.
- 103 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

- 104 This constitution may (subject to clause 105) be altered by resolution of the members passed at a members' meeting (subject to achieving the two thirds majority referred to in clause 43) or by way of a written resolution of the members.
- 105 The Charities and Trustee Investment (Scotland) Act 2005 prohibits taking certain steps (eg change of name, an alteration to the purposes, amalgamation, winding-up) without the consent of the Office of the Scottish Charity Regulator (OSCR).

Interpretation

- 106 References in this constitution to the Charities and Trustee Investment (Scotland) Act 2005 should be taken to include: -
- 106.1 any statutory provision which adds to, modifies or replaces that Act; and
 - 106.2 any statutory instrument issued in pursuance of that Act or in pursuance of any statutory provision falling under paragraph 106.1 above.
- 107 In this constitution: -
- 107.1 "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;
 - 107.2 "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.