

**CONSTITUTION OF  
Orkney Heritage Society**

Adopted at EGM 27 May 2015

**CONSTITUTION**  
of  
**Orkney Heritage Society**

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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 **Orkney Heritage Society** (the "Society")

### **Purposes**

- 4 The Society's purposes are:
  - 4.1.1 To stimulate public interest in, and care for, the beauty, history and character of Orkney.
  - 4.1.2 To encourage the preservation, development and improvement of features of general public amenity or historic interest.
  - 4.1.3 To encourage high standards of architecture and planning in Orkney.

And in furtherance thereof:

to organise public lectures, conferences, exhibitions and trips, publish various publications and organise a series of awards.

### **Powers**

- 5 The Society 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 Society may be paid or transferred (directly or indirectly) to the members - either in the course of the Society's existence or on dissolution - except where this is done in direct furtherance of the Society's charitable purposes.

### **Liability of members**

- 7 The members of the Society have no liability to pay any sums to help to meet the debts (or other liabilities) of the Society if it is wound up;

accordingly, if the Society 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 Society consists of:-
  - 9.1 the MEMBERS - who have the right to attend members' meetings (including any annual general meeting) 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 Society; for example, the board is responsible for monitoring and controlling the financial position of the Society.
- 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 is interested in the aims of the Society.
- 12 Employees of the Society are eligible for membership, but may not be elected as a Trustee

### **Application for membership**

- 13 Any person who wishes to become a member must sign an application for membership in the form prescribed by the board; the application will then be considered by the board at its next board meeting.
- 14 The board may, at its discretion, refuse to admit any person to membership.
- 15 The board must notify each applicant promptly of its decision on whether or not to admit him/her to membership.

### **Membership subscription**

- 16 Annual membership subscriptions will be decided at the AGM of the Society each year. Membership will lapse if the subscription is unpaid six months after notification that it is due.

### **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 full name and address; and
    - 17.1.2 the date on which he/she was registered as a member of the Society;
  - 17.2 for each former member - for at least six years from the date on he/she ceased to be a member:
    - 17.2.1 his/her name; and
    - 17.2.2 the date on which he/she 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 Society; or
  - 18.2 which is notified to the Society.
- 19 If a member or charity trustee of the Society 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 a member (rather than a charity trustee), the board may provide a copy which has the addresses blanked out.

### **Withdrawal from membership**

- 20 Any person who wants to withdraw from membership must give a written notice of withdrawal to the Society, signed by him/her; he/she will cease to be a member as from the time when the notice is received by the Society.

### **Transfer of membership**

- 21 Membership of the Society may not be transferred by a member.

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

- 22 The board may, at any time, issue notices to the members requiring them to confirm that they wish to remain as members of the Society, and allowing them a period of 28 days (running from the date of issue of the notice) to provide that confirmation to the board.
- 23 If a member fails to provide confirmation to the board (in writing or by e-mail) that he/she wishes to remain as a member of the Society before the expiry of the 28-day period referred to in clause 22, the board may remove him/her from membership.
- 24 A notice under clause 22 will not be valid unless it refers specifically to the consequences (under clause 23) of failing to provide confirmation within the 28-day period.

### **Expulsion from membership**

- 25 Any person may be expelled from membership by way of a resolution passed by not less than two thirds of those present and voting at a members' meeting, providing the following procedures have been observed:-
- 25.1 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;
- 25.2 the member concerned will be entitled to be heard on the resolution at the members' meeting at which the resolution is proposed.

## **DECISION-MAKING BY THE MEMBERS**

### **Members' meetings**

- 26 The board must arrange a meeting of members (an annual general meeting or "AGM") in each calendar year.
- 27 The gap between one AGM and the next must not be longer than 15 months.
- 28 Notwithstanding clause 26, an AGM does not need to be held during the calendar year in which the Society is formed; but the first AGM must still be held within 15 months of the date on which the Society is formed.
- 29 The business of each AGM must include:-
- 29.1 a report by the chair on the activities of the Society;
- 29.2 consideration of the annual accounts of the Society;

- 29.3 the election/re-election of charity trustees, as referred to in clauses 58 to 61.
- 29.4 The election of a president (and Vice-President if desired).
- 30 The board may arrange a special members' meeting at any time.

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

- 31 The board must arrange a special 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) by members who amount to 5% or more of the total membership of the Society at the time, providing:
  - 31.1 the notice states the purposes for which the meeting is to be held; and
  - 31.2 those purposes are not inconsistent with the terms of this constitution, the Charities and Trustee (Investment) Scotland Act 2005 or any other statutory provision.
- 32 If the board receive a notice under clause 31, 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**

- 33 At least 14 clear days' notice must be given of any AGM or any special members' meeting.
- 34 The notice calling a members' meeting must specify in general terms what business is to be dealt with at the meeting; and
  - 34.1 in the case of a resolution to alter the constitution, must set out the exact terms of the proposed alteration(s); or
  - 34.2 in the case of any other resolution falling within clause 45 (requirement for two-thirds majority) must set out the exact terms of the resolution.
- 35 The reference to "clear days" in clause 33 shall be taken to mean that, in calculating the period of notice,
  - 35.1 the day after the notices are posted (or sent by e-mail) should be excluded; and
  - 35.2 the day of the meeting itself should also be excluded.
- 36 Notice of every members' meeting must be given to all the members of the Society, 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.

37 Any notice which requires to be given to a member under this constitution must be: -

37.1 sent by post to the member, at the address last notified by him/her to the Society; *or*

37.2 sent by e-mail to the member, at the e-mail address last notified by him/her to the Society; *or*

37.3 by means of a website; *or*

37.4 partly by one such means and partly by another to addresses last notified by the member.

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

38 No valid decisions can be taken at any members' meeting unless a quorum is present.

39 The quorum for a members' meeting is 15 persons entitled to vote, each being a member or a proxy for a member.

40 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.

41 The chair of the Society should act as chairperson of each members' meeting.

42 If the chair of the Society 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**

43 Every member has one vote, which (whether on a show of hands or on a secret ballot) may be given either personally or by proxy.

43.1.1 A member who wishes to appoint a proxy to vote on his/her behalf at any meeting must lodge with the Society, prior to the time when the meeting commences, a written proxy form, signed by him/her.

43.1.2 A proxy need not be a member of the Society.

- 43.1.3 A member shall not be entitled to appoint more than one proxy to attend the same meeting.
- 43.1.4 A proxy appointed to attend and vote at any meeting instead of a member shall have the same right as the member who appointed him/her to speak at the meeting.
- 44 All decisions at members' meetings will be made by majority vote - with the exception of the types of resolution listed in clause 45.
- 45 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 49):
  - 45.1 a resolution amending the constitution;
  - 45.2 a resolution expelling a person from membership under article 25;
  - 45.3 a resolution directing the board to take any particular step (or directing the board not to take any particular step);
  - 45.4 a resolution approving the amalgamation of the Society with another SCIO (or approving the constitution of the new SCIO to be constituted as the successor pursuant to that amalgamation);
  - 45.5 a resolution to the effect that all of the Society'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);
  - 45.6 a resolution for the winding up or dissolution of the Society.
- 46 If there is an equal number of votes for and against any resolution, the chair of the meeting will be entitled to a second (casting) vote.
- 47 A resolution put to the vote at a members' meeting will be decided on a show of hands - unless the chair (or at least two persons present at the meeting and entitled to vote, whether as members or as proxies for members) ask for a secret ballot.
- 48 The chair will decide how any secret ballot is to be conducted, and he/she will declare the result of the ballot at the meeting.

#### **Written resolutions by members**

- 49 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**

- 50 The board must ensure that proper minutes are kept in relation to all members' meetings.
- 51 Minutes of members' meetings must include the names of those present; and (so far as possible) should be signed by the chair of the meeting.
- 52 The board shall make available copies of the minutes referred to in clause 50 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 96.

## **BOARD**

### **Number of charity trustees**

- 53 The maximum number of charity trustees is 20
- 54 The minimum number of charity trustees is 5.

### **Eligibility**

- 55 A person will not be eligible for election or appointment to the board unless he/she is a member of the Society.
- 56 A person will not be eligible for election or appointment to the board if he/she is: -
  - 56.1 disqualified from being a charity trustee under the Charities and Trustee Investment (Scotland) Act 2005; or
  - 56.2 an employee of the Society.

### **Initial charity trustees**

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

### **Election, retiral, re-election**

- 58 At each AGM, the members may elect any member (unless he/she is debarred from membership under clause 56) to be a charity trustee.
- 59 The board may at any time appoint any member (unless he/she is debarred from membership under clause 56) to be a charity trustee.

- 60 At each AGM, all of the charity trustees must retire from office - but may then be re-elected under clause 58.
- 61 A charity trustee retiring at an AGM will be deemed to have been re-elected unless: -
- 61.1 he/she advises the board prior to the conclusion of the AGM that he/she does not wish to be re-appointed as a charity trustee; or
  - 61.2 an election process was held at the AGM and he/she was not among those elected/re-elected through that process; or
  - 61.3 a resolution for the re-election of that charity trustee was put to the AGM and was not carried.

### **Termination of office**

- 62 A charity trustee will automatically cease to hold office if: -
- 62.1 he/she becomes disqualified from being a charity trustee under the Charities and Trustee Investment (Scotland) Act 2005;
  - 62.2 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;
  - 62.3 he/she ceases to be a member of the Society;
  - 62.4 he/she becomes an employee of the Society;
  - 62.5 he/she gives the Society a notice of resignation, signed by him/her;
  - 62.6 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;
  - 62.7 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 code of conduct for charity trustees (as referred to in clause 79);
  - 62.8 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; or

- 62.9 he/she is removed from office by a resolution of the members passed at a members' meeting.
- 63 A resolution under paragraph 62.7, 62.8 or 62.9 shall be valid only if: -
  - 63.1 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;
  - 63.2 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
  - 63.3 (in the case of a resolution under paragraph 62.7 or 62.8) 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**

- 64 The board must keep a register of charity trustees, setting out
  - 64.1 for each current charity trustee:
    - 64.1.1 his/her full name and address;
    - 64.1.2 the date on which he/she was appointed as a charity trustee; and
    - 64.1.3 any office held by him/her in the Society;
  - 64.2 for each former charity trustee - for at least 6 years from the date on which he/she ceased to be a charity trustee:
    - 64.2.1 the name of the charity trustee;
    - 64.2.2 any office held by him/her in the Society; and
    - 64.2.3 the date on which he/she ceased to be a charity trustee.
- 65 The board must ensure that the register of charity trustees is updated within 28 days of any change:
  - 65.1 which arises from a resolution of the board or a resolution passed by the members of the Society; or
  - 65.2 which is notified to the Society.
- 66 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 Society, the board may provide a copy which has the addresses blanked out - if the Society is satisfied

that including that information is likely to jeopardise the safety or security of any person or premises.

### **Office-bearers**

- 67 The charity trustees must elect (from among themselves) a chair, a vice chair, a treasurer, a secretary, and a membership secretary.
- 68 In addition to the office-bearers required under clause 67, the charity trustees may elect (from among themselves) further office-bearers if they consider that appropriate.
- 69 All of the office-bearers will cease to hold office at the conclusion of each AGM, but may then be re-elected under clause 67 or 68.
- 70 A person elected to any office will automatically cease to hold that office: -
- 70.1 if he/she ceases to be a charity trustee; *or*
  - 70.2 if he/she gives to the Society a notice of resignation from that office, signed by him/her.

### **Powers of board**

- 71 Except where this constitution states otherwise, the Society (and its assets and operations) will be managed by the board; and the board may exercise all the powers of the Society.
- 72 A meeting of the board at which a quorum, as defined by clause 83, is present may exercise all powers exercisable by the board.
- 73 The members may, by way of a resolution passed in compliance with clause 45 (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 Society; and, in particular, must:-
- 74.1 seek, in good faith, to ensure that the Society 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 Society and any other party:

- 74.3.1 put the interests of the Society 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 Society 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 Society 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 Society should enter into the arrangement - a charity trustee will not be debarred from entering into an arrangement with the Society in which he/she has a personal interest; and (subject to clause 77 and to the provisions relating to remuneration for services contained in the Charities and Trustee Investment (Scotland) Act 2005), 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 Society; and no charity trustee may be given any remuneration by the Society for carrying out his/her duties as a charity trustee.
- 78 The charity trustees may be paid all travelling and other expenses reasonably incurred by them in connection with carrying out their duties.

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

- 79 Each of the charity trustees shall comply with any code of conduct (incorporating detailed rules on conflict of interest) prescribed by the board from time to time.
- 80 The code of conduct referred to in clause 79 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**

- 81 Any charity trustee may call a meeting of the board *or* ask the secretary to call a meeting of the board.
- 82 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**

- 83 No valid decisions can be taken at a board meeting unless a quorum is present; the quorum for board meetings is 5 charity trustees, present in person.
- 84 If at any time the number of charity trustees in office falls below the number stated as the quorum in clause 83, 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.
- 85 The chair of the Society should act as chairperson of each board meeting.
- 86 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.
- 87 Every charity trustee has one vote, which must be given personally.
- 88 All decisions at board meetings will be made by majority vote.
- 89 If there is an equal number of votes for and against any resolution, the chair of the meeting will be entitled to a second (casting) vote.
- 90 The board may, at its discretion, 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.
- 91 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 he/she has a personal interest or duty which conflicts (or may conflict) with the interests of the Society; he/she must withdraw from the meeting while an item of that nature is being dealt with.

- 92 For the purposes of clause 91: -
- 92.1 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;
  - 92.2 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**

- 93 The board must ensure that proper minutes are kept in relation to all board meetings and meetings of sub-committees.
- 94 The minutes to be kept under clause 93 must include the names of those present; and (so far as possible) should be signed by the chair of the meeting.
- 95 The board shall (subject to clause 96) make available copies of the minutes referred to in clause 93 to any member of the public requesting them.
- 96 The board may exclude from any copy minutes made available to a member of the public under clause 95 any material which the board considers ought properly to be kept confidential - on the grounds that allowing access to such material could cause significant prejudice to the interests of the organisation or on the basis that the material contains reference to employee or other matters which it would be inappropriate to divulge.

## **ADMINISTRATION**

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

- 97 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.
- 98 The board may also delegate to the chair of the Society (or the holder of any other post) such of their powers as they may consider appropriate.

- 99 When delegating powers under clause 97 or 98, the board must set out appropriate conditions (which must include an obligation to report regularly to the board).
- 100 Any delegation of powers under clause 97 or 98 may be revoked or altered by the board at any time.
- 101 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**

- 102 Subject to clause 103, the signatures of two out of those authorised signatories appointed by the board will be required in relation to all operations (other than the lodging of funds) on the bank, building society and other types of accounts held by the Society; at least one out of the two signatures must be the signature of a charity trustee.
- 103 Where the Society uses electronic facilities for the operation of any bank, building Society or other types of account, the authorisations required for operations on that account must be consistent with the approach reflected in clause 102.

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

- 104 The board must ensure that proper accounting records are kept, in accordance with all applicable statutory requirements.
- 105 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**

- 106 If the Society 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.
- 107 Any surplus assets available to the Society 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 Society as set out in this constitution.

### **Alterations to the constitution**

Adopted at EGM 27 May 2015

- 108 This constitution may (subject to clause 109) be altered by resolution of the members passed at a members' meeting (subject to achieving the two thirds majority referred to in clause 45) or by way of a written resolution of the members.
- 109 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**

- 110 References in this constitution to the Charities and Trustee Investment (Scotland) Act 2005 should be taken to include: -
- 110.1 any statutory provision which adds to, modifies or replaces that Act; and
  - 110.2 any statutory instrument issued in pursuance of that Act or in pursuance of any statutory provision falling under paragraph 110.1 above.
- 111 In this constitution: -
- 111.1 "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;
  - 111.2 "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.

This constitution was adopted on .....27 May 2015.....

<b>Signature</b>	<b>Name</b>	<b>Address</b>	<b>Position</b>
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	Spencer Rosie	75 Victoria Street , Kirkwall, KW15 1DQ	Chairman
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