Holy Loch Sailing Club SCIO
Sandbank, Dunoon, Firth of Clyde

HOLY LOCH SAILING CLUB SCIO

CONSTITUTION

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SC052823

Changes Approved at AGM 28 Nov 2025

Holy Loch Sailing Club SCIO
Sandbank, Dunoon, Firth of Clyde

REVIEW 2028
Shore Road Sandbank Dunoon Argyll PA23 8FE

CLUB CONSTITUTION

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GENERAL

Type of Organisation

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

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Scottish principal office

2 The principal office of the Club will be in Scotland (and must remain in Scotland).

Name

3 The name of the Club is “Holy Loch Sailing Club SCIO”.

4 The Club Flags shall be a Blue Burgee with a Yellow Thistle.

Purposes

5 The Club’s purposes are:

to encourage and facilitate community participation in healthy recreation by the provision of facilities for the sport of sailing/ boating/ water sports and to provide social and other facilities for members and other community organisations as may be from time to time appropriate.

In furthering these purposes, the Club will also seek to promote safety when boating, encourage and promote good sportsmanship in the sport of boating and promote respect and care of the marine environment.

Powers

6 The Club has power to do anything which is calculated to further its purposes or is conducive or incidental to doing so.

7 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.

8 Clause 7 does not prevent the Club making any payment which is permitted under clauses 107 to 111 (remuneration and expenses).

Liability of members

9 The members of the Club have no liability to pay any sums to help to meet the debts (or other liabilities) of the Club if it is wound up; accordingly, if the Club is unable to meet its debts, the members will not be held responsible.

10 The members and charity trustees have certain legal duties under the Scottish Charities Act; and clause 9 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.

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General structure

11 The structure of the Club consists of:

(a) the MEMBERS - who have the right to participate in members' meetings (including any annual members' meeting) and have important powers under the constitution; for example, the members elect people to serve on the board and take decisions on changes to the constitution itself; See Members below.

(b) the BOARD - who hold regular meetings, and generally control the activities of the Club; for example, the board is responsible for monitoring and controlling the financial position of the Club.

12 The people serving on the board are referred to in this constitution as CHARITY TRUSTEES.

MEMBERS Qualifications for membership

13 Where the constitution refers to members this applies to all categories of membership. Membership is open to any individual in the following categories:

(a) MEMBER – a person, over the age of 21 who participates in any water sport activities in the club, they will have one vote

(b) FAMILY MEMBER - This is defined as one or two co-habiting adults and with at least one child under the age of 18 within their guardianship. Each adult member will have one vote. Each child shall have no vote until they reach the age of 16, after which they will have a vote in any subsequent elections.

(c) INTERMEDIATE MEMBERS - Young persons between the age of 18 and 21, who would otherwise be members as in paragraph 13(a) or social members and they shall have one vote. This recognises that young people may have a restricted income.

(d) JUNIOR MEMBER - A young person who would otherwise be members as in paragraph 13(a) or social members at the date of election, is between the ages of 10 but under the age of 18 and they shall have no vote until they reach the age of 16 after which they will have a vote in any subsequent elections. Members under the age of 16 are eligible to attend Cadet activities and at the discretion of the Cadet Officer may continue up to age 18.

(e) AN HONORARY MEMBER – the board may nominate for election at an Annual General Meeting such Honorary Members as they believe are individuals who have provided outstanding service to the Club. The total of such Honorary Members shall not, however, at any time, exceed 6 or five per cent of the total number of members (whichever is greater). The election of new Honorary Members shall be put to the vote at the Annual General

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Meeting each year and such Honorary Members shall be duly elected if those present and entitled to vote, vote by majority in favour of election. Honorary members are entitled to all the privileges of the full membership (including one vote) for life and all the amenities of the Club. There will be no membership subscription fee for honorary membership.

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(f) A BUSINESS MEMBER – a business organisation that brings commercial or wider benefit to club members. They shall not have a vote. These arrangements will be reviewed annually with nominations by the Board that are ratified at the AGM. Such Business Members shall be duly elected if those present and entitled to vote, vote by majority in favour of election. A Business member can be incorporated or unincorporated. For incorporated bodies, a nominated officer from that organisation acts as the member. For unincorporated bodies, one individual will be nominated as the member. The total of such Business Members shall not, however, at any time, exceed 6 or five per cent of the total number of members (whichever is greater).

(g) A SOCIAL MEMBER – a person, over the age of 17 who supports the purposes of the club but is not a regular active participant on the water. They shall have one vote.

(h) A TEMPORARY MEMBER - the board may make provision in accordance with club policies for temporary members, allowing individuals to make temporary use of the amenities of the Club. However, those individuals will not be deemed to be members of the Club for the purposes of this constitution and shall have no vote.

(i) A VOLUNTEER MEMBER – A person who volunteers their services on a regular basis for the benefit of the club with no benefit to themselves, they will have no voting rights.

14 Employees of the Club are not eligible for membership; and a person who becomes an employee of the Club after admission to membership will automatically cease to be a member.

Application for membership

15 Any person or body who / which wishes to become a member must sign[1] a written application (submitted electronically is deemed to have signed) for membership; in the case of a corporate body, the application must be signed by an appropriate officer of that body and for unincorporated bodies no more than one individual will be nominated by each unincorporated body to be a member of the club at any given time. The nominated person signs the application. Clause 154c provides for an electronic mechanism.

16 Applications will be lodged with the Club; the application will then be considered by the board. The board may, at its discretion, refuse to admit any person / body to membership.

[1] Sailing Club Correspondence in most cases along with Applications are not subject to the Requirements of Writing (Scotland) Act 1995, so an application or letter can be 'signed' by the Applicant/Member and the appropriate Committee member typing their names into the electronic document and sending it by email if all parties agree to this. A physical copy can be signed instead if this is preferred.

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17 The board must notify each applicant promptly (in writing or electronically) of its decision on whether or not to admit them / it to membership. If they / it are approved for membership, the membership subscription becomes due and must be paid before they / it are admitted as a member.

18 The Club Board may refuse membership or, subject to clauses 19 and 20, remove it, only for good cause such as conduct or character likely to bring the Club or sport into disrepute.

Appeals

19 A member may appeal against any decision made by the Board, including membership, that directly affects the individual and where there is no other mechanism for redress.

20 A member may lodge an appeal within fourteen days of being advised of the original decision. Such appeal will be lodged in writing or electronically with the Secretary who will set up an appeals panel consisting of the Commodore, two club members and Secretary (Who will serve the panel by recording the decision and providing background information). The appeals panel will be free to seek any information request/ reports it requires to come to a decision including representation. The appeal panel will normally have 30 days to review and decide on a case. Where a member faces expulsion they may make a further appeal to the wider membership at a general meeting held for that purpose. At which time a secret ballot will held and two thirds of those present will be required to vote in favour to expel the member.

Membership subscription

21 The level of Subscription for each category of membership shall be proposed by the Board to the members at the Annual General Meeting in each year. Membership subscriptions will be kept at levels that will not pose a significant obstacle to people participating. Any proposed changes shall be approved by a majority of those present who are entitled to vote. The new level of fees will become operative from 1st January in that year and shall be prominently displayed in the Club premises and on its website.

22 The annual membership subscriptions become due on 1st April in each year but can be paid from as soon as the levels are set at the AGM. If the membership subscription payable by any member remains outstanding more than 2 weeks after the date on which it fell due - and providing they have been given at least one written reminder - the Board may, by resolution

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to that effect, expel them from membership. A member is not entitled to vote or compete in sailing racing while their membership subscription is outstanding.

23 New members joining within 90 days of the date that annual membership subscriptions come due (1st April) will have been deemed to have paid for the coming year, noting that there may be an additional top up subscription fee due if the members increase the annual subscriptions at the AGM.

24 Fees for the use of club facilities and to take part in additional activities will be set in the same manner as the annual membership subscription and will include for racing, the mooring licence (payable by the Club to the Crown Estates), cadet training fees and use of Club storage. As new opportunities arise the Board may need to introduce additional fees but will always been mindful that they should not be a significant barrier to participation.

25 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

26 The board must keep a register of members, setting out:

(a) for each current member:

(i) their full name and address;

(ii) the date on which they were registered as a member of the Club; and

(iii) in the case of an individual nominated for a Business Member, the name of the body which nominated them for membership

(b) for each former member - for at least six years from the date on which they ceased to be a member:

(i) their name;

(ii) in the case of an individual nominated for a Business Member, the name of the body which nominated them for membership; and

(iii) the date on which they ceased to be a member.

27 The board must ensure that the register of members is updated within 28 days of any change:

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(a) which arises from a resolution of the board or a resolution passed by the members of the Club; or

(b) which is notified to the Club.

28 If a member or charity trustee of the Club requests a copy of the register of members, the board must ensure that a copy is supplied to them within 28 days, providing the request is reasonable; if the request is made by a member (rather than a charity trustee), the board may provide a copy which has the addresses blanked out.

Withdrawal from membership

29 Any person or body who / which wishes to withdraw from membership must give a written notice (either in writing or electronic) of withdrawal to the club, signed by them or (in the case of a corporate body) signed by an appropriate officer of that body; they/it will cease to be a member as from the time when the notice is received by the organisation". Clause 154c provides for an electronic mechanism.

30 An unincorporated body which has nominated an individual for membership may withdraw its nomination at any time by written notice to the Club to that effect, signed by an appropriate office bearer / nominated person of that body; on receipt of the notice by the Club, the individual in question shall automatically cease to be a member of the Club. Clause 154c provides for an electronic mechanism.

Transfer of membership

31 Membership of the Club may not be transferred by a member.

Expulsion from membership

32 Any conduct, which in the opinion of the Board is in contravention of the Club's Code of Conduct, Roles and Responsibilities Document, is unworthy of a member or otherwise injurious to the interests of the club, shall render a member liable to disciplinary action by the Board, which may include suspension for a specified period of time or expulsion. Before taking such disciplinary action against a member, the Board shall call upon such member for a written explanation of the member's conduct and shall give the member full opportunity of making explanation to the Board, or of resigning. A Resolution to apply any sanction shall be carried by a simple majority vote by those members of the Board present and voting on the Resolution.

33 Appeal against suspension/expulsion may be made through the appeals process which includes appeal to the members at a General Meeting, whose decision will be final. Upon

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suspension/expulsion the member/former member shall not be entitled to have any part of the annual membership subscription fee refunded, they must remove all of their property from the Club's land or mooring area and must return any Club or external body's trophy or trophies held forthwith. Upon expulsion of a member, the Board may dispose of the former member's boat and/or trailer in accordance with club Roles and Responsibilities Document, Code of Conduct and Storage Policy.

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34 If at any time, any fees payable to the Club by any member or former member (whether by way of arrears of membership subscription or facilities fees, dinghy park fees or otherwise) shall be one month or more in arrears and/or a boat / watercraft and/or trailer the property of a member or former member remains upon the Club premises one month or more after the club has given the member or former member notice to remove the vessel then the member or former member shall remove the boat / watercraft and/or trailer from the Club immediately. If the member or former member fails to remove the boat / watercraft and/or trailer, then the Board may:-

(a) Move the boat / watercraft and/or trailer to any part of the Club premises without being liable for any loss or damage to the vessel howsoever caused.

(b) Give three months' notice in writing by registered post to the member or former member at his last known address as shown in the Club Register and thereafter sell the boat / watercraft and/or trailer and deduct any monies due to the Club from the net proceeds of sale before accounting for the balance (if any) to the member or former member.

(c) Alternatively, if the boat / watercraft and/or trailer is unsaleable, after giving notice in writing as aforesaid, dispose of the boat / watercraft and/or trailer in any manner the Board may think fit and deem the cost of doing and any arrears as aforesaid to be a debt owing to the Club by the member or former member.

(d) The Club reserves the right to charge storage for the boat / watercraft and/or trailer until such time as the owner collects the boat / watercraft and/or trailer or until notice has been served under Clause 34 (b) above.

(e) Provided always that:- Proper evidence is available to show that all reasonable steps have been taken to trace a member or former member and that, when and if the boat / watercraft and/or trailer is sold, if the Club is unable to account to the member or former member for the balance of the proceeds of sale pursuant to Clause 34 (b) above then the balance of the proceeds of sale shall be placed

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upon bank deposit account and retained against the eventuality of a claim by the owner (whether he be the said member or former member or otherwise) for a period of six years.

(f) In addition the Club shall at all times have a lien[2] over members' or former boat / watercrafts and/or trailers parked on the Club's premises in respect of all monies due to the Club, whether in respect of arrears of facilities fees or subscriptions or otherwise and shall be entitled to retain possession of the boat / watercraft and/or trailer until such time as all monies due to the Club have been paid in full.

Termination of membership

35 Membership of the Club will terminate on death or in the case of a corporate body on the liquidation, receivership, winding-up or dissolution of that body, or in the case of an individual admitted to membership on the basis of nomination by an unincorporated body, if the unincorporated body is dissolved.

DECISION-MAKING BY THE MEMBERS

Members' meetings

36 The Board must arrange a meeting of members (an annual members' meeting or "AGM") in each calendar year, usually in November / December.

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

38 Notwithstanding clause 36, 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.

39 The business of each AGM must include:

(a) a report by the Commodore on the activities of the Club;

(b) consideration of the annual accounts of the Club;

(c) the election/re-election of charity trustees, as referred to in clauses 80 to 88.

[2] A ***lien*** is a right to retain a debtor's moveable property until the debt is paid.
www.**scottish**law.org.uk/law**scotland**/ab**scots**lawland.html

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40 The board may arrange a special members' meeting at any time.

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

41 The board must arrange a special members' meeting if they are requested to do so by a notice (in writing or electronically) by members who amount to at least 10 members or 5% or more of the total membership (whichever is greater) of the Club at the time, providing:

(a) the notice states the purposes for which the meeting is to be held; and

(b) those purposes are not inconsistent with the terms of this constitution, the Scottish Charities Act or any other statutory provision.

42 A notice under clause 41 may take the form of:

(a) two or more documents in the same terms, each signed by one or more members; and/or

(b) a number of emails, each issued by a member;

43 and the Board will be taken to have received the notice on the date on which they receive sufficient documents and/or emails to equal or exceed the 10 members or 5% threshold referred to in clause 41. Clause 154c provides for an electronic mechanism.

44 If the Board receive a notice under clause 41, the date for the meeting which they arrange in accordance with the notice must not be later than 28 days from the date on which they received the notice.

Notice of members' meetings

45 At least 14 clear days' notice must be given of any AGM or any special members' meeting.

46 The notice calling a members' meeting must specify in general terms what business is to be dealt with at the meeting; and

(a) in the case of any resolution falling within clause 63 (requirement for two-thirds majority) must set out the exact terms of the resolution; and

(b) in the case of a resolution to alter the constitution, must set out the exact terms of the proposed alteration(s).

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47 The reference to “clear days” in clause 45 shall be taken to mean that, in calculating the period of notice:

(a) the day after the notices are posted (or sent electronically) should be excluded; and

(b) the day of the meeting itself should also be excluded.

48 Notice of every members’ meeting must be given to all the members of the Club, and to all the charity trustees; but the accidental omission to give notice to one or more members or charity trustees will not invalidate the proceedings at the meeting.

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

(a) sent by email to the member, at the email address last notified by them to the Club.

(b) sent by post to the member, at the address last notified by them to the Club only where no email address exists for the member.

50 If members and charity trustees are to be permitted to participate in a members’ meeting by way of audio and/or audio-visual link(s) (see clause 51), the notice (or notes accompanying the notice) must:

(a) set out details of how to connect and participate via that link or links; and

(b) (particularly for the benefit of those members who may have difficulties in using a computer or laptop for this purpose) draw members' attention to the following options:

(i) participating in the meeting via an audio link accessed by phone, using dial-in details (if that forms part of the arrangements);

(ii) (where attendance in person is to be permitted, either on an open basis or with a restriction on the total number who will be permitted to attend) attending and voting in person at the meeting;

(iii) (where clause 51 applies) submitting questions and/or comments in advance of the meeting

51 Where a members’ meeting is to involve participation *solely* via audio and/or audio-visual link(s), the notice (or notes accompanying the notice) must include a statement inviting members to submit questions and/or comments in advance of the meeting, which (subject

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to clause 52) the chairperson of the meeting will be expected to read out, and address, in the course of the meeting.

52 Where clause 50 applies, the chairperson of a members' meeting will not require to read out or address any questions or comments submitted by members in advance of the meeting if and to the extent that the questions or comments are of an unreasonable length (individually or taken together), or contain material, which is defamatory, racist or otherwise offensive.

Procedure at members' meetings

53 The board may if they consider appropriate (and must, if this is required under clause 54) make arrangements for members and charity trustees to participate in members' meetings by way of audio and/or audio-visual link(s) which allow them to hear and contribute to discussions at the meeting, providing:

(a) the means by which members and charity trustees can participate via that link or links are not subject to technical complexities, significant costs or other factors which are likely to represent - for all or a significant proportion of the membership - a barrier to participation;

(b) the notice calling the meeting (or notes accompanying the notice) contains the information required under clause 51; and

(c) the manner in which the meeting is conducted ensures, so far as reasonably possible, that those members and charity trustees who participate via an audio or audio-visual link are not disadvantaged with regard to their ability to contribute to discussions at the meeting, as compared with those members and charity trustees (if any) who are attending in person (and vice versa).

54 If restrictions arising from public health legislation or guidance are likely to mean that attendance in person at a proposed members' meeting would not be possible or advisable for all or a significant proportion of the membership, the board must make arrangements for members and charity trustees to participate in that members' meeting by way of audio and/or audio-visual link(s) which allow them to hear and contribute to discussions at the meeting; and on the basis that the requirements set out in paragraphs (a) to (c) of clause 53 will apply.

55 A members' meeting may involve two or more members or charity trustees participating via attendance in person while other members and/or charity trustees participate via audio

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and/or audio-visual links; or it may involve participation solely via audio and/or audio-visual links.

56 The quorum for a members' meeting is whichever is the greater 15 voting members or 15% of the membership (Whichever is greater), present in person.

57 An individual participating in a members' meeting via an audio or audio-visual link which allows them to hear and contribute to discussions at the meeting will be deemed to be present in person (or, if they are not a member), will be deemed to be in attendance) at the meeting.

58 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.

59 The Commodore of the Club should act as chairperson of each members' meeting.

60 If the Commodore 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

61 There shall be the following categories of membership with power to vote at all members' meetings of the Club as indicated below:

(a) MEMBER – they will have one vote.

(b) FAMILY MEMBER - each adult member will have one vote along with each child aged 16 or over.

(c) INTERMEDIATE MEMBERS - they will have one vote.

(d) JUNIOR MEMBER - they will, from age 16, have a vote in any subsequent elections.

(e) AN HONORARY MEMBER – they will have one vote.

(f) A BUSINESS MEMBER – they shall not have a vote.

(g) A SOCIAL MEMBER - who shall have one vote.

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(h) A TEMPORARY MEMBER - who shall have no vote.

(i) A VOLUNTEER MEMBER – who shall have no vote.

62 All decisions at members' meetings will be made by majority vote - with the exception of the types of resolution listed in clause 63.

63 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 70):

(a) a resolution amending the constitution;

(b) a resolution expelling a person from membership under clause 32;

(c) a resolution removing a person from office as a charity trustee under paragraph104 (b).

(d) a resolution directing the board to take any particular step (or directing the board not to take any particular step) under clause 102;

(e) 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);

(f) 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);

(g) a resolution for the winding up or dissolution of the Club.

64 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.

65 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.

66 Where members are participating in a meeting via an audio or audio-visual link, they may cast their votes on any resolution orally, or by way of some form of visual indication, or by use of a voting button or similar, or by way of a message sent electronically - and providing the board have no reasonable grounds for suspicion as regards authenticity, any such action shall be deemed to be a vote cast personally via a show of hands.

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67 The chairperson will decide how any secret ballot is to be conducted, and they will declare the result of the ballot at the meeting.

68 Where members are participating in a meeting via audio and/or audio-visual links, the chairperson's directions regarding how a secret ballot is to be conducted may allow those members to cast their votes on the secret ballot via any or all of the methods referred to in clause 65, providing reasonable steps are taken to preserve anonymity (while at the same time, addressing any risk of irregularities in the process).

Technical objections to remote participation in members' meetings

69 This constitution imposes certain requirements regarding the use of audio and/or audiovisual links as a means of participation and voting at members' meetings; providing the arrangements made by the board in relation to a given members' meeting (and the manner in which the meeting is conducted) are consistent with those requirements:

(a) a member cannot insist on participating in the members' meeting, or voting at the members' meeting, by any particular means;

(b) the members' meeting need not be held in any particular place;

(c) the members' meeting may be held without any particular number of those participating in the meeting being present in person at the same place (but, notwithstanding that, the quorum requirements - taking account of those participating via audio and/or audio-visual links - must still be met);

(d) the members' meeting may be held by any means which permits those participating in the meeting to hear and contribute to discussions at the meeting;

(e) a member will be able to exercise the right to vote at the members' meeting (including where a secret ballot is to be held) by such means as is determined by the chairperson of the meeting (consistent with the arrangements made by the board) and which permits that member's vote to be taken into account in determining whether or not a resolution is passed.

Written resolutions by members

70 A resolution agreed to in writing (or by email) by all the members will be as valid as if it had been passed at a members' meeting; the date of the resolution will be taken to be the date on which the last member agreed to it.

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Minutes of members' meetings

71 The board must ensure that proper minutes are kept in relation to all members' meetings, and that a proper record is kept of all resolutions agreed to in writing or by email under clause 70.

72 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. Clause 154c provides for an electronic mechanism.

73 The records of resolutions kept under clause 71 must include confirmation that all members agreed to the resolution; and should be signed by the Commodore of the Club. Clause 154c provides for an electronic mechanism.

BOARD Number of charity trustees

74 The maximum number of charity trustees is 12 and the minimum number is 5.

Composition of the Board

75 Subject to any vacancy which may exist from time to time, the composition of the Board shall be as follows:

(a) a Commodore;

(b) a Vice Commodore;

(c) a Secretary;

(d) a Treasurer

(e) a Sailing Secretary and a Cadet Officer subject to clause 80

(f) Up to between six and eight trustees subject to clause 80

(g) No more than 4 shall be charity trustees who were co-opted by the board under the provisions of clauses 89 and 90.

Appointments made by the Board

76 The Board shall appoint annually the following who will report to the Board but be non-voting and not count as a trustee unless elected as a member of the Board

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separately. These roles have legal and / or safety implications for the club and so are listed directly:

(a) a trained Child and Vulnerable Adults Safeguarding Officer (preferably 2 officers, male and female);

(b) a Safety Boat Co-ordinator;

(c) a Gunner (preferably two) with the necessary firearms licences who is / are responsible for the Club's cannons;

(d) Other organisational roles in line with the Club's Roles and Responsibilities Policy.

(e) A Membership Secretary.

Eligibility

77 A person shall not be eligible for election/appointment to the board under clauses 80 to 88 unless they are a member of the Club; a person appointed to the board under clauses 89 and 90 need not, however, be a member of the Club.

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

(a) disqualified from being a charity trustee under the Scottish Charities Act; or

(b) an employee of the Club.

Initial charity trustees

79 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

80 At each AGM, the voting members may elect any voting member (subject to clauses 74 and 75, and providing they are not debarred under clause 78) to be a charity trustee, and (where applicable) to hold the relevant office, in accordance with the following provisions:

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(a) at each AGM, a Commodore should be elected and hold office for no more than two years. This can be extended to a three-year term if approved at the relevant AGM;

(b) at each AGM, a Vice Commodore, a Treasurer and a Secretary, a Sailing Secretary and Cadet Officer should be elected. Note that the Sailing Secretary and Cadet Officer may or may not be trustees. This reflects the essential nature of these roles to the operation of the club's activities, but not necessarily their direct link to its governance;

(c) at each AGM, charity trustees should be elected to fill the vacancies (including vacancies created through the retiral of charity trustees under clause 83 or 84) in relation to charity trustees falling with paragraph 75(g) (charity trustees who are not office-bearers);

(d) where there are multiple nominations for election or appointment, a secret ballot will be held. The Commodore will determine the format of the secret ballot.

81 If there is any vacancy at any time, the board may at any time appoint any Voting Member (unless he/she is debarred from membership under clause 78 to be a charity trustee and/or (where applicable) to fill the office which has fallen vacant.

82 Any Commodore retiring from office under clause 80 may continue to attend meetings of the board for a period of up to one year following his/her retiral, in an advisory capacity

83 At the first AGM, two of the charity trustees falling within paragraph 75(f) shall retire from office; the question of which of them to retire shall be determined by some random method.

84 At each AGM (other than the first)

(a) any charity trustee appointed by the board under clause 81 during the period since the preceding AGM shall retire from office;

(b) the Commodore, Vice-Commodore, the Treasurer, the Secretary, the Sailing Secretary and Cadet Officer shall retire from office; and

(d) out of the remaining charity trustees, two shall retire from office and cannot be reappointed for the period of one year.

85 The charity trustees to retire under paragraph 84(d) shall be those who have been longest in office since they were last appointed/re-appointed; as between charity trustees who were last appointed/reappointed on the same date, the question of which of them is to retire shall be determined by some random method.

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86 A charity trustee retiring from office at any AGM may be re-elected under clause 80.

87 For the purposes of clause 84:

(a) the period from the date of the formation of the Club to the first AGM 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);

(b) 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;

(c) the period between one AGM and the next shall be deemed to be a period of one year, See clauses 36 to 38;

(d) if a charity trustee ceases to hold office but is reappointed to that office within a period of six months, they shall be deemed to have held office as a charity trustee continuously.

88 A charity trustee retiring at an AGM will be deemed to have been re-elected unless:

(a) they advise the board prior to the conclusion of the AGM that they do not wish to be re-appointed as a charity trustee; or

(b) an election process was held at the AGM and they were not among those elected/reelected through that process.

Appointment/re-appointment of co-opted charity trustees

89 In addition to their powers under clause 100, the board may at any time appoint any non-member of the Club to be a charity trustee (subject to clauses 74 and 75(e), and providing they are not debarred under clause 78) either on the basis that they have been nominated by on the basis that they have specialist experience and/or skills which could be of assistance to the board.

90 At each AGM, all of the charity trustees appointed under clause 89 shall retire from office – but shall then be eligible for re-appointment by the board (after the AGM) under that clause.

Termination of office

91 A charity trustee will automatically cease to hold office if:

(a) they become disqualified from being a charity trustee under the Scottish Charities Act;

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(b) they become incapable for medical reasons of carrying out their duties as a charity trustee - but only if that has continued (or is expected to continue) for a period of more than six months;

(c) (in the case of a charity trustee elected/appointed under clauses 80 to 88, or deemed to have been appointed by the members under clause 88) they cease to be a member of the Club;

(d) they become an employee of the Club;

(e) they give the Club a notice of resignation (either in writing or by email);

(f) they are absent (without good reason, in the opinion of the board) from more than three consecutive board meetings - but only if the board resolve to remove them from office;

(g) they are removed from office by resolution of the board on the grounds that they are considered to have committed a serious breach of the code of conduct for charity trustees (as referred to in clause 112);

(h) they are removed from office by resolution of the board on the grounds that they are considered to have been in serious or persistent breach of their duties under section 66(1) or (2) of the Scottish Charities Act; or

(i) they are removed from office by a resolution of the members passed at a members' meeting.

92 A resolution under paragraph (g), (h) or (i) of clause 91 shall be valid only if:

(a) the charity trustee concerned is given reasonable prior notice (in writing or by email) of the grounds upon which the resolution for their removal is to be proposed;

(b) 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;

(c) (in the case of a resolution under paragraph (g) or (h)) at least two thirds (to the nearest round number) of the charity trustees then in office vote in favour of the resolution; and

(d) (in the case of a resolution under paragraph (i)) at least two thirds (to the nearest round number) of the votes cast in relation to the resolution were in favour of the resolution.

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Register of charity trustees

93 The board must keep a register of charity trustees, setting out:

(a) for each current charity trustee:

(i) their full name and address;

(ii) the date on which they were appointed as a charity trustee; and

(iii) any office held by them in the Club;

(b) for each former charity trustee - for at least 6 years from the date on which they ceased to be a charity trustee:

(i) the name of the charity trustee;

(ii) any office held by them in the Club; and

(iii) the date on which they ceased to be a charity trustee.

94 The board must ensure that the register of charity trustees is updated within 28 days of any change:

(a) which arises from a resolution of the board or a resolution passed by the members of the Club; or

(b) which is notified to the Club.

95 If any person requests a copy of the register of charity trustees, the board must ensure that a copy is supplied to them within 28 days, providing the request is reasonable; if the request is made by a person who is not a charity trustee of the Club, the board may provide a copy which has the addresses blanked out - if the Club is satisfied that including that information is likely to jeopardise the safety or security of any person or premises.

Office-bearers and Organisational Roles

96 The office bearers of the organisation shall consist of the Commodore, Vice-Commodore, the Secretary and the Treasurer as provided by clause 80.

97 In addition to the office-bearers in clause 96, organisational roles will be filed as follows: the board may either appoint members or nominate members for election at the AGM in

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accordance with the rules laid down for each role in the Club's Roles and Responsibilities Policy.

98 All of the office-bearers and members in organisational roles will cease to hold office at the conclusion of each AGM but may then be re-appointed or re-elected in accordance with clauses 96 and 97.

99 A person elected to any office will automatically cease to hold that office:

(a) if they cease to be a charity trustee; or

(b) if they give to the Club a notice of resignation from that office (either in writing or by email).

Powers of board

100 Except where this constitution states otherwise:

(a) the Club (and its assets and operations) will be managed by the board; and (b)

the board may exercise all the powers of the Club.

101 A meeting of the board at which a quorum is present may exercise all powers exercisable by the board.

102 The members may, by way of a resolution passed in compliance with clause 63 (requirement for two-thirds majority), direct the board to take any particular step or direct the board not to take any particular step; and the board shall give effect to any such direction accordingly.

Charity trustees - general duties

103 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:

(a) seek, in good faith, to ensure that the Club acts in a manner which is in accordance with its purposes;

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

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(c) in circumstances giving rise to the possibility of a conflict of interest between the Club and any other party:

(i) put the interests of the Club before that of the other party; or

(ii) where any other duty prevents them 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;

(d) ensure that the Club complies with any direction, requirement, notice or duty imposed under or by virtue of the Scottish Charities Act.

104 In addition to the duties outlined in clause 103, all of the charity trustees must take such steps as are reasonably practicable for the purpose of ensuring:

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

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

Conflicts of interest involving charity trustees - general

105 The board must use every effort to ensure that conflicts of interest involving charity trustees (including those which relate to individuals or bodies connected with charity trustees) are identified at the earliest opportunity and appropriately managed; the following provisions of this constitution are of particular relevance:

(a) clauses 106 and 109 require charity trustees to declare any personal interest which they may have in any transaction or other arrangement with the Club;

(b) clause 130 prohibits a charity trustee with a personal interest in a proposed arrangement from voting on the question of whether the Club should enter into that arrangement;

(c) clause 108 (reflecting similar provisions contained in the Scottish Charities Act) sets out restrictions and conditions for any arrangement under which remuneration would be paid to a charity trustee (or where the charity trustee might benefit from remuneration paid to a connected party).

106 In addition to complying with the provisions referred to in clause 105

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(a) the board must maintain a register of charity trustees' interests;

(b) the chairperson of each board meeting must invite declarations of interest, shortly after the start of the meeting;

(c) the minutes of each board meeting must record any conflicts of interest which have been declared at the meeting and must set out in detail how any such conflicts of interest have been managed.

Remuneration and expenses

107 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 their duties as a charity trustee.

108 Where a charity trustee provides services to the Club or might benefit from any remuneration paid to a connected party for such services:

(a) the maximum amount of the remuneration must be specified in a written agreement and must be reasonable;

(b) the board must be satisfied that it would be in the interests of the Club to enter into the arrangement (taking account of that maximum amount); and

(c) less than half of the charity trustees must be receiving remuneration from the Club (or benefit from remuneration of that nature).

109 Provided they have declared their interest - and have 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 they have a personal interest where that is not prohibited under clause 107 or 108; and (subject to clause 108 and to the provisions relating to remuneration for services contained in the Scottish Charities Act), they may retain any personal benefit which arises from that arrangement.

110 The Club may also enter into an arrangement with a member who is not a charity trustee (or with a person or body *connected* with a member who is not a charity trustee) under which that member (or the connected person or body) receives payment for goods or services provided by them to the Club, but only if:

(a) the terms and conditions (including the amount of the payment(s)) are at least as good (from the Club's point of view) as those which would be expected if the goods or services had been sourced on the open market; and

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(b) the board are satisfied, after careful consideration, that the arrangement is in the best interests of the Club;

and the same principles will apply in relation to any arrangement under which a member (or a person or body connected with a member) lets premises to the Club or makes a loan to the Club.

111 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

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

113 The code of conduct referred to in clause 112 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 Scottish Charities Act; 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

114 Any charity trustee may call a meeting of the board or may ask the secretary to call a meeting of the board.

115 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.

116 If charity trustees are to be permitted to participate in a board meeting by way of audio and/or audio-visual link(s), the charity trustees must, in advance of the meeting, be provided with details of how to connect and participate via that link or links; and (particularly for the benefit of those charity trustees who may have difficulties in using a computer or laptop for this purpose) the charity trustees' attention should be drawn to the following options:

(a) participating in the meeting via an audio link accessed by phone, using dial-in details (if that forms part of the arrangements);

(b) (where attendance in person is to be permitted, either on an open basis or subject to a restriction on the total number who will be permitted to attend) the ability to attend the meeting in person.

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Procedure at board meetings

117 No valid decisions can be taken at a board meeting unless a quorum is present; the quorum for board meetings is 5 charity trustees, present in person.

118 An individual participating in a board meeting via an audio or audio-visual link which allows them to hear and contribute to discussions at the meeting will be deemed to be present in person (or, if they are not a charity trustee, will be deemed to be in attendance) at the meeting.

119 If at any time the number of charity trustees in office falls below the number stated as the quorum in clause 117, 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.

120 The Commodore of the Club should act as chairperson of each board meeting.

121 If the Commodore 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.

122 Every charity trustee has one vote, which must be given personally (subject to clause 128).

123 All decisions at board meetings will be made by majority vote.

124 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.

125 The board may if they consider appropriate (and must, if this is required under clause 126), allow charity trustees to participate in board meetings by way of an audio and/or audiovisual link or links which allow them to hear and contribute to discussions at the meeting, providing:

(a) the means by which charity trustees can participate via that link or links are not subject to technical complexities, significant costs or other factors which are likely to represent - for all, or a significant proportion, of the charity trustees - a barrier to participation; and

(b) the manner in which the meeting is conducted ensures, so far as reasonably possible, that those charity trustees who participate via an audio or audio-visual link are not disadvantaged with regard to their ability to contribute to discussions at the

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meeting, as compared with those charity trustees (if any) who are attending in person (and vice versa).

126 If restrictions arising from public health legislation or guidance are likely to mean that attendance in person at a proposed board meeting would not be possible or advisable for one or more of the charity trustees, the board must make arrangements for charity trustees to participate in that board meeting by way of audio and/or audio-visual link(s); and on the basis that:

(a) the requirements set out in paragraphs (a) and (b) of clause 125 will apply; and

(b) the board must use all reasonable endeavours to ensure that all charity trustees have access to one or more means by which they may hear and contribute to discussions at the meeting.

127 A board meeting may involve two or more charity trustees participating via attendance in person while other charity trustees participate via audio and/or audio-visual links; or it may involve participation solely via audio and/or audio-visual links.

128 Where a charity trustee or charity trustees are participating in a board meeting via an audio or audio-visual link, they may cast their vote on any resolution orally, or by way of some form of visual indication, or by use of a voting button or similar, or by way of a message sent electronically.

129 The board may, at its discretion, allow any person to attend (whether in person or by way of an audio or audio-visual link) and speak at a board meeting notwithstanding that they are not a charity trustee - but on the basis that they must not participate in decision-making.

130 A charity trustee must not vote at a board meeting (or at a meeting of a sub-committee) on any resolution which relates to a matter in which they have a personal interest or duty which conflicts (or may conflict) with the interests of the Club; they must withdraw from the meeting while an item of that nature is being dealt with.

131 For the purposes of clause 130:

(a) an interest held by an individual who is “connected” with the charity trustee under section 68(2) of the Scottish Charities Act (husband/wife, partner, child, parent, brother/sister etc) shall be deemed to be held by that charity trustee;

(b) a charity trustee will (subject to clause 132) be deemed to have a personal interest in relation to a particular matter if a body in relation to which they are an employee, director, member of the management committee, officer or elected representative (or

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a body in relation to which they are a major shareholder or have some other significant financial interest) has an interest in that matter.

132 Where a subsidiary of the Club has an interest in a particular matter which is to be considered by the board, a charity trustee who is also a director of that subsidiary will not be debarred from voting on that matter (unless they have a different personal interest in that matter, unrelated to their position as a director of that subsidiary).

Technical objections to remote participation in board meetings

133 The principles set out in clause 69 (technical objections to remote participation) shall apply in relation to remote participation and voting at board meetings, as if each reference in that clause to a member were a reference to a charity trustee and each reference in that clause to a members' meeting were a reference to a board meeting.

Board resolutions agreed in writing or by email

134 A resolution agreed to in writing (or by email) by a majority of the charity trustees then in office shall (subject to clauses 135 and 136) be as valid as if duly passed at a board meeting.

135 A resolution under clause 134 shall not be valid unless a copy of the resolution was circulated to all of the charity trustees, along with a cut-off time (which must be reasonable in the circumstances) for notifications under clause 136

136 If a resolution is circulated to the charity trustees under clause 135, any one or more charity trustees may, following receipt of a copy of the resolution, notify the secretary that they consider that a board meeting should be held to discuss the matter which is the subject of the resolution; and if any such notification is received by the secretary prior to the cut-off time:

(a) the secretary must convene a board meeting accordingly, and on the basis that it will take place as soon as reasonably possible;

(b) the resolution cannot be treated as valid under clause 134 unless and until that board meeting has taken place;

(c) the board may (if they consider appropriate, on the basis of the discussions at the meeting) resolve at that board meeting that the resolution should be treated as invalid, notwithstanding that it had previously been agreed to in writing (or by email) by a majority of the charity trustees then in office.

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Minutes of board meetings

137 The board must ensure that proper minutes are kept in relation to all board meetings and meetings of sub-committees; and that a proper record is kept of all resolutions agreed to (in writing or by email) by the charity trustees under clause 134.

138 The minutes to be kept under clause 137 must include the names of those present; and (so far as possible) should be signed by the chairperson of the meeting. Clause 154c provides for an electronic mechanism.

139 The records of resolutions kept under clause 137 must include the names of those charity trustees who agreed to the resolution (as well as the names of any charity trustees who stated that they disagreed with the resolution); and should be signed by the Commodore of the Club. Clause 154c provides for an electronic mechanism.

140 The board shall (subject to clause 141) make available copies of the minutes and records of resolutions referred to in clause 137 to any member of the public requesting them. The board may exclude from any copy minutes, or records of resolutions, made available to a member of the public under clause 141 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 Delegation to sub-committees

141 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.

142 The board may also delegate to the Commodore of the Club (or the holder of any other post) such of their powers as they may consider appropriate.

143 When delegating powers under clause 142 or 143, the board must set out appropriate conditions (which must include an obligation to report regularly to the board).

144 Any delegation of powers under clause 142 or 143 may be revoked or altered by the board at any time.

145 The rules of procedure for each sub-committee, and the provisions relating to membership of each sub-committee, shall be set by the board.

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Operation of accounts

146 The board should ensure that the systems of financial control adopted by the Club in relation to the operation of the Club's bank accounts (including online banking) reflect the recommendations made from time to time by the Club's auditors (or independent examiners) or other external accountants.

Accounting records and annual accounts

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

148 The board must prepare annual accounts, complying with all relevant statutory requirements; and

(a) 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;

(b) if an audit is not carried out, the board must ensure that an independent examination of the accounts is carried out by a qualified independent examiner.

MISCELLANEOUS Winding-up

149 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 Scottish Charities Act.

150 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; and the named recipient body (or bodies) in the resolution for the winding-up and dissolution of the Club must also comply with any additional requirements which apply at the time under the regulations which govern the winding up and dissolution of SCIOs.

Alterations to the constitution

151 This constitution may (subject to clause 153) be altered by resolution of the members passed at a members' meeting (subject to achieving the two thirds majority referred to in clause 63) or by way of a written resolution of the members.

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152 The Scottish Charities Act 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

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

(a) any statutory provision which adds to, modifies or replaces that Act; and

(b) any statutory instrument issued in pursuance of that Act or in pursuance of any statutory provision falling under paragraph (a) above.

154 In this constitution:

(a) “Scottish Charities Act” means (subject to clause 153) the Charities and Trustee Investment (Scotland) Act 2005;

(b) “Charitable purpose” means a charitable purpose under section 7 of the Scottish Charities Act which is also regarded as a charitable purpose in relation to the application of the Taxes Acts.

(c) Sailing Club Correspondence in most cases along with Applications are not subject to the Requirements of Writing (Scotland) Act 1995, so an application or letter or record can be 'signed' by the Applicant/Member and the appropriate Board member typing their names into the electronic document and sending it by email if all parties agree to this. A physical copy can be signed instead if this is preferred.

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