



SCIO CONSTITUTION
OF
THE SCOTTISH OLDER PEOPLE'S ASSEMBLY

Registered 29 April 2016

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OF
THE SCOTTISH OLDER PEOPLE'S ASSEMBLY**

| CONTENTS | | |
|--|--|-------------------|
| GENERAL | type of organisation, name, purposes, powers, liability, general structure | clauses 1-10 |
| MEMBERS | qualifications, application, subscription, register, withdrawal, re-registration, expulsion | clauses 11-38 |
| DECISION-MAKING BY MEMBERS | members' meetings, notice, procedure at members' meetings, voting, written resolutions, minutes | clauses 39-75 |
| BOARD OF TRUSTEES (CHARITY TRUSTEES) | maximum number, eligibility, election/retiral/re-election, co-option, termination of office, register, office bearers, powers, general duties, code of conduct | clauses 76 - 111 |
| DECISION-MAKING BY THE CHARITY TRUSTEES | notice, procedure at Board of Trustees meetings, minutes | clauses 112-129 |
| ADMINISTRATION | sub-committees, operation of bank accounts, accounting records and annual accounts | clauses 130 - 138 |
| MISCELLANEOUS | winding up, alterations to the constitution, interpretation | clauses 139 - 144 |

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 Scottish Older People's Assembly abbreviated where convenient to SOPA.

Purposes

- 4 The organisation's purposes are:
 - 4.1 the advancement of human rights and the interests of older people;
 - 4.2 the advancement of the equality and diversity of older people;
 - 4.3 the advancement of citizenship and community development for older people;

In furtherance of the above purposes the organisation will:

- influence legislation, policies and services applying to older people
- organise at least one national Assembly of older people per annum.

Powers

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

Liability of members and Charity Trustees

- 7 The Charity Trustees of SOPA have no liability to pay any sums to help to meet the debts (or other liabilities) of SOPA if it is wound up; accordingly, if SOPA 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 SOPA consists of:
- 9.1 the MEMBERS - who have the right to attend members' meetings (including any annual members' meeting) and direct policies and activities under the constitution; in particular, the members elect people to serve on the Board of Trustees and take decisions on changes to the constitution itself;
 - 9.2 the BOARD OF TRUSTEES - who hold regular meetings, and generally manage the activities of SOPA, for example, the Board of Trustees is responsible for monitoring and controlling the financial position of SOPA.
- 10 The people serving on the Board of Trustees are referred to in this constitution as Charity Trustees.

MEMBERS

Categories of membership

- 11 There are two categories of membership:
- 11.1 Full membership – open only to organisations involved in any aspect of promoting the voice and experience of older people - which carries voting rights;
 - 11.2 Associate membership – open to other bodies (whether public sector or private sector) and to individuals – which gives the right to attend members' meetings, but without voting rights.
- 12 In this constitution, those admitted to full membership are referred to as “Full Members”; and those admitted to associate membership are referred to as “Associate Members”.

Qualifications for membership

- 13 Subject to clauses 14, 15, 20 and 26, full membership is open to any voluntary organisation operating in Scotland that promotes the voice and experience of older people.
- 14 The question of whether or not a given organisation should be taken to be a “voluntary” organisation for the purposes of clause 13, and/or whether it should be regarded as “operating in Scotland” for the purposes of clause 13, shall be determined by reference to such criteria as the Board of Trustees (at its discretion) may consider appropriate from time to time.

- 15 In the case of a voluntary organisation which is not a corporate body, clause 13 shall be taken to refer to an individual nominated for membership by that organisation (but on the understanding that he/she will be expected to give effect to decisions of the board (or other governing body) of the voluntary organisation in exercising the rights and powers attaching to membership); the organisation itself cannot be admitted as a member of SOPA, as it is not a legal entity.
- 16 With reference to clause 15, SOPA will not be under any obligation to verify whether an individual admitted under clause 15 is in fact exercising the rights and powers of membership in any given case in line with decisions of the board (or other governing body) of the voluntary organisation which nominated him/her for membership; SOPA shall be entitled to accept any vote cast by an individual admitted under clause 15 (and any other step taken by him/her in exercise of the rights and powers attaching to membership) without further enquiry.
- 17 Normally no more than one individual nominated for membership by a given unincorporated body can be a member of SOPA at any one time unless specifically agreed by the committee.
- 18 Subject to clauses 19, 20 and 26, associate membership is open to any body or individual who/which wishes to support the aims and activities of SOPA.
- 19 The provisions of clauses 15 and 17 shall apply (with any necessary modifications) to associate membership, in relation to any unincorporated body.
- 20 No employee of SOPA may become a member; a person admitted to membership shall automatically cease to be a member if he/she becomes an employee of SOPA.

Application for membership

- 21 Any individual or body who/which wishes to become a member must sign a written application for membership, specifying the category of membership for which he/she/it is applying.
- 22 In the case of an application by a corporate body, the application must be signed by an appropriate officer of the body which is applying for membership.
- 23 In the case of an unincorporated body, the application must be signed by the individual who is applying for membership, as well as an appropriate office bearer of the unincorporated body which is nominating him/her for membership.
- 24 An individual or body applying for membership must supply such information and evidence in support of his/her/its application as SOPA may request.

- 25 An application for membership received by SOPA will be considered by the Board of Trustees at the next Board of Trustees meeting - providing it has been properly completed and signed, and that there is no outstanding information/evidence required in support of the application.
- 26 The Board of Trustees may, at its discretion, refuse to admit any individual or body to membership.
- 27 The Board of Trustees must notify each applicant promptly (in writing or by e-mail) of its decision on whether or not to admit him/her/it to membership.

Subscription to SOPA

- 28 No subscription will be payable.

Arrangements involving SOPA's website

- 29 The Board of Trustees may, if they consider appropriate, introduce arrangements under which an individual or body can apply for membership (and, in the case of an unincorporated body, can nominate an individual for membership) by accessing the organisation's website (and, where applicable), and completing and submitting forms electronically.
- 30 The Board of Trustees shall ensure that any arrangements introduced under clause 29:
- 30.1 incorporate appropriate security measures; and
- 30.2 reserve the right for the Board of Trustees to request signed hard copy documentation in any case where the Board of Trustees considers that to be appropriate.

Register of members

- 31 The Board of Trustees must keep a register of members, setting out:
- 31.1 for each current member:
- 31.1.1 his/hers/its's full name and address;
- 31.1.2 the date on which /he/she/it was registered as a member of SOPA;
- 31.1.3 the category of membership into which he/she/its falls;
- 31.2 for each former member - for at least six years from the date on he/she/it ceased to be a member;
- 31.2.1 his/her/its name, and;
- 31.2.2 the date on which he/she/it ceased to be a member.

- 32 The Board of Trustees must ensure that the register of members is updated within 28 days of any change:
- 32.1 which arises from a resolution of the Board of Trustees or a resolution passed by members of SOPA; or
- 32.2 which is notified to SOPA.
- 33 If a member or charity trustee of SOPA requests a copy of the register of members, the Board of Trustees must ensure that a copy is supplied to him/her/it within 28 days, providing the request is reasonable; if the request is made by a member (rather than a charity trustee), the Board of Trustees may provide a copy which has the addresses blanked out.

Withdrawal from membership

- 34 Any individual or body who/which wants to withdraw from membership must give a written notice of withdrawal to SOPA, signed by him/her or (in the case of a corporate body) signed by an appropriate officer of that body; he/she/it will cease to be a member as from the time when the notice is received by SOPA.
- 35 An unincorporated body which has nominated an individual for membership may withdraw its nomination at any time by written notice to SOPA to that effect, signed by an appropriate office bearer of that body; on receipt of the notice by SOPA, the individual in question shall automatically cease to be a member of SOPA.

Transfer of membership

- 36 Membership of SOPA may not be transferred by a member.

Expulsion of membership

- 37 Any individual or body 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:
- 37.1 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;
- 37.2 the member concerned (or, in the case of a corporate body, a representative of the member concerned) will be entitled to be heard on the resolution at the members' meeting at which the resolution is proposed.

Termination of membership

- 38 Membership will automatically terminate:

38.1 in the case of an individual, on death;

38.2 in the case of a corporate body, on the appointment of an administrator or receiver, on liquidation, on dissolution or on striking-off;

38.3 in the case of an individual admitted to membership on the basis of nomination by an unincorporated organisation, if that organisation is dissolved or if it ceases to carry on its operations.

DECISION-MAKING BY THE MEMBERS

Members' meetings

39 The Board of Trustees must convene a meeting of members (an annual general meeting or "AGM") in each calendar year.

40 The gap between one AGM and the next must not be longer than 15 months.

41 Notwithstanding clause 39, an AGM does not need to be held during the calendar year in which the SOPA is formed; but the first AGM must still be held within 15 months of the date on which SCIO is formed.

42 The business of each AGM must include:

42.1 a report by the Chairperson on the activities of SOPA;

42.2 consideration of the annual accounts of SOPA;

42.3 the announcement of the outcome of the election process for charity trustees, as referred to in clause 83.

43 The Board of Trustees may convene a special members' meeting at any time.

44 The Board of Trustees must convene 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 (in the case of a member which is a corporate body, signed by an appropriate officer of that body)) by Full Members who amount to 5% or more of the total number of Full Members at the time, providing:

44.1 the notice states the purposes for which the meeting is to be held; and

44.2 those purposes are not inconsistent with the terms of this constitution, the Charities and Trustee (Investment) Scotland Act 2005 or any other statutory provision.

45 If the Board of Trustees receives a notice under clause 44, the date for the meeting which they convene 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

- 46 At least 14 clear days' notice must be given of any AGM or any special members' meeting.
- 47 The notice calling a members' meeting must specify in general terms what business is to be dealt with at the meeting; and, in the case of a resolution to alter the constitution, must set out the exact terms of the proposed alteration(s).
- 48 The reference to "clear days" in clause 46 shall be taken to mean that, in calculating the period of notice:
- 48.1 the day after the notices are posted (or sent by e-mail) should be excluded; and
- 48.2 the day of the meeting itself should also be excluded.
- 49 Notice of every member's meeting must be given to all the members of SOPA, 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.
- 50 Any notice which requires to be given to a member under this constitution must be:
- 50.1 sent by post to the member, at the address last notified by him/her/it to SOPA; *or*
- 50.2 sent by e-mail to the member, at the e-mail address last intimated by him/her/it to SOPA.

Procedure at members' meetings

- 51 No valid decisions can be taken at any members' meeting unless a quorum is present.
- 52 The quorum for a members' meeting is a third of Full Members, present in person (in the case of a corporate body, present via its duly authorised representative) or represented by proxy.
- 53 Associate Members shall not be counted in determining whether a quorum is present at a members' meeting.
- 54 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.

- 55 A member may participate in a members' meeting by means of a conference telephone, video conferencing facility or similar communications equipment whereby all the individuals (whether members, proxies for Full Members, authorised representatives of members which are corporate bodies, or charity trustees) participating in the meeting can hear each other.
- 56 A Full Member participating in a meeting in the manner referred to in clause 55 shall be deemed to be present in person at the meeting; and any vote which he/she casts at the meeting via the communications equipment which is used for this purpose will be deemed to be given by that Full Member personally.
- 57 The principles set out in clause 56 shall apply (with any necessary modifications) in relation to an individual participating in a meeting in the manner referred to in clause 55, in his/her capacity as the authorised representative of a Full Member which is a corporate body.
- 58 The Chair or vice chair of SOPA should act as chairperson of each members' meeting.
- 59 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 vice chair should act as chairperson of the meeting; if neither the chair nor the vice chair is present and willing to act as chairperson within 15 minutes after the time at which the meeting was due to start, the charity trustees present at the meeting must elect (from among themselves) the person who will act as chairperson of that meeting.

Voting at members' meetings

- 60 Every Full Member has one vote, which may be given either personally (in the case of a corporate body, via its duly authorised representative present at the meeting) or by proxy; clauses 56 and 57 shall apply in relation to any Full Member (or any authorised representative of a Full Member which is a corporate body) participating in a members' meeting in the manner referred to in clause 56.
- 61 Associate Members shall be entitled to attend and speak at members' meetings, but have no voting rights.
- 62 A Full Member who/which wishes to appoint a proxy to vote on his/her/its behalf at any meeting must lodge with SOPA, prior to the time when the meeting commences, a written proxy form, signed by him/her.
- 63 A proxy need not be a member of SOPA.
- 64 A member shall not be entitled to appoint more than one proxy to attend the same meeting.

- 65 A proxy appointed to attend and vote at any meeting instead of a Full Member shall have the same right as the member who/which appointed him/her to speak at the meeting.
- 66 A member which is a corporate body shall be entitled to authorise an individual to attend and vote at members' meetings; he/she will then be entitled to exercise the same powers on behalf of the body which he/she represents as that body could have exercised if it had been an individual member of SOPA.
- 67 All decisions at members' meetings will be made by majority vote - with the exception of the types of resolution listed in clause 68.
- 68 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 72):
- 68.1 a resolution amending the constitution;
- 68.2 a resolution approving the amalgamation of SOPA with another SCIO (or approving the constitution of the new SCIO to be constituted as the successor pursuant to that amalgamation);
- 68.3 a resolution to the effect that all of SOPA'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);
- 68.4 a resolution for the winding up or dissolution of SOPA.
- 69 If there are an equal number of votes for and against any resolution, the chairperson of the meeting will be entitled to a second (casting) vote.
- 70 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 individuals present at the meeting and entitled to vote (whether as Full Members, as authorised representatives of Full Members which are corporate bodies, or as proxies for Full Members) ask for a secret ballot.
- 71 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.

Written resolutions by members

- 72 A resolution agreed to in writing (or by e-mail) by all the Full 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

- 73 The Board of Trustees must ensure that proper minutes are kept in relation to all members' meetings.
- 74 Minutes of members' meetings must include the names of those present; and (so far as possible) should be signed by the chairperson of the meeting.
- 75 The Board of Trustees shall make available copies of the minutes referred to in clause 73 to any member of the public requesting them; but on the basis that the Board of Trustees may exclude confidential material to the extent permitted under clause 129.

BOARD OF TRUSTEES

Number of charity trustees

- 76 The maximum number of charity trustees is 18; out of that number:
- 76.1 no more than 14 shall be charity trustees who were elected/appointed under the provisions of articles 80 to 89;
- 76.2 no more than 4 (including the office-bearers referred to in clause 90) shall be charity trustees who were co-opted under the provisions of clauses 90 to 93.
- 77 The minimum number of charity trustees is 8.

Eligibility

- 78 A person will not be eligible for election or appointment to the Board of Trustees under clauses 82 to 89 unless:
- 78.1 he/she is a Full Member of SOPA; or
- 78.2 he/she has been nominated by a corporate body which is a Full Member of SOPA for election or appointment to the Board of Trustees under those clauses.
- 79 A person appointed to the Board of Trustees under clause 90 need not be a member of SOPA.
- 80 A person will not be eligible for election or appointment to the Board of Trustees if he/she is:
- 80.1 disqualified from being a charity trustee under the Charities and Trustee Investment (Scotland) Act 2005; or
- 80.2 an employee of SOPA.

Initial charity

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

Election, retiral, re-election

- 82 The Full Members may (subject to clauses 76, 78 and 80; and subject to the provisions of the standing orders referred to in clause 87) elect any Full Member (unless he/she is debarred from appointment to the Board of Trustees under clause 80) to serve as a charity trustee with effect from each AGM.
- 83 The procedure for election of charity trustees under clause 86 shall be regulated by such standing orders as the Board of Trustees may issue from time to time, reflecting the following principles:
- 83.1 the Full Members shall be given a reasonable opportunity to nominate candidates for election in advance of each AGM (and on the understanding that a Full Member who is an individual may nominate himself/herself), with each candidate being invited to submit a short statement outlining the contribution which he/she considers that he/she could make to the work of the Board of Trustees;
- 83.2 the arrangements for electing candidates shall allow voting by email and/or online voting, as well as postal voting;
- 83.3 the outcome of the election process will be announced at the AGM, and all those elected as charity trustees will hold office with effect from the conclusion of the AGM.
- 84 The Board of Trustees may at any time (subject to clauses 76, 78 and 80) appoint any Full Member (unless he/she is debarred from appointment to the Board of Trustees under clause 80) to be a charity trustee.
- 85 A Full Member which is a corporate body may (subject to clause 86) nominate any individual (unless he/she is debarred from election/appointment to the Board of Trustees under clause 80) for election/appointment to the Board of Trustees; he/she will then be deemed to be a Full Member for the purposes of clauses 82 and 84.
- 86 No more than one individual nominated under clause 85 by each corporate member may serve as a charity trustee at any given time.
- 87 At each AGM:
- 87.1 any charity trustees appointed under clause 84 during the period since the preceding AGM (or, in the case of the first AGM, during the period since the incorporation of SOPA) shall retire from office;

87.2 out of the remaining charity trustees (disregarding for this purpose those appointed under clause 90), one third (to the nearest round number) shall retire from office.

88 The charity trustees to retire from office under clause 87.2 shall be those who have been longest in office since they were last appointed or re-appointed; as between charity trustees who were last appointed/re-appointed on the same date, the question of which of them is to retire shall be determined by some random method.

89 A charity trustee who retires from office under clause 87 shall be eligible for re-election once only; on the second occasion on which he/she retires from office under clause 87.2, he/she will not be eligible for re-election until the annual general meeting which next follows.

Appointment/re-appointment of co-opted charity trustees

90 In addition to their powers under clause 84, the Board of Trustees may at any time appoint any individual to be a charity trustee (subject to clauses 76 and 84) on the basis that he/she has specialist experience and/or skills which could be of assistance to the Board of Trustees.

91 The charity trustees appointed under clause 90 shall include individuals who, in the opinion of the Board of Trustees, have the requisite skills to serve as Chairperson, Vice Chairperson and Treasurer respectively; and they shall hold those respective offices accordingly, with effect from the relevant date of appointment.

92 At each AGM, any charity trustee appointed under clause 90 who has served for a period of three years since he/she was last appointed or re-appointed shall retire from office, but shall then be eligible for re-appointment.

93 For the purposes of clause 92:

93.1 the period from the date of the formation of SOPA to the first AGM shall be deemed to be a period of 15 months under clause 41.

93.2 the period between the date of appointment of a charity trustee and the AGM which next follows shall be deemed to be a period of one year, unless it is of less than six months' duration (in which case it shall be disregarded);

93.3 the period between one AGM and the next shall be deemed to be a period of one year; except as stated in clause 41;

93.4 if a charity trustee ceases to hold office but is reappointed to that office within a period of six months, he/she shall be deemed to have held office as a charity trustee continuously.

Termination of office

- 94 A charity trustee will automatically cease to hold office if:
- 94.1 he/she becomes disqualified from being a charity trustee under the Charities and Trustee Investment (Scotland) Act 2005;
 - 94.2 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;
 - 94.3 (in the case of a charity trustee appointed/elected under clauses 78 -89) he/she ceases to be a Full Member or (as the case may be) the body which nominated him/her for election/appointment to the Board of Trustees ceases to be a Full Member;
 - 94.4 he/she becomes an employee of SOPA;
 - 94.5 he/she gives SOPA a notice of resignation, signed by him/her;
 - 94.6 he/she is absent (without good reason, in the opinion of the Board of Trustees) from more than three consecutive meetings of the Board of Trustees - but only if the Board of Trustees resolves to remove him/her from office;
 - 94.7 he/she is removed from office by resolution of the Board of Trustees 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 110);
 - 94.8 he/she is removed from office by resolution of the Board of Trustees 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
 - 94.9 he/she is removed from office by a resolution of the members passed at a members' meeting.
- 95 A resolution under clause 94.7, 94.8 or 94.9 shall be valid only if:
- 95.1 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;
 - 95.2 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

95.3 (in the case of a resolution under clause 94.7 or 94.8) 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

96 The Board of Trustees must keep a register of charity trustees, setting out:

96.1 for each current charity trustee:

96.1.1 his/her full name and address;

96.1.2 the date on which he/she was appointed as a charity trustee; and

96.1.3 any office held by him/her in SOPA;

97.2 for each former charity trustee - for at least 6 years from the date on which he/she ceased to be a charity trustee:

97.2.1 the name of the charity trustee;

97.2.2 any office held by him/her in SOPA and

97.2.3 the date on which he/she ceased to be a charity trustee.

98 The Board of Trustees must ensure that the register of charity trustees is updated within 28 days of any change:

98.1 which arises from a resolution of the Board of Trustees or a resolution passed by the members of SOPA; or

98.2 which is notified to SOPA.

99 If any person requests a copy of the register of charity trustees, the Board of Trustees 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 SOPA, the Board of Trustees may provide a copy which has the addresses blanked out - if SOPA is satisfied that including that information is likely to jeopardise the safety or security of any person or premises.

Office-bearers

100 The charity trustees appointed under clauses 90 and 91 as the Chairperson, Vice Chairperson and Treasurer will automatically hold those offices for so long as they remain as charity trustees.

101 For the avoidance of doubt,

101.1 if an individual appointed as the Chairperson, Vice Chairperson or Treasurer resigns from that office by way of notice to SOPA to that

effect, he/she will be deemed to have also resigned as a charity trustee at the same time;

101.2 if an individual appointed as the Chairperson, Vice Chairperson or Treasurer ceases to be a charity trustee, he/she will automatically cease to hold office as the Chairperson, Vice Chairperson or (as the case may be) Treasurer.

Powers of Board of Trustees

- 102 Except where this constitution states otherwise, SOPA (and its assets and operations) will be managed by the Board of Trustees; and the Board of Trustees may exercise all the powers of SOPA.
- 103 A meeting of the Board of Trustees at which a quorum is present may exercise all powers exercisable by the Board of Trustees.
- 104 The members may, by way of a resolution passed in compliance with clause 68 (requirement for two-thirds majority), direct the Board of Trustees to take any particular step or direct the Board of Trustees not to take any particular step; and the Board of Trustees shall give effect to any such direction accordingly.

Charity trustees - general duties

- 105 Each of the charity trustees has a duty, in exercising functions as a charity trustee, to act in the interests of SOPA; and, in particular, must:
- 105.1 seek, in good faith, to ensure that SOPA acts in a manner which is in accordance with its purposes;
- 105.2 act with the care and diligence which it is reasonable to expect of a person who is managing the affairs of another person;
- 105.3 in circumstances giving rise to the possibility of a conflict of interest between SOPA and any other party:
- 105.3.1 put the interests of SOPA before that of the other party;
- 105.3.2 where any other duty prevents him/her from doing so, disclose the conflicting interest to SOPA and refrain from participating in any deliberation or decision of the other charity trustees with regard to the matter in question;
- 105.4 ensure that SOPA complies with any direction, requirement, notice or duty imposed under or by virtue of the Charities and Trustee Investment (Scotland) Act 2005.
- 106 In addition to the duties outlined in clause 105, all of the charity trustees must take such steps as are reasonably practicable for the purpose of ensuring:

106.1 that any breach of any of those duties by a charity trustee is corrected by the charity trustee concerned and not repeated; and

106.2 that any trustee who has been in serious and persistent breach of those duties is removed as a trustee.

107 Provided he/she has declared his/her interest - and has not voted on the question of whether or not SOPA should enter into the arrangement - a charity trustee will not be debarred from entering into an arrangement with SOPA in which he/she has a personal interest; and (subject to clause 108 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.

108 No charity trustee may serve as an employee (full time or part time) of SOPA and no charity trustee may be given any remuneration by SOPA for carrying out his/her duties as a charity trustee.

109 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

110 Each of the charity trustees shall comply with the code of conduct (incorporating detailed rules on conflict of interest) prescribed by the Board of Trustees from time to time.

111 The code of conduct referred to in clause 110 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 of Trustees meetings

112 Any charity trustee may call a meeting of the Board of Trustees or ask the Chairperson to call a meeting of the Board of Trustees.

113 At least seven days' notice must be given of each Board of Trustees meeting, unless (in the opinion of the person calling the meeting) there is a degree of urgency which makes that inappropriate.

Procedure at Board of Trustees meetings

- 114 No valid decisions can be taken at a Board of Trustees meeting unless a quorum is present; the quorum for Board of Trustees meetings is as follows:
- 114.1 if there is an even number of charity trustees in office at the time – one half of the total number of charity trustees then in office, plus one;
- 114.2 if there is an odd number of charity trustees in office at the time – one half (rounded upwards) of the total number of charity trustees then in office.
- 115 A charity trustee may participate in a meeting of the Board of Trustees by means of a conference telephone, video conferencing facility or similar communications equipment whereby all the charity trustees participating in the meeting can hear each other.
- 116 A charity trustee participating in a meeting in the manner referred to in clause 116 shall be deemed to be present in person at the meeting; and any vote which he/she casts at the meeting via the communications equipment which is used for this purpose will be deemed to be given by him/her personally.
- 117 The Chairperson of SOPA should act as chairperson of each Board of Trustees meeting.
- 118 If the Chairperson 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 Vice Chairperson will act as chairperson of that meeting.
- 119 If the Vice Chairperson 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.
- 120 Every charity trustee has one vote, which must be given personally.
- 121 All decisions at Board of Trustees meetings will be made by majority vote.
- 122 If there is an equal number of a vote for and against any resolution, the chairperson of the meeting will be entitled to a second (casting) vote.
- 123 The Board of Trustees may, at its discretion, allow any person to attend and speak at a Board of Trustees meeting notwithstanding that he/she is not a charity trustee - but on the basis that he/she must not participate in decision-making.
- 124 A charity trustee must not vote at a Board of Trustees 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 SOPA; he/she must withdraw from the meeting while an item of that nature is being dealt with.

125 For the purposes of clause 124:

125.1 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;

125.2 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

126 The Board of Trustees must ensure that proper minutes are kept in relation to all Board of Trustees meetings and meetings of sub-committees.

127 The minutes to be kept under clause 126 must include the names of those present; and (so far as possible) should be signed by the chairperson of the meeting.

128 The Board of Trustees shall (subject to clause 129) make available copies of the minutes referred to in clause 126 to any member of the public requesting them.

129 The Board of Trustees may exclude from any copy minutes made available to a member of the public under clause 128 any material which the Board of Trustees considers ought properly to be kept confidential - on the grounds that allowing access to such material could cause significant prejudice to the interests of SOPA 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

130 The Board of Trustees 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.

131 The Board of Trustees may also delegate to the Chairperson of SOPA (or the holder of any other post) such of their powers as they may consider appropriate.

132 When delegating powers under clause 130 or 131, the Board of Trustees must set out appropriate conditions (which must include an obligation to report regularly to the Board of Trustees).

133 Any delegation of powers under clause 130 or 131 may be revoked or altered by the Board of Trustees at any time.

134 The rules of procedure for each sub-committee, and the provisions relating to membership of each sub-committee (including removal of members of each sub-committee), shall be set by the Board of Trustees.

Operation of accounts

135 Subject to clause 136, the signatures of two out of three signatories appointed by the Board of Trustees who are not related in any way will be required in relation to all operations (other than the lodging of funds) on the bank and building society accounts held by SOPA.

136 Where SOPA 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 135.

Accounting records and annual accounts

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

138 The Board of Trustees must prepare annual accounts, complying with all relevant statutory requirements; if an audit is required under any statutory provisions (or if the Board of Trustees consider that an audit would be appropriate for some other reason), the Board of Trustees should ensure that an audit of the accounts is carried out by a qualified auditor.

MISCELLANEOUS

Winding-up

139 If SOPA 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.

140 Any surplus assets available to SOPA immediately preceding its winding up or dissolution must be used for purposes which are the same as - or which closely resemble - the purposes of SOPA as set out in this constitution.

Alterations to the constitution

141 This constitution may (subject to clause 142) be altered by resolution of the members passed at a members' meeting (subject to achieving the two thirds majority referred to in clause 68) or by way of a written resolution of the members.

142 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

143 References in this constitution to the Charities and Trustee Investment (Scotland) Act 2005 should be taken to include:

143.1 any statutory provision which adds to, modifies or replaces that Act; and

143.2 any statutory instrument issued in pursuance of that Act or in pursuance of any statutory provision falling under clause 143.1 above.

144 In this constitution:

144.1 “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;

144.2 “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.