

CONSTITUTION OF THE FRIENDS OF LOCH ETIVE

Adopted on _____ 2016

1. *Name & Type of Organisation*
The name of the organisation is The Friends of Loch Etive; it is a Scottish Charitable Incorporated Organisation (a SCIO) and hereinafter referred to as “the SCIO”.
2. *Scottish Principal Office*
The principal office of the SCIO will be in Scotland.
3. *Charitable Purposes*
The purpose of The Friends of Loch Etive is the advancement of environmental protection and improvement with particular reference to Loch Etive and the surrounding area.
4. *Powers*
The SCIO has the full range of powers available to a SCIO as specified in the Charities and Trustee Investment (Scotland) Act 2005 (“the Act”), but such powers can only be used to further the purposes referred to in clause 3 hereof.
5. *Organisational Structure*
The structure of the SCIO consists of:
 - (a) a board of trustees (collectively “the Board” and each a “Charity Trustee”) who generally control the day to day activities and finances of the SCIO, and
 - (b) the “Members”, who have important powers under this constitution, including the right to attend Members’ Meetings and elect Charity Trustees.
6. *Liability of Charity Trustees*
The Members and the Charity Trustees 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, neither the Members nor the Charity Trustees will be held responsible.
7. The Charity Trustees have certain legal duties under the Act; and clause 6 does not apply to any personal liabilities they might incur if they are in breach of those duties.
8. *Qualifications for Membership*
Membership is open to any individual over the age of 18 years on such terms and conditions as the Charity Trustees may decide from time to time and subject to the payment of such subscription as may be fixed by the Charity Trustees from time to time. Different rates of subscription may be fixed for different types of membership.
9. *Types of Membership*
 - (a) Individuals may become annual or life members subject to payment of the suitable subscription as decided by the Charity Trustees from time to time.
 - (b) Clubs, societies and other voluntary or charitable organisations may become Associate Members.

- (c) Companies, partnerships, professional practices and other businesses may become Corporate Members.
- (d) The Charity Trustees may also introduce other forms of non voting membership with such rights as they think appropriate from time to time.

10. *Subscriptions*

Annual subscriptions shall be payable not later than 31 May in each year in respect of the then current calendar year. Any Member who has not paid his subscription by the due date shall not be entitled to vote at any meeting of the SCIO.

11. *Register of Members*

The Charity Trustees shall keep a register of the Members of the SCIO setting out

- (a) the full name and address of each person who is or was within the preceding six years a Member;
- (b) the date on which such person was admitted to membership; and
- (c) the date on which any person ceased to be a member.
- (d) In the case of an Associate Member or a Corporate Members the principal contact for the Member any other name by which it is known, its registered charity number (if appropriate) and its registered company number (if appropriate)

12. *Application for Member*

Any person or body who wishes to become a Member must sign a written application in the form set out by the Charity Trustees and submit the same to the Charity Trustees for their consideration at their next Board Meeting. The Charity Trustees may at their discretion refuse to admit any person or body to membership. The Charity Trustees must notify each applicant promptly in writing of their decision whether or not to admit them to Membership.

13. *Cessation of Membership*

Any Member shall cease to be a Member in the event of the following events:

- (a) they give written notice of withdrawal of Membership;
- (b) they are expelled from Membership by way of a written resolution passed by not less than two-thirds of those present voting at a Members' meeting provided that (i) at least 21 days' notice of the intention of proposed resolution has been given to the Member concerned specifying the ground for the proposed expulsion; (ii) the Member concerned has been given the opportunity to be heard on the resolution at the Members' meeting;
- (c) on the death or winding up of the Member.

14. *Members' Meetings*

- (a) The Charity Trustees must convene an annual meeting for Members (the AGM) in each calendar year.

- (b) The gap between one AGM and the next must not be longer than 15 months. Notwithstanding the foregoing an AGM must be held not later than 6 months following the date of adoption of this constitution.
- (c) The business of each AGM shall include:
 - (i) report by the Charity Trustees on the activities of the organisation;
 - (ii) submission of the annual accounts of the Organisation;
 - (iii) the election of Charity Trustees in accordance with clause 20.

15. *Special Members' Meetings*

A Special Members' Meeting may be called as a result of:

- (a) the decision of the Charity Trustees; or
- (b) a requisition by not less than 10% of the Members.

The Notice calling the Members' Meeting must specify in general terms the business to be dealt with at the meeting and in the case of any resolution to alter the constitution must set out the exact terms of the proposed alteration.

16. *Procedures at Members' Meetings*

- (a) A quorum for any Members' Meeting shall be 5 Members present in person or 10% of the total membership whichever is less;
- (b) One of the Charity Trustees shall act as Chairperson for each Members' Meeting.
- (c) Each Member shall have one vote and any Associate Member or Corporate Member shall also be entitled to one vote per Associate Member or Corporate Member.
- (d) If there is an equality of votes the Chairperson of the Meeting shall be entitled to a second or casting vote.
- (e) A Resolution put to the vote at Members' Meetings will be decided on a show of hands unless the Chairperson (or at least three other Members present at the meeting) ask for a secret ballot. The method of the conduct of the secret ballot shall be decided by the Chairman of the meeting.
- (f) The Charity Trustees shall be responsible for ensuring that proper Minutes are kept of the meeting.

17. *Notices of Meeting*

- (a) Subject to any longer specified in this Constitution or in terms of the Act not less than 14 clear days must be given for any Members' Meeting. In calculating the period of notice the day after the notices are posted or sent by email shall be excluded and the day of the meeting itself shall be excluded.
- (b) Notices of every Members' Meeting must be given to all the Members of the SCIO and to all the Charity Trustees. Any accidental omission to give notice to one or more Members will not invalidate the proceedings at the meeting.

- (c) Any notice may be given by post to the Member at the address last notified to him or sent by email to the Member at an email address last notified to the SCIO.

BOARD OF CHARITY TRUSTEES

18. Number of Charity Trustees

The maximum number of Charity Trustees is five. The minimum number of Charity Trustees is three.

- 19. Any person who is an adult and is not disqualified from acting to be a Charity Trustee may be appointed as a Charity Trustee.

20. Appointment

The first Charity Trustees shall be the persons named in the register of Charity Trustees on the date of adoption of this constitution. Insofar as possible the Charity Trustees shall decide amongst themselves for retirement by rotation so that the number of Trustees retiring by rotation at each AGM shall be as near one third as possible. Those retiring first shall be those who have served longest since last re-election and where this is an equality of service, lots shall be cast to decide who shall retire. Any person who confirms they are willing to act as a Charity Trustee may be appointed by a resolution made in accordance with clause 16, providing such appointment will not result in the maximum number of trustees stated in clause 18 being exceeded. All retiring trustees shall be eligible for re-election. The Board may at any time appoint any further person or persons who are adults and not disqualified from acting to be a Charity Trustee to fill any vacancy on the Board of Trustees and such person shall hold office until the next AGM when they shall resign subject to re-election.

21. Termination of Office

A Charity Trustee will automatically cease to hold office if:

- (a) he/she becomes debarred from acting as a Charity Trustee of an SCIO under the Act;
- (b) 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;
- (c) he/she delivers a written and signed notice of resignation to the principal office of the SCIO;
- (d) he/she is absent (without permission of the Board) from more than three consecutive meetings of the Board – but only if the Board resolves to remove him/her from office (by way of a resolution passed by majority vote at a Board meeting);
- (e) he/she is removed from office as a Charity Trustee, for some reason other than as referred to in (d) above, by way of a resolution passed at a Members' meeting – but only if at least two thirds of the Members present voted in favour of that resolution.

22. *Register of Charity Trustees*
The Board must keep a register of Charity Trustees, setting out:
- (a) the full name and address of each person who is – or was, within the preceding six years – a Charity Trustee;
 - (b) the date on which each person became a Charity Trustee; and
 - (c) the date on which any person ceased to be a Charity Trustee.
 - (d) details of any office in the SCIO held by the person
23. *Office Bearers*
The Charity Trustees may elect such office bearers as they think fit from among themselves.
24. Any person elected to any office will automatically cease to hold that office if he or she ceases to be a Charity Trustee for any reason, or if he/she resigns from that office and delivers a written and signed notice of resignation to the principal office of the SCIO.
25. *Power of the Board*
Except where this constitution states otherwise, the SCIO (and its assets and operations) will be managed on a day to day basis by the Board; and the Board may exercise all the powers of charity.
26. A meeting of the Board at which a quorum is present may exercise all powers exercisable by the Board.
27. *Personal Interests*
A Charity Trustee who has a personal interest in any arrangement which the SCIO is proposing to enter into, must declare that interest at a Board meeting – before the decision is taken on whether or not to proceed with that arrangement.
28. For the purposes of clause 27 a person is taken to have a personal interest if any party who is defined as being “connected with the charity trustee” for the purposes of section 68 (2) of the Act as a personal interest.
29. Subject always to the provisions of the Act, provided he/she has declared his/her interest and, – 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.
30. No Charity Trustee may be given any remuneration by the SCIO for carrying out his or her duties as a Charity Trustee but subject to the terms of sections 67 and 68 of the Act may receive remuneration.
31. Charity Trustees may be paid all travelling and other expenses reasonably and properly incurred by them in connection with the carrying out of their duties; this may include expenses relating to attendance at meetings.
32. *Notice of Board meetings*
Any Charity Trustee may call a meeting of the Board.

33. 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.
34. *Procedure at Board meetings*

No valid decisions can be taken at a Board meeting unless a quorum is present; the quorum for Board meetings is two Charity Trustees, present at the meeting. A Charity Trustee will be deemed to be present at the meeting (and shall be counted for the purposes of determining whether or not the meeting is quorate) when he or she can communicate with the other Charity Trustees participating in the meeting, whether by conference call or video conference or some other form of technology. In determining whether Charity Trustees are participating in a Board meeting it is irrelevant where any Charity Trustee is or how they communicate with each other, providing they can give and receive information or opinions on any particular item of business of the meeting. If all the Charity Trustees participating in a meeting are not in the same place, they may decide that the meeting is to be treated as taking place wherever any of them is.
35. If at any time the number of Charity Trustees in office falls below the number stated as the quorum in clause 34, the remaining Charity Trustee(s) will have power to fill the vacancies – but will not be able to take any other valid decisions. Any persons co-opted to fill such vacancy shall serve until the next AGM.
36. The chair of the SCIO should act as chairperson of each Board meeting. 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.
37. Proper minutes of all meetings shall be kept and the Charity Trustees shall appoint one of their number or some other person to take and keep the minutes. The minutes may be circulated and preserved electronically or by hard copy as the Charity Trustees may decide from time to time.
38. Every Charity Trustee has one vote which must be given personally.
39. Except where this constitution – or the Act – states that a higher threshold should apply, all decisions at Board meetings will be made by majority vote.
40. 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.
41. 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.
42. 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 which conflicts (or may conflict) with the interests of the SCIO; he/she must withdraw from the meeting while an item of that nature is being dealt with.
43. The reference to “personal interest” in clause 42 will be interpreted in accordance with clause 27 and clause 28.

ADMINISTRATION

44. Delegation to Sub-Committees

The Board may also delegate to any one of the trustees such of the powers as they think appropriate subject always to such party to whom such powers are delegated reporting back to the Board at regular intervals.

45. Operation of Accounts

The Board may decide what banking accounts shall be opened and shall make such resolutions as are necessary for the opening and operation of such accounts.

46. Accounting records and annual accounts

The Board must ensure that proper accounting records are kept, in accordance with all applicable statutory requirements.

47. 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

48. Winding Up

If the SCIO is to be dissolved, the winding up process will be carried out in accordance with the procedures set out under the Act.

For the avoidance of doubt, no part of the income or property of the SCIO may be paid or transferred (directly or indirectly) to the Charity Trustees – 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 aims. Any surplus assets after meeting all liabilities shall be made over to a body or bodies selected by the Charity Trustees which will apply the assets for charitable purposes under section 7 of the Charities and Trustee Investment (Scotland) Act 2005 which are also regarded as a charitable purpose in relation to the application of the Income and Corporation Taxes Act 1988 and which are the same as or similar to the purposes as those listed in clause 3 of this constitution.

49. Alterations to the Constitution

This constitution may be altered by a resolution passed at a Members' Meeting, providing at least two thirds of the Members present at the Meeting and voting on that resolution voted in favour of the resolution

50. Interpretation

References in this constitution to the Act should be taken to include:

- (a) any statutory provision which adds to, modifies or replaces that Act; and
- (b) any statutory instrument issued in pursuance of that Act or in pursuance of any statutory provision falling under (a) above.