

## **CONSTITUTION OF KILMARNOCK HARRIER & ATHLETIC CLUB**

**(SCOTTISH CHARITABLE INCORPORATED ORGANISATION SC046169)**

Kilmarnock Harrier and Athletic Club is a SCIO (Scottish Charitable Incorporated Organisation) and the principal office is, and will remain, in Scotland

## CONSTITUTION

of

### KILMARNOCK HARRIER & ATHLETIC CLUB

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# **KILMARNOCK HARRIER AND ATHLETIC CLUB**

## **GENERAL**

### **Type of organisation**

- 1 The Club is a registered Scottish Charitable Incorporated Organisation (SCIO).

### **Scottish principal office**

- 2 The principal office of the Club will be in Scotland (and must remain in Scotland), and operate from the Ayrshire Athletics Arena, Queens Drive, Kilmarnock, Scotland and shall be affiliated to Scottish Athletics - the governing body within the sport of Athletics and its subsidiaries or such successor entity or entities as become(s) from time to time (and by so doing to become and remain registered as an associate of the Scottish Athletics), and the Scottish Athletics Rules and their Disciplinary Code and the rules and regulations of any governing body.

### **Name**

- 3 The name of the Club is "Kilmarnock Harrier & Athletic Club", referred hereafter as 'the Club'. The Club is based in Kilmarnock with members coming principally from East Ayrshire but welcomes people from North and South Ayrshire and the West of Scotland more generally.

### **Objects**

- 4 The Club's purpose is
  - (1) to provide, promote and develop track and field athletics, road running, cross country and related activities. In doing so support participation in sport and contribute to health and wellbeing of the community.
  - (2) to provide recreational activities and facilities with a view to improving the conditions of life of participants.

### **Powers**

- 5 In furtherance of the Objects, the Club may, in its purpose:
  - (1) facilitate access to a range of services for the Members of the Club and encourage their involvement in planning and developing services relevant to the needs of its Members;

- (2) where necessary employ and pay any person or persons (whether paid or self-employed) to supervise, organise and carry on the work of the Club;
- (3) open and operate a bank account in the name of the Club and to make and receive payments in furtherance of the objectives of the Club;
- (4) engage and pay fees to professional and technical advisers/consultants to assist in the work of the Club;
- (5) engage the services of volunteers to assist in the work of the Club and reimburse approved out-of-pocket expenses;
- (6) enter into partnerships or contractual agreements which can further the objectives of the Club;
- (7) invite donations in support of the Club, and to allocate donations to charities, keeping records of any such donations and of feedback from recipients;
- (8) be affiliated to the national governing body - Scottish Athletics and comply with regulations and statutes and in addition take out membership of such organisations that are considered to be in the interest of and compatible with the objects of the Club;
- (9) arrange and provide for or join in arranging and providing for the holding of meetings, classes, seminars and local training courses;
- (10) collect and disseminate information on all matters affecting the objects and exchange such information with other bodies having similar objects, whether in this country or overseas;
- (11) cause to be written and printed or otherwise reproduced and circulated, free of charge or for payment, such papers, books, periodicals, pamphlets or other documents or films or recorded tapes (whether audio or visual or both) as shall further the objects;
- (12) purchase, take on lease or exchange, hire or otherwise acquire any property and any rights and privileges necessary for the promotion of the objects and construct, maintain and alter any buildings necessary for the work of the Club;
- (13) make regulations for the management of any property which may be so acquired;
- (14) subject to such consents as may be required by law, borrow or raise money and accept gifts on such terms and on such security as shall be deemed to be necessary;

- (15) raise funds and invite and receive contributions from any person or persons whatsoever by way of subscription and otherwise provided that the Club shall not undertake permanent trading activities in raising funds for the said objects except by means of a company established for that purpose, and;
  - (16) do all such other lawful things as are necessary for the attainment of the purposes.
- 6 No part of the income or property of the Club may be paid or transferred (directly or indirectly) to the members - either in the course of the Club's existence or on dissolution - except where this is done in direct furtherance of the Club's charitable purposes, and as stated in this constitution.

### **Liability of members**

- 7 The members of the Club have no liability to pay any sums to help to meet the debts financial or monetary obligations (or other liabilities) of the Club if it is wound up or becomes insolvent; accordingly, if the Club is unable to meet its debts, the members will not be held responsible and at no stage, will the members be held responsible to meet these liabilities. As members, the trustees, individually and collectively, have no liability for any debts nor other liabilities directly incurred by the club, nor as a consequence of the activities of the Club.
- 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 Club consists of:-
- (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;
  - (2) the BOARD - who hold regular meetings, and generally control the activities of the Club.
- 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 9 or over.
- 12 The categories of membership will be agreed by the Board of Trustees with any changes to subscription rates approved at the AGM.
- 13 Junior Membership will be open to all individuals under the age of 17 years who wish to assist in the furtherance of the objects of the Club and who agree to operate within the governing documents and byelaws of the Club and those of Scottish Athletics.
- 14 Associate Memberships will be open to any organisation, who wish to assist in the furtherance of the objectives and who agree to operate within the constitution and byelaws of the Club and whose activities promote training, participation and/or education of young people or improve the opportunities available to them. This category of membership will have no voting rights.
- 15 The board may nominate and members may elect to honorary membership such persons who have achieved national Senior representation, or won a senior national championship, or rendered outstanding service to the Club. Honorary membership shall be granted for life.
- 16 It is expected that members will at all times uphold the Club's constitution, purposes and follow the code of conduct and other Club policies and those of Scottish Athletics. It is both a right and responsibility of membership to participate in the Club's activities such as competitions and events, including attending meetings such as the annual general meeting where key decisions on the Club's future are discussed and decided.
- 17 Only eligible members may perform in the name of the Club, vote and take part in Club activities.
- 18 The Board of Trustees shall have the right for good and sufficient reason to terminate the membership of any individual or organisation provided that the individual representing such Club (as the case may be) shall have the right to be heard by the Board of Trustees before a final decision is made.

### **Application for membership**

- 19 Any person who wishes to become a member must complete an application for membership. To become a club member the application must include details of the applicant's next of kin, a full and complete declaration of any medical details relevant to the

club's activities, and consent to be included in any photographic or textual media releases by the club.

- 20 The board may, at its discretion, refuse to admit any person to membership. The applicant will be entitled to a right of appeal to the board.
- 21 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**

- 22 The Club will keep a register of members, setting out
- (1) for each current member:
    - 22.1.1 his/her full name and address, or that of the organisation; and
    - 22.1.2 the date on which he/she was registered as a member of the Club;
  - (2) for each former member - for at least six years from the date on he/she ceased to be a member:
    - 22.2.1 his/her name; and
    - 22.2.2 the date on which he/she ceased to be a member.
- 23 The board will ensure that the register of members is updated within 28 days of any change:
- (1) which arises from a resolution of the board or a resolution passed by the members of the Club; or
  - (2) which is notified to the Club.
- 24 If a member or charity trustee of the Club requests a copy of the register of members, the board will 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 with all personal information other than the name and category of membership redacted.

### **Withdrawal or Termination from membership**

- 25 Any person who wants to withdraw from membership must give a notice of withdrawal to the Club; he/she will cease to be a member as from the time when the notice is received by the Club.
- 26 Membership of the Club will terminate in the event of non payment of fees by the due date.

### **Transfer of membership**

- 27 Membership of the Club may not be transferred by a member to any other person and shall terminate on death.

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

- 28 The board may, at any time, issue notices to the members requiring them to confirm that they wish to remain as members of the Club, and allowing them a period of 35 days (running from the date of issue of the notice) to provide that confirmation to the board.
- 29 If a member fails to provide confirmation to the board (in writing or by e-mail) that he/she wishes to remain as a member of the Club before the expiry of the 35-day period referred to in clause 28, the board may expel him/her from membership.
- 30 A notice under clause 28 will not be valid unless it refers specifically to the consequences under clause 29 of failing to provide confirmation within the 35-day period.

### **Refusal, Suspension and Expulsion from membership**

- 31 The Management Committee shall be entitled to refuse any application for membership on the grounds that such membership would be prejudicial to the objectives of the club. Should a membership application be refused, the prospective member shall have the right to appeal to the management committee before a final decision is made.
- 32 The Management Committee has the right to suspend and expel an individual from membership. The circumstances and procedures under which either of these measures can be applied will be set out in the Club's disciplinary procedures which must be approved by the Board of Trustees.
- 33 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 Management Committee meeting, providing the following procedures have been observed:-
- (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;
  - (2) the member concerned will be entitled to be heard on the resolution at the Management Committee meeting at which the resolution is proposed.
- 34 The Management Committee will be entitled for good and sufficient reason to refuse renewal of any existing membership or expel or suspend any member provided that the member concerned shall



have the right to be heard by the management committee before a final decision on expulsion is made. A member can also be suspended by the Chair in consultation with at least one member of the Management Committee provided that the situation warrants this and is reasonable. Such a decision is subject to consideration and confirmation by the Management Committee

- 35 The member may apply for reinstatement at the next Management Committee meeting.
- 36 Any member who fails to pay their fees by the date required shall forfeit their right to representation on the management committee and at general meetings, and shall be suspended from taking part in any event under the control of the club until such fees are paid.
- 37 The Management Committee will inform the member in writing of any decision to terminate their membership.

### **Appeals**

- 38 In cases where a member is aggrieved at a substantive decision, including suspension or expulsion by the Management Committee or by the decision of a coach, office bearer, club committee or sub-committee, and where all appropriate informal mechanisms have been exhausted, then that member will have the right of appeal. Such an appeal will so far as possible and as is consistent with the club's resources be independent of the person or group who made the decision which is the subject of the appeal.
- 39 The appeal will be considered by an appeal committee of least three persons nominated by the Chair or his nominee. The committee will be usually drawn from the Charity Trustees, but may include an individual with particular expertise, who may be from outside the club. The Chair will nominate a committee chair who must be a Charity Trustee. .

### **Equalities**

- 40 In relation to its purposes, and aligned to the Equalities Act 2010, the Club will strive to avoid intentional and unintentional discrimination by virtue of age, disability, race, religion or belief, gender reassignment, marriage and civil partnership, pregnancy and maternity, sex, sexual orientation or any other such artificial barriers or prejudices.
- 41 In doing this, the Club will strive to undertake whatever changes in Club or facilities may be necessary to implement the above.

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

## **Members' meetings**

- 42 The board must arrange a meeting of members (an annual general meeting or "AGM") in each calendar year.
- 43 The gap between one AGM and the next must not be longer than 15 months. Where the national government or local public health authority has imposed restrictions which prevent, or make it undesirable, to hold a meeting within 15 months of its predecessor the Trustees may authorise a suitable longer interval. Such a decision by the Trustees will only apply for one year at a time.
- Where a physical meeting cannot be held because of national government or local public health authority have issued guidance or imposed restrictions preventing or making it undesirable to gather members together then it is acceptable to convene a meeting using electronic or other suitable means such as video-conferencing. A meeting so convened must still fulfill the other conditions of an AGM with regard to being quorate, agenda and minutes.
- 44 Notwithstanding clause 42, an AGM does not need to be held during the calendar year in which the Club is formed; but the first AGM must still be held within 15 months of the date on which the Club is formed.
- 45 The business of each AGM must include:-
- (1) approval the minutes of the previous AGM;
  - (2) a report by the Chair and/or the Secretary on the activities of the Club;
  - (3) Treasurer's report and consideration of the annual accounts of the Club;
  - (4) the approval of the annual accounts;
  - (5) the election/re-election of charity trustees, as referred to in clauses 80 to 82.
  - (6) the appointment of independent examiner or examiners;
  - (7) motions submitted by the Board of Trustees or by members, and;
  - (8) the transactions of such other matter as may from time to time be necessary
- 46 The board may arrange a special members' meeting at any time by a simple majority vote.

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

- 47 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 voting membership of the Club at the time, or 20 voting members (whichever is the lesser), sent to the Secretary providing:
- (1) the notice states the purposes for which the meeting is to be held; and
  - (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.
- 48 If the board receive a notice under clause 47, 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.
- 49 The board will notify members of the special meeting by an appropriate means which at minimum will be a notice on the club web-site. The notification will include:
- (1) The date, time and venue of the meeting.
  - (2) The reason for the meeting.
  - (3) The specific motion or motions that will be considered by the meeting, and
  - (4) The voting arrangements.

### **Notice of members' meetings**

- 50 At least 14 clear days' notice must be given of any AGM or any special members' meeting.
- 51 The notice calling a members' meeting must specify in general terms what business is to be dealt with at the meeting; and
- (1) in the case of a resolution to alter the constitution, must set out the exact terms of the proposed alteration(s); or
  - (2) in the case of any other resolution falling within clause 60 (requirement for two-thirds majority) must set out the exact terms of the resolution.
- 52 The reference to "clear days" in clause 50 shall be taken to mean that, in calculating the period of notice,

- (1) the day after the notices are posted (or sent by e-mail) should be excluded; and
  - (2) the day of the meeting itself should also be excluded.
- 53 Any notice which requires to be given to a member under this constitution must be: -
- (1) Sent by e-mail to the member, at the e-mail address last notified by him/her to the Club.
  - (2) Published on the Club website or placed in a prominent place in the usual meeting place.
  - (3) The omission to give notice to one or more members will not invalidate the proceedings or outcome at the meeting.

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

- 54 No valid decisions can be taken at any members' meeting unless a quorum is present.
- 55 The quorum for a members' meeting is 15 members, present in person.
- 56 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.
- 57 The chair of the Club will act as chairperson of each members' meeting.
- 58 If the chair of the Club 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**

- 59 Every member has one vote, which must be given personally. Junior members under the age of 17 years of age are entitled to give their vote via the Parent or Guardian. All other categories of membership with the exception of associate membership are eligible to vote. All decisions at members' meetings will be made by simple majority vote - with the exception of the types of resolution listed in clause 60. Where a meeting is convened by electronic means such as video conferencing members may vote on any issue before the meeting either by acclamation, or, as

necessary using any suitable means of polling which may take place either during or immediately after the meeting.

60 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.

- (1) a resolution amending the constitution;
- (2) a resolution directing the board to take any particular step (or directing the board not to take any particular step);
- (3) a resolution approving the amalgamation of the Club with another SCIO (or approving the constitution of the new SCIO to be constituted as the successor pursuant to that amalgamation);
- (4) a resolution to the effect that all of the Club'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); and
- (5) a resolution for the winding up or dissolution of the Club.

61 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.

62 A resolution put to the vote at a members' meeting will be decided on a show of hands - unless the chairperson (or at least two other members present at the meeting) ask for a secret ballot.

63 The chairperson will decide how any secret ballot is to be conducted, and he/she will declare the result of the ballot at the meeting.

### **Minutes**

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

65 Minutes of members' meetings must include the names of those present and (as far as possible) should be signed by the chairperson of the meeting.

66 The board shall make available copies of the minutes referred to in clause 64 to any member of the public requesting them; but on the basis that the board may exclude confidential material.

### **BOARD (CHARITY TRUSTEES)**

#### **Number of charity trustees**

- 67 The maximum number of charity trustees is ten.
- 68 The minimum number of charity trustees is three (3).

### **Eligibility**

- 69 A person shall not be eligible for election/appointment to the board under unless he/she is a member of the Club.
- 70 A person will not be eligible for election or appointment to the board if he/she is: -
- (1) disqualified from being a charity trustee under the Charities and Trustee Investment (Scotland) Act 2005; or
  - (2) an employee of the Club.

### **Initial charity trustees**

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

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

- 72 At each AGM, the members may elect any member (unless he/she is debarred from membership under clause 70) to be a charity trustee.
- 73 The board may at any time appoint any member (unless he/she is debarred from membership under clause 70) to be a charity trustee.
- 74 At each AGM, all of the charity trustees shall retire from office - but shall then be eligible for re-election under clause 75.
- 75 A charity trustee retiring at an AGM will be deemed to have been re-elected unless: -
- (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
  - (2) an election process was held at the AGM and he/she was not among those elected/re-elected through that process; or
  - (3) a resolution for the re-election of that charity trustee was put to the AGM and was not carried.

### **Termination of office**

- 76 A charity trustee will automatically cease to hold office if: -
- (1) he/she becomes disqualified from being a charity trustee under the Charities and Trustee Investment (Scotland) Act 2005;
  - (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;
  - (3) he/she ceases to be a member of the Club;
  - (4) he/she becomes an employee of the Club;
  - (5) he/she gives the Club a notice of resignation, signed by him/her;
  - (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;
  - (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 95);
  - (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
  - (9) he/she is removed from office by a resolution of the members passed at a members' meeting.
- 77 A resolution under clause 76(6), 76(7), 76(8), or 76(9) shall be valid only if: -
- (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;
  - (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
  - (3) 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**

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

- 78.1.1 his/her full name and address;
  - 78.1.2 the date on which he/she was appointed as a charity trustee;  
and
  - 78.1.3 any office held by him/her in the Club;
  - (2) for each former charity trustee - for at least 6 years from the date on which he/she ceased to be a charity trustee:
  - 78.2.1 the name of the charity trustee;
  - 78.2.2 any office held by him/her in the Club; and
  - 78.2.3 the date on which he/she ceased to be a charity trustee.
- 79 The board must ensure that the register of charity trustees is updated within 28 days of any change:
- (1) which arises from a resolution of the board or a resolution passed by the members of the Club; or
  - (2) which is notified to the Club.
- 80 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 Club, 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**

- 81 The charity trustees must elect (from among themselves) a chair, a treasurer and a secretary.
- 82 In addition to the office-bearers required under clause 81, the charity trustees may elect (from among themselves) further office-bearers if they consider that appropriate.
- 83 All of the office-bearers shall retire from office at the conclusion of each AGM, but may then be re-elected under clause 81 or 82.
- 84 A person elected to any office will automatically cease to hold that office: -
- (1) if he/she ceases to be a charity trustee; *or*
  - (2) if he/she gives to the Club a notice of resignation from that office, signed by him/her.



### **Powers of board**

- 85 Except where this constitution states otherwise, the Club (and its assets and operations) will be managed by the board; and the board may exercise all the powers of the Club.
- 86 A meeting of the board at which a quorum is present may exercise all powers exercisable by the board.
- 87 The members may, by way of a resolution passed in compliance with clause 60 (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.
- 88 The board may fill any vacancies among the Charity Trustees that may occur during the year. This will be agreed by the current trustees by a majority vote. These individuals shall require to complete a code of conduct outlined in clauses 95 and 96 and shall be added to the Register of Trustees shown in Appendix 2. The individual shall hold office until the next AGM where they will retire but may stand for re-election.
- 89 To delegate any of its powers to a sub-committee appointed for any special purpose.
- (1) Such sub-committee shall be set up with a special remit which will lay down the purpose of the sub-group, any powers delegated from the main committee and timescales associated with it.
  - (2) The sub-committee shall make recommendations back to the main committee, who shall have all decision-making authority over the subcommittee and shall have the responsibility of those decisions.
  - (3) At least one member of the Committee shall sit on any sub-committee and provide a report at each Trustee meeting after the sub-committee set up in order to inform the rest of the Committee members on progress to date.
  - (4) The Chairperson is an ex-officio member of all sub-committees.

### **Charity trustees - general duties**

- 90 Each of the charity trustees has a duty, in exercising functions as a charity trustee, to act in the interests of the Club; and, in particular, must:-

- (1) seek, in good faith, to ensure that the Club acts in a manner which is in accordance with its purposes;
- (2) act with the care and diligence which it is reasonable to expect of a person who is managing the affairs of another person;
- (3) in circumstances giving rise to the possibility of a conflict of interest between the Club and any other party:

90.3.1 put the interests of the Club before that of the other party;

90.3.2 where any other duty prevents him/her from doing so, disclose the conflicting interest to the Club and refrain from participating in any deliberation or decision of the other charity trustees with regard to the matter in question;

- (4) ensure that the Club complies with any direction, requirement, notice or duty imposed under or by virtue of the Charities and Trustee Investment (Scotland) Act 2005.

91 In addition to the duties outlined in clause 90, all of the charity trustees must take such steps as are reasonably practicable for the purpose of ensuring: -

- (1) that any breach of any of those duties by a charity trustee is corrected by the charity trustee concerned and not repeated; and
- (2) that any trustee who has been in serious and persistent breach of those duties is removed as a trustee.

92 Provided he/she has declared his/her interest - and has not voted on the question of whether or not the Club should enter into the arrangement - a charity trustee will not be debarred from entering into an arrangement with the Club in which he/she has a personal interest; and (subject to clause 93 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.

93 No charity trustee may serve as an employee (full time or part time) of the Club; and no charity trustee may be given any remuneration by the Club for carrying out his/her duties as a charity trustee but may receive commensurate remuneration for any other such duty or service provided through a written agreement. The number of charity trustees receiving such remuneration will not be more than one quarter of the total number of Trustees.

94 The charity trustees may be paid all travelling and other expenses reasonably incurred by them in connection with carrying out their

duties; this may include expenses relating to their attendance at meetings.

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

- 95 Each of the charity trustees shall comply with the Club code of conduct and may be cautioned in accordance with the Club grievance procedure to the same extent as members.
- 96 The code of conduct referred to in clause 95 shall be supplemental to the provisions relating to the conduct of charity trustees contained in this constitution and the duties imposed on charity trustees under the Charities and Trustee Investment (Scotland) Act 2005; and all relevant provisions of this constitution shall be interpreted and applied in accordance with the provisions of the code of conduct in force from time to time

### **DECISION-MAKING BY THE CHARITY TRUSTEES**

#### **Notice of board meetings**

- 97 Any charity trustee may call or request a meeting of the board or ask the secretary to call a meeting of the board.
- 98 At least 7 days' notice must be given of each board meeting, unless (in the opinion of the person calling the meeting) there is a degree of urgency which makes that inappropriate.

#### **Procedure at board meetings**

- 99 No valid decisions can be taken at a board meeting unless a quorum is present; the quorum for board meetings is 3 charity trustees, present in person.
- 100 If at any time the number of charity trustees in office falls below the number stated as the quorum in clause 99, the remaining charity trustee(s) will have power to fill the vacancies or call a members' meeting - but will not be able to take any other valid decisions.
- 101 The chair of the Club will act as chairperson of each board meeting.
- 102 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.
- 103 Every charity trustee has one vote, which must be given personally.
- 104 All decisions at board meetings regarding the day to day management of the Club will be made by simple majority vote. The Trustees can delegate powers to the General Committee for operational decisions for the routine operational running of the

Club. In all other matters they shall be referred to the full membership to consider at an AGM.

- 105 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.
- 106 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.
- 107 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 Club; he/she must withdraw from the meeting while an item of that nature is being dealt with.
- 108 For the purposes of clause 107: -
- (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;
  - (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**

- 109 The board must ensure that proper minutes are kept in relation to all board meetings and meetings of sub-committees.
- 110 The board minutes to be kept under clause 109 must include the names of those present; and (as far as possible) should be signed by the chairperson of the meeting.
- 111 The board shall (subject to clause 112) make available copies of the minutes referred to in clause 110 to any member of the club, or member of the public, requesting them.
- 112 The board may exclude from any copy minutes made available to a club member, or member of the public, 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 Club or on the basis that

the material contains reference to employee or other matters which it would be inappropriate to divulge.

## **ADMINISTRATION AND FINANCE**

### **Record keeping and disclosure of information**

- 113 The Club will produce and, as required, review a data protection policy and will, as appropriate seek advice from the Scottish Information Commissioner.
- 114 All personal data will be regarded as confidential. It will not be disclosed to a third party or other Club without the consent of the individual unless there is a pressing medical emergency or protection issue. Personal information will be stored securely.
- 115 Coaches are expected to know the information for members for whose training they are responsible. Such information will be recorded by individual coaches in a way that is suited to their needs but which complies with paragraphs 113 and 114.

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

- 116 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.
- 117 The board may also delegate to the chair of the Club (or the holder of any other post) such of their powers as they may consider appropriate.
- 118 When delegating powers under clause 116 or 117, the board must set out appropriate conditions (which must include an obligation to report regularly to the board).
- 119 Any delegation of powers under clause 116 or 117 may be revoked or altered by the board at any time.
- 120 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**

- 121 Subject to clause 127, the signatures of two out of three unrelated 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 Club; at least one out of the two signatures must be the signature of a charity trustee.
- 122 Where the Club 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 121.

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

- 123 The board must ensure that proper accounting records are kept, in accordance with all applicable statutory requirements.
- 124 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.

### **Finance**

- 125 The funds of the Club may only be used to support the stated objectives of the Club;
- 126 No member of the Club may receive payment directly or indirectly for services to the Club other than to reimburse legitimate out of pocket expenses incurred by them in their work, on behalf of the Club, or by written service provision agreement;
- 127 The Treasurer must lodge all monies in a bank account in the name of the Club. Cheques may only be drawn on the signature of the Treasurer and one of the other nominated Officers.
- 128 The Treasurer keeps correct accounts showing the financial affairs of the Club and must arrange for their scrutiny by an independent examiner at the end of the financial year - 28th February.
- 129 A statement showing the balance of Club funds held in hand or designated Club bank account is presented to the Board of Trustees prior to its submissions to the Annual General Meeting.
- 130 The Board will prepare a Trustees' Annual Report for the AGM to explain any areas not covered in the financial statements and to show how the financial information presented relates to the Club and the activities of the Club;
- 131 All monies due and owing to the Club shall be recoverable, at law, in the name of the Club.

### **MISCELLANEOUS**

#### **Winding-up**

- 132 If the Club 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. A meeting will be held under the conditions of clause 133.

- 133 If the Club is to be dissolved, the Board of Trustees will call an EGM, called specifically for that purpose and a resolution will be brought before the whole membership. The motion will be carried only if passed by a two-thirds majority of the full members, present and voting.
- 134 In special circumstances where the Club has been awarded monies from funding bodies, then the money remaining and which was ring-fenced for a particular project, will be disposed of in the manner set out by each independent funding body in line with their funding policies and criteria.
- 135 Any surplus assets available to the Club 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 Club as set out in this constitution.

#### **Alterations to the constitution**

- 136 This constitution may (subject to clause 137) be altered by resolution of the members passed at a members' meeting (subject to achieving the two thirds majority referred to in clause 60).
- 137 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**

- 138 References in this constitution to the Charities and Trustee Investment (Scotland) Act 2005 should be taken to include: -
- (1) any statutory provision which adds to, modifies or replaces that Act; and
  - (2) any statutory instrument issued in pursuance of that Act or in pursuance of any statutory provision falling under clause (1) above.
- 139 In this constitution: -
- (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;

- (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.-

140 “Board” refers to the board of trustees.



## References and Glossary of Terms

AAA	Ayrshire Athletics Arena, Queen's Drive, Kilmarnock
AGM	Annual General meeting
OSCR	Office of the Scottish Charities Regulator, 2 <sup>nd</sup> Floor, Quadrant House, 9 Riverside Drive, Dundee, DD1 4NY, Telephone 01382 220446, <a href="mailto:info@oscr.org.uk">info@oscr.org.uk</a>
Quorum	the number of members that require to be present for a decision to be valid
SCIO	Scottish Charitable Incorporated Organisation
SIC	Scottish Information Commissioner, Kinburn Castle, Doubledykes Road, St Andrew's, Fife KY16 9DS, Telephone 01334 464610, <a href="http://www.itspublicknowledge.info">www.itspublicknowledge.info</a>
SMM	Special Members' Meeting

## Appendix 1 - Record of Amendments

(1) Date	(2) Details
(3) 8 <sup>th</sup> April 2016	(4) Constitution Adopted
(5) April 2017	(6) Constitution reviewed and updated in light of advice and published guidance from Scottish Athletics
(7) 16 Decem ber 2020	(8) Constitution reviewed by Trustees and updated to reflect emergency situations such as pandemics (Adopted at AGM 14 May 2021

## Appendix 2

### REGISTER OF TRUSTEES; KILMARNOCK HARRIER AND ATHLETIC CLUB

Trustee Name	Full	Address	Date Appointed as Trustee	Office(s) Held in the Club	Date ceased to be Trustee

## **Appendix 3: LEGAL REFERENCES**

### **Related to Clause 7:**

The members and charity trustees have certain legal duties under the Charities and Trustee Investment (Scotland) Act 2005;

#### **Charity trustees: general duties**

(1) A charity trustee must, in exercising functions in that capacity, act in the interests of the charity and must, in particular—

(a) seek, in good faith, to ensure that the charity acts in a manner which is consistent with its purposes,

(b) act with the care and diligence that it is reasonable to expect of a person who is managing the affairs of another person, and

(c) in circumstances capable of giving rise to a conflict of interest between the charity and any person responsible for the appointment of the charity trustee—

(i) put the interests of the charity before those of the other person, or

(ii) where any other duty prevents the charity trustee from doing so, disclose the conflicting interest to the charity and refrain from participating in any deliberation or decision of the other charity trustees with respect to the matter in question.

(2) The charity trustees of a charity must ensure that the charity complies with any direction, requirement, notice or duty imposed on it by virtue of this Act.

(3) Subsections (1) and (2) are without prejudice to any other duty imposed by enactment or otherwise on a charity trustee in relation to the exercise of functions in that capacity.

(4) Any breach of the duty under subsection (1) or (2) is to be treated as being misconduct in the administration of the charity.

(5) All charity trustees must take such steps as are reasonably practicable for the purposes of ensuring—

(a) that any breach of a duty under subsection (1) or (2) is corrected by the trustee concerned and not repeated, and

(b) that any trustee who has been in serious or persistent breach of either or both of those duties is removed as a trustee.”

### **Related to Clauses 70 and 75(1) above :**

Charities and Trustee Investment (Scotland) Act 2005 disqualification from eligibility to be a Charity Trustee.

The Charities and Trustee Investment (Scotland) Act 2005 states:

**Disqualification from being charity trustee**

- 69 (1) The persons specified in subsection (2) are disqualified from being charity trustees.
- (2) Those persons are any person who—
- (a) has been convicted of—
- (i) an offence involving dishonesty,
- (ii) an offence under this Act,
- (b) is an undischarged bankrupt,
- (c) has been removed, under section 7 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c.40) or section 34 of this Act, from being concerned in the management or control of any body,
- (d) has been removed from the office of charity trustee or trustee for a charity by an order made—
- (i) by the Charity Commissioners for England and Wales under section 18(2)(i) of the Charities Act 1993 (c.10), section 20(1A)(i) of the Charities Act 1960 (c.58) or section 20(1) of that Act (as in force before the commencement of section 8 of the Charities Act 1992 (c.41)), or
- (ii) by Her Majesty's High Court of Justice in England, on the grounds of any misconduct in the administration of the charity for which the person was responsible or to which the person was privy, or which the person's conduct contributed to or facilitated,
- (e) is subject to a disqualification order or disqualification undertaking under the Company Directors Disqualification Act 1986 (c.46) or the Company Directors Disqualification (Northern Ireland) Order 2002 (S.I.2002/3150).
- (3) A person referred to in subsection (2)(a) is not disqualified under subsection (1) if the conviction is spent by virtue of the Rehabilitation of Offenders Act 1974 (c.53).
- (4) OSCR may, on the application of a person disqualified under subsection (1), waive the disqualification either generally or in relation to a particular charity or type of charity.

(5) OSCR must notify a waiver under subsection (4) to the person concerned.

(6) OSCR must not grant a waiver under subsection (4) if to do so would prejudice the operation of the Company Directors Disqualification Act 1986 (c.46) or the Company Directors Disqualification (Northern Ireland) Order 2002 (S.I.2002/3150).

### **Disqualification: supplementary**

70 (1) A person who acts as a charity trustee while disqualified by virtue of section 69 is guilty of an offence and liable—

(a) on summary conviction, to imprisonment for a period not exceeding 6 months or a fine not exceeding level 5 on the standard scale or both,

(b) on conviction on indictment, to imprisonment for a period not exceeding 2 years or a fine or both.

(2) Any acts done as a charity trustee by a person disqualified by virtue of section 69 from being a charity trustee are not invalid by reason only of the disqualification.

(3) In section 69(2)(b), “undischarged bankrupt” means a person—

(a) whose estate has been sequestrated, who has been adjudged bankrupt or who has granted a trust deed for or entered into an arrangement with creditors, and

(b) who has not been discharged under or by virtue of—

(i) section 54 or 75(4) of the Bankruptcy (Scotland) Act 1985 (c.66),

(ii) an order under paragraph 11 of Schedule 4 to that Act,

(iii) section 279 or 280 of the Insolvency Act 1986 (c.45), or

(iv) any other enactment or rule of law subsisting at the time of the person’s discharge.”

### Related to Clause 76(8):

Breach of his/her duties under section 66(1) or (2) of the Charities and Trustee Investment (Scotland) Act 2005;

See “Related to Clause 7”, above.

### Related to Clause 93

The Charities and Trustee Investment (Scotland) Act 2005 states:

## ***“Remuneration***

### **Remuneration for services**

- 67 (1) A charity trustee may not be remunerated for services provided to the charity (including services provided in the capacity as a charity trustee or under a contract of employment) unless subsection (2) entitles the trustee to be so remunerated.
- (2) Where a charity trustee of a charity—
- (a) provides services to or on behalf of the charity, or
- (b) might benefit from any remuneration for the provision of such services by a person with whom the trustee is connected, the person providing the services (the “service provider”) is entitled to be remunerated from the charity’s funds for doing so only if the conditions set out in subsection (3) are met.
- (3) Those conditions are—
- (a) that the maximum amount of the remuneration—
- (i) is set out in a written agreement between the service provider and the charity (or, as the case may be, its charity trustees) under which the service provider is to provide the services in question, and
- (ii) is reasonable in the circumstances,
- (b) that, before entering into the agreement, the charity trustees were satisfied that it would be in the interests of the charity for those services to be provided by the service provider for that maximum amount,
- (c) that, immediately after entering into the agreement, less than half of the total number of charity trustees of the charity fall within subsection (4), and
- (d) that the charity’s constitution does not contain any provision which expressly prohibits the service provider from receiving the remuneration.
- (4) A charity trustee falls within this subsection if the trustee is—
- (a) party (in the capacity of a service provider) to a written agreement of the type described in subsection (3)(a)(i) under which any obligation is still to be fully discharged,
- (b) entitled to receive remuneration from the charity’s funds otherwise than by virtue of such an agreement, or

(c) connected with any other charity trustee who falls within subparagraph (a) or (b).

(5) Nothing in subsections (1) or (2) prevents a charity trustee or other service provider from receiving any remuneration from a charity's funds which that service provider is entitled to receive by virtue of—

(a) any authorising provision of the charity's constitution which was in force on 15 November 2004,

(b) an order made by the Court of Session, or

(c) any enactment.

(6) For the purposes of subsection (5)(a), an "authorising provision" is a provision which refers specifically to the payment of remuneration—

(a) to the service provider concerned,

(b) where that service provider is a charity trustee, to a charity trustee, or

(c) where that service provider is connected to a charity trustee, to any person so connected.

(7) Where a charity trustee or other service provider is remunerated in contravention of this section, the charity may recover the amount of remuneration; and proceedings for its recovery must be taken if OSCR so directs.

### **Remuneration: supplementary**

68 (1) In section 67— "benefit" means any direct or indirect benefit, "maximum amount", in relation to remuneration, means the maximum amount of the remuneration whether specified in or ascertainable under the terms of the agreement in question, "remuneration" includes any benefit in kind (and "remunerated" is to be construed accordingly), "services" includes goods that are supplied in connection with the provision of services.

(2) For the purposes of that section, the following persons are "connected" with a charity trustee—

(a) any person—

(i) to whom the trustee is married,

(ii) who is the civil partner of the trustee, or



(iii) with whom the trustee is living as husband and wife or, where the trustee and the other person are of the same sex, in an equivalent relationship,

(b) any child, parent, grandchild, grandparent, brother or sister of the trustee (and any spouse of any such person),

(c) any institution which is controlled (whether directly or through one or more nominees) by—

(i) the charity trustee,

(ii) any person with whom the charity trustee is connected by virtue of paragraph (a), (b), (d) or (e), or

(iii) two or more persons falling within sub-paragraph (i) or (ii), when taken together,

(d) a body corporate in which—

(i) the charity trustee has a substantial interest,

(ii) any person with whom the charity trustee is connected by virtue of paragraph (a), (b), (c) or (e) has a substantial interest, or

(iii) two or more persons falling within sub-paragraph (i) or (ii), when taken together, have a substantial interest,

(e) a Scottish partnership in which one or more of the partners is—

(i) the charity trustee, or

(ii) a person with whom the charity trustee is, by virtue of paragraph (a) or (b), connected.

(3) For the purposes of subsection (2) a person who is—

(a) another person's stepchild, or

(b) brought up or treated by another person as if the person were a child of the other person, is to be treated as that other person's child. (4) Section 105 sets out when a person is to be treated as being in control of an institution or as having a substantial interest in a body corporate."

#### Related to Clause 97

The code of conduct referred to in clause 95 shall be supplemental to the provisions relating to the conduct of charity trustees contained in this constitution and the duties imposed on charity trustees under the Charities and Trustee Investment (Scotland) Act 2005

See “Related to Clause 7” above.

Related to Clause 133:

If the Club 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

See “Related to Clause 141” below“

Related to Clause 136

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).

The Charities and Trustee Investment (Scotland) Act 2005 states:

**“Changes**

**Changes which require OSCR’s consent**

- 16 (1) A charity may take any action set out in subsection (2) only with OSCR’s consent and in accordance with any conditions attached to any such consent.
- (2) Those actions are—
- (a) amending its constitution so far as it relates to its purposes,
  - (b) amalgamating with another body,
  - (c) winding itself up or dissolving itself,
  - (d) applying to the court in relation to any action set out in paragraphs (a) to (c).
- (3) Subsection (1) does not apply in relation to any action—
- (a) in pursuance of an approved reorganisation scheme, or
  - (b) for which OSCR’s consent is required by virtue of any other enactment.
- (4) Where a charity proposes to take any action set out in subsection (2) it must, not less than 42 days before the date on which the action is to be taken, give notice to OSCR of the proposal specifying that date.
- (5) In the case of an action set out in subsection (2)(a), the charity must not proceed unless and until OSCR has given its consent.

(6) In any other case, unless OSCR, within 28 days of the date on which notice is given under subsection (4)—

(a) refuses its consent, or

(b) directs the charity not to take the action for a period of not more than 6 months specified in the direction, OSCR is to be taken as having consented to it.

(7) A direction under subsection (6)(b)—

(a) may be revoked at any time,

(b) may be varied, but not so as to have effect for a period of more than 6 months from the date on which it is given.

(8) Where OSCR gives such a direction it must, after making such inquiries as it thinks fit—

(a) give its consent, whether or not subject to conditions, or

(b) refuse its consent.

#### **Notification of other changes**

17 (1) A charity must give OSCR notice of—

(a) any change in—

(i) the principal office of the charity, or

(ii) where it does not have such an office, the name or address of the charity trustee specified in the Register (or which would, but for section 3(4), be so specified),

(b) any change in any other details set out in its entry in the Register,

(c) any change to its constitution,

(d) any action set out in section 16(2)(b) to (d) which the charity has taken,

(e) any administration order or an order for winding up made by the court in respect of the charity,

(f) the appointment of a receiver in respect of any of the charity's property, setting out the date on which the change, action, order or appointment took effect.

(2) Subsection (1) does not apply in relation to any action which requires OSCR's consent under section 16.

(3) A notice under any of paragraphs (a) to (d) of subsection (1) must be given within 3 months of the date of the change or action to which it relates.

(4) A notice under paragraph (e) or (f) of subsection (1) must be given within 1 month of the date of the order or appointment to which it relates.”

Related to clause 108: -

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;

See “Related to Clause 99 above

Related to Clause 133

If the Club 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.

See “Related to Clause 146 above

Related to Clause 140 (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;

The Charities and Trustee Investment (Scotland) Act 2005 states:

***“References to charitable status***

**References to charitable status**

13 (1) A body entered in the Register may refer to itself as a “charity”, a “charitable body”, a “registered charity” or a “charity registered in Scotland”.

(2) If such a body is established under the law of Scotland, or is managed or controlled wholly or mainly in or from Scotland, it may also refer to itself as a “Scottish charity” or a “registered Scottish charity”.

(3) A body which refers to itself in any of the ways described in subsection (1) is to be treated as representing itself as a body entered in the Register.

(4) A body which refers to itself in any of the ways described in subsection (2) is to be treated as representing itself—

(a) as a body entered in the Register, and

(b) as being established under the law of Scotland or managed or controlled wholly or mainly in or from Scotland.”

The Charities Act states 2011:

**“Meaning of “charity”**

(1) For the purposes of the law of England and Wales, “charity” means an institution which—

(a) is established for charitable purposes only, and

(b) falls to be subject to the control of the High Court in the exercise of its jurisdiction with respect to charities.

(2) The definition of “charity” in subsection (1) does not apply for the purposes of an enactment if a different definition of that term applies for those purposes by virtue of that or any other enactment.”

Related to Clause 140 (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.-

(1) The Charities and Trustee Investment (Scotland) Act 2005 states:

**The charity test**

7 (1) A body meets the charity test if—

(a) its purposes consist only of one or more of the charitable purposes, and (b) it provides (or, in the case of an applicant, provides or intends to provide) public benefit in Scotland or elsewhere.

(2) The charitable purposes are—

(a) the prevention or relief of poverty,

(b) the advancement of education,

(c) the advancement of religion,

(d) the advancement of health,

(e) the saving of lives,

- (f) the advancement of citizenship or community development,
- (g) the advancement of the arts, heritage, culture or science,
- (h) the advancement of public participation in sport,
- (i) the provision of recreational facilities, or the organisation of recreational activities, with the object of improving the conditions of life for the persons for whom the facilities or activities are primarily intended,
- (j) the advancement of human rights, conflict resolution or reconciliation,
- (k) the promotion of religious or racial harmony,
- (l) the promotion of equality and diversity,
- (m) the advancement of environmental protection or improvement,
- (n) the relief of those in need by reason of age, ill-health, disability, financial hardship or other disadvantage,
- (o) the advancement of animal welfare,
- (p) any other purpose that may reasonably be regarded as analogous to any of the preceding purposes.

(3) In subsection (2)—

(a) in paragraph (d), “the advancement of health” includes the prevention or relief of sickness, disease or human suffering,

(b) paragraph (f) includes—

(i) rural or urban regeneration, and

(ii) the promotion of civic responsibility, volunteering, the voluntary sector or the effectiveness or efficiency of charities,

(c) in paragraph (h), “sport” means sport which involves physical skill and exertion,

(d) paragraph (i) applies only in relation to recreational facilities or activities which are—

(i) primarily intended for persons who have need of them by reason of their age, ill-health, disability, financial hardship or other disadvantage, or

(ii) available to members of the public at large or to male or female members of the public at large,

(e) paragraph (n) includes relief given by the provision of accommodation or care, and

(f) for the purposes of paragraph (p), the advancement of any philosophical belief (whether or not involving belief in a god) is analogous to the purpose set out in paragraph (c).

(4) A body which falls within paragraphs (a) and (b) of subsection (1) does not, despite that subsection, meet the charity test if—

(a) its constitution allows it to distribute or otherwise apply any of its property (on being wound up or at any other time) for a purpose which is not a charitable purpose,

(b) its constitution expressly permits the Scottish Ministers or a Minister of the Crown to direct or otherwise control its activities, or

(c) it is, or one of its purposes is to advance, a political party.

(5) The Scottish Ministers may by order disapply either or both of paragraphs (a) and (b) of subsection (4) in relation to any body or type of body specified in the order.”