

The Church of Scotland

DEED OF CONSTITUTION (MODEL FORM)

of

Scottish Charity No. SC

In the Presbytery of

First, The control of the financial and other temporal affairs of the congregation shall (subject as hereinafter mentioned, or to any Regulations or directions which may hereafter be enacted by the General Assembly) be vested in the Congregational Board (hereinafter referred to as “the Board”), which shall consist of the minister or ministers of the congregation, any associate minister, assistant minister, deacon or deaconess appointed to serve with the congregation, the elders, and a certain number of Communicants of eighteen years of age or over to be elected by the congregation as hereinafter provided. The number so to be elected shall be determined by the congregation, but in no case (and subject as hereinafter mentioned) shall it exceed the number of elders of the congregation as at the date of such election.

Constitution
of
Congregation
al Board

In any case where the number of elders is less than six and the Presbytery is satisfied that there is no immediate prospect of that number being augmented, the Presbytery may permit that a number of Communicants in excess of the number of elders be elected to the Board, subject, however, in such cases to the total number of members of the Board other than elders not exceeding six. The Presbytery shall, subject as aforesaid, decide the number to be so elected and shall report each decision to the Delegation of the General Assembly.

The minister or ministers of the congregation and any associate minister, assistant minister, deacon or deaconess appointed to serve with the congregation shall not have a vote except in the event of being chairman and having a casting vote in terms of Article Fifth hereof.

Any probationer minister serving with the congregation shall not be a member of the Board, but shall be entitled to be in attendance at its meetings.

It is hereby declared that for the purposes of Charity law, the members of the Board (except those without voting rights) shall, together with the minister or ministers of the congregation and those members of the Session who are not members of the Board, comprise the Charity Trustees.

Second, Not later than the 30th day of June in each year, a meeting of all those whose names are on the Communion Roll of the congregation shall be called by intimation made from the Pulpit on the two Sundays immediately preceding the meeting. The said meeting (which shall be designated the Stated Annual Meeting of the congregation) shall be held in the Church or Church Hall or elsewhere as may be

Election of
Board

intimated (the Moderator or Interim Moderator of the Kirk Session, whom failing a member of the Presbytery specially authorised by him or her for the purpose, whom failing some person to be elected by those present at the meeting, presiding) on a date to be fixed by the Kirk Session in the case of the first such meeting and subsequently by the Board, for the purpose of electing certain of their number to act along with the minister and the elders on the Board in administering the financial and other temporal affairs of the congregation. In the event of any of such meetings not being held within the said appointed times, the Presbytery may, on application by the Kirk Session to that effect, direct such meeting to be called and held at any time thereafter during that year. One-third of the members of the Board so elected shall retire, annually, but they shall be severally eligible for re-election.* The order of retirement of such one-third of the member shall be fixed by the Board.

Third, Notwithstanding the foregoing, it shall be in the power of the congregation by a resolution passed by not less than two-thirds of the members thereof present at a meeting of the congregation (whether the Stated Annual General Meeting or not), of which due notice of the intention to propose such resolution has been given, to resolve that the number of elders on the Board should be reduced to a number specified in said resolution. The reduced number of elders shall be not less than five when the number of members on the Communion Roll does not exceed 200; shall be not less than eight when the number of members of the Communion Roll exceeds 200 but does not exceed 400, and shall be not less than twelve when the number of members on the Communion Roll exceeds 400. In the event of such a resolution being passed (a) the elders who are to serve on the Board shall be elected by the Kirk Session and shall be members of the Board for such period as the Kirk Session may decide, and the Kirk Session shall fill any vacancy that occurs; (b) the number of members of the Board elected by the congregation shall not exceed the number of elders specified in the resolution. If at the time such resolution is passed the number of members of the Board elected by the congregation should exceed the reduced number of elders, the members elected by the congregation may decide among themselves by agreement or failing that by ballot or otherwise as the majority may wish which of them should demit office so as not to exceed the specified number of elders.

Power to
reduce
membership
of Board

It shall be competent for the congregation at intervals of not less than one year after the passing of a resolution as aforesaid to review the matter and by a resolution passed by not less than two-thirds of the members thereof present at a meeting of which due notice of the intention to propose such a resolution has been given to rescind the resolution referred to in the preceding paragraph or to amend it by increasing or reducing the number of elders to serve on the Board, provided that the minimum number shall be as before stated. In the event of the resolution referred to in the preceding paragraph being rescinded, all the elders shall thereupon become members of the Board and the congregation shall have power to elect additional

* Deacons for life who have been members of a Deacons' Court immediately prior to the adoption of the Model Deed are in a special position – See Note on page 6.

members of the Board up to the total number of elders. In the event of the number of elders, however, being increased but still being less than the total number of elders on the Kirk Session, the Kirk Session shall elect additional members to serve on the Board from their own number as before provided, and the congregation shall have power to elect additional members up to the total number of elders serving on the Board. In the event of the number of elders being further reduced by said amending resolution, the Kirk Session shall decide which of the elders are to serve on the Board, and the members of the Board elected by the congregation shall decide by agreement or failing that by ballot or otherwise as the majority may wish, which of them should demit office so as to reduce their number to a number not exceeding the number of elders on the Board.

Fourth, In the event of any member of the Board who has been elected by the congregation dying or resigning, or becoming incapacitated to act, or having his or her name removed from the Communion Roll of the congregation, or being suspended from Communion during the currency of his or her term of office, the Board may appoint a duly qualified person to fill the vacancy, and the person thus appointed shall hold office for the remainder of the period for which such predecessor was elected, subject to confirmation at the next Stated Annual Meeting of the congregation.

Filling of
Vacancies

Fifth, So soon as the Board has been constituted, three shall be a quorum where the number of the Board does not exceed nine, and five shall be a quorum where the number exceeds nine and does not exceed twenty. Where it exceeds twenty, seven shall be a quorum. The minister or ministers of the congregation (or the Interim Moderator of the Kirk Session during a vacancy) shall be *ex officio* the Chairman of the Board, and in the event of their declining to accept office, the Board shall elect one of their own number as Chairman for the year. If the Chairman (either *ex officio* or elected) shall be absent from any meeting, the members of the Board present shall elect one of their own number as Chairman for that meeting. The Chairman shall have a casting vote only.

Quorum and
Chairman

Where there is more than one minister of the congregation, each such minister shall, subject to any agreement between or among themselves, be Chairman of the Board at successive meetings in rotation.

Sixth, It shall be the duty of the Board at their first meeting to appoint a Clerk and a Treasurer, who may or may not be of their own number, and both offices may be held by the same person. The Treasurer if holding only that office need not be a member of the congregation. The person or persons so appointed shall hold office during the pleasure of the Board, but in any event shall not hold office longer than three years unless reappointed by the Board, which reappointment may be for a period not exceeding three years but may be renewed thereafter for periods not exceeding three years at a time.

Appointment
of Officials of
Board

Seventh, It shall be the duty of the Clerk to keep regular Minutes of the proceedings of the Board, and also of the proceedings at the Stated Annual Meeting of the congregation, and to maintain these in a permanent Record, in which each Minute, when approved, shall be signed by the Chairman and the Clerk.

Minutes and
Bank
Account(s)

It shall be the duty of the Treasurer to keep one or more separate Bank Accounts in the name of the congregation. The Treasurer and up to four members may be authorised by the Board to act as signatories of all cheques drawn thereon. Such cheques shall be signed by any two of the said persons; provided that it shall further be competent for the Board from time to time to resolve that cheques drawn for sums less than a specified amount may be signed by any one of the said persons alone.

Eighth, It shall be the duty of the Board to create and maintain among the members of the congregation a commitment to the provision, by regular giving, of sufficient income to meet the cost of the whole financial and other temporal affairs of the congregation and to take all necessary and appropriate measures to that end.

Provision of
Income

Ninth, The Treasurer of the Board shall keep such detailed accounting records of the income and expenditure and of the assets and liabilities of the congregation as shall be necessary for the preparation and audit of the Annual Accounts of the congregation in accordance with Article Thirteenth hereof.

Accounting
records

Tenth, It shall be the duty of the Board to maintain the fabric of all heritable properties vested in the Church of Scotland General Trustees and/or belonging to or held for the congregation in proper order and repair and fully insured against loss or damage by fire and also against loss or damage by such other risks or perils as is appropriate, such insurances to be effected in the name of the General Trustees insofar as the subjects insured are vested in them.

Maintenance
of
Properties

No extraordinary repairs or improvements on the heritable property shall be undertaken, and no material additions shall be made thereto or to the furnishings of the Church or Church Hall, until sufficient funds shall have been raised or assured for the purpose without encroaching upon the Ordinary Income of the Congregation.

Eleventh, The Board shall apply the whole funds and assets of any description and under its control in any way exclusively for the purpose of the Congregation and/or the Church of Scotland, unless such funds or assets are otherwise appropriated in law to a specific purpose, and in accordance with all the relevant Acts, Regulations and Deliverances approved by the General Assembly.

Application
of Funds
and Assets

Twelfth, The Board shall have power to borrow money for the purpose of implementing its duties and obligations but that subject to *(One)* the Board being satisfied that sufficient funds are available or are assured for the purpose of repaying the money borrowed; and *(Two)* the approval of Presbytery.

Power to
borrow
money

Thirteenth, The Board, acting with the Session, shall ensure that the provisions of the Congregational Finance Regulations (Regulations II 2016) as amended by the General Assembly from time to time are fully complied with. In particular, the Board and Session shall ensure that the Congregational Accounts are received by the Congregation at its Annual Meeting, such meeting to be held not later than the 30th day of June following the financial year-end date.

Accounts of the Congregation and matters connected therewith

Fourteenth, It shall be the responsibility of the Board to afford the congregation convenient opportunities for contributing to any objects for which the General Assembly shall have enjoined special collections and the Board shall also have power to make such collections as may be deemed necessary for the needs of the poor or other religious or charitable purposes. Income received and disbursed or funds held or administered for such objects or purposes, whether originating in such collections or otherwise, shall be shown separately in the Accounts, required to be kept or made up in terms of Article Thirteenth hereof.

Collections and Funds for Other Charitable Purposes

Fifteenth, The Kirk Session shall appoint the Church Officer, the Choirmaster and the Organist or Precentor and any other like officials and shall define their duties. Such officials shall each and all be subject to the direction of the Minister as regards the execution of their duties. The Board shall enter into contracts of employment, which shall incorporate *inter alia* the foregoing conditions, with all such officials and shall determine their salaries. The Kirk Session shall have power, after consultation with the Board, to direct the Board to suspend or terminate the appointments of all or any of the said officials, all in accordance with the terms of the relevant contracts.

Appointment of Church Officials

Sixteenth, Nothing herein contained shall interfere with the functions assigned to the minister and to the Kirk Session respectively by common law of the Church of Scotland or by any Acts of the General Assembly applicable thereto.

Existing functions of Minister and Kirk Session reserved

Seventeenth, In the event of the Presbytery finding that the Board constituted in terms hereof, or a majority of its members, persist or shall have persisted in disregarding the terms of this Constitution after their attention has been called to the matter, the Presbytery may remove from the Board those who have been guilty of such contumacy, and declare them ineligible for reappointment for a period of not less than three years, and shall thereafter take such steps as they may deem proper to fill the vacancies thus occasioned, with power to the Presbytery, if that Court should itself find it necessary or expedient to do so, to make appointments to the Board.

Powers of Presbytery where Board disregard terms of Constitution

Eighteenth, If any question shall arise with reference to the election of the Board, or as to the interpretation of any Article of this Constitution or as to the legality of any particular exercise of the powers herein contained, it shall be competent for any person or body interested to apply by Petition to the Presbytery to adjudicate upon the matter, and the judgement of the Presbytery upon such matter, or upon any question arising in connection with the annual audit provided for in Article Thirteenth hereof shall be final, subject only to appeal against the decision of the Presbytery to the

Interpretation

Appeals Committee of the Commission of Assembly in accordance with the Appeals Act (Act I 2014).

Nineteenth, It shall be in the power of the General Assembly at any time, or from time to time, to alter, revoke, amend, or modify this Deed of Constitution, in whole or in part, or to substitute a new Model Deed of Constitution for this Deed of Constitution, subject always to such conditions and provisions relative thereto as the General Assembly shall determine; provided that nothing shall thereby be done to require that the titles of the heritable properties of the congregation be transferred from the existing Trustees to any other body of Trustees.

Powers
reserved to
General
Assembly

Given under our hands this _____ day of _____ 201_____
and Signed and Delivered by us, as duly authorised by the General Assembly of the Church of Scotland, and as a Quorum of the Delegation appointed by the said General Assembly for, *inter alia*, that purpose.

NOTE

It is enacted by Act XIX of the General Assembly of 1964, section 3, as follows:

Notwithstanding the terms of the Model Deed of Constitution, in cases where the Model Deed shall in future be issued to a congregation whose financial or temporal affairs immediately prior thereto have been administered by a Deacons' Court, consisting wholly or partly of Members ordained or commissioned for life or otherwise holding office for life, such members of the former Deacons' Court, if they so wish, shall, without election, become members of the Congregational Board for life or for as long as they wish to remain members thereof, provided always that their names remain on the Communion Roll. While any such persons are members of the Congregational Board the number of members elected to the Board by the congregation shall be reduced accordingly, and the provisions in the Model Deed of Constitution for the retirement of members by rotation shall apply only to elected members. Any life member of the Congregational Board who ceases to be a member of the Board during his or her lifetime owing to resignation or some other cause, shall if subsequently elected to the Board be an ordinary member thereof.

The Church of Scotland

DEED OF CONSTITUTION

of

THE CONGREGATION OF

Dated _____ 2017

SAMPLE

Amended form of Model Deed of Constitution, as approved by the General Assembly on 21st May 1994 (and as further amended on 20th May 2008; 21 May 2016 and 20th May 2017)