

CONSTITUTION

of

[THE SCOTTISH SOCIETY OF ARTISTS]

**A Scottish Charitable Incorporated
Organisation**

DRAFT DOCUMENT FOR SSA MEMBERSHIP



**MORTON
FRASER
MACROBERTS
LLP**

CONSTITUTION
OF
[THE SCOTTISH SOCIETY OF ARTISTS]
A SCOTTISH CHARITABLE INCORPORATED ORGANISATION

1	Interpretation	4
2	Type of organisation	5
3	Scottish principal office	5
4	Name of organisation	5
5	Purposes	5
6	Powers	5
7	Liability of members	6
8	Liability of council members	6
9	General structure	6
10	Eligibility for and classes of membership	6
11	Application for membership	7
12	Membership subscription	7
13	Register of members	7
14	Withdrawal from membership	8
15	Transfer of membership	8
16	Re-registration of members	8
17	Expulsion from membership	9
18	Termination of membership	9
19	Members' meetings	9
20	Power to request the council to arrange a members' meeting	9
21	Notice of motions	10
22	Notice of members' meetings	10

23	Procedure at members' meetings	11
24	Voting at members' meetings	12
25	Technical objections to remote participation in members' meetings	13
26	Written resolutions by members	13
27	Minutes of members' meetings	13
28	Powers of council to arrange exhibitions etc.	14
29	Intimation of exhibitions etc.	14
30	Selection Committees	14
31	Hanging and Arranging Committees	14
32	Members' privileges in relation to exhibitions, including the Annual Exhibition	15
33	Elected and honorary office bearers	15
34	Vacancies in elected office bearers	16
35	Tenure of office bearers	16
36	Nominations for president, vice-president and council	16
37	Council members	17
38	Appointment of council members	17
39	Re-election of council members	16
40	Electronic ballot	17
41	Termination of office: council members and elected office bearers	17
42	Co-option of Society members to council	18
43	Sub-committees	19
44	Administrator's and treasurer's duties	19
45	Register of council members	19
46	Powers of the council	20
47	General duties	20
48	Expenses and remuneration for services	21
49	Code of conduct for council members	22
50	Notice of council meetings	22

51	Procedure at council meetings	22
52	Minutes	23
53	Operation of accounts	23
54	Accounting records and annual accounts	23
55	Winding-up	23
56	Alterations to the constitution	24

CONSTITUTION
OF
[THE SCOTTISH SOCIETY OF ARTISTS]
A SCOTTISH CHARITABLE INCORPORATED ORGANISATION

1 Interpretation

1.1 In this Constitution:

- 1.1.1 Act** means the Charities and Trustee Investment (Scotland) Act 2005 and:
 - 1.1.1.1** any statutory provision which adds to, modifies or replaces that Act; and
 - 1.1.1.2** any statutory instrument issued in pursuance of that Act;
- 1.1.2 Administrator** means the administrator of the Society appointed in accordance with clause 44.1.
- 1.1.3 Council** has the meaning given in clause 9.2.
- 1.1.4 Charity** means a body which is either a “Scottish charity” within the meaning of section 13 of the Act or a “charity” within the meaning of section 1 of the Charities Act 2006, providing (in either case) that its objects are limited to charitable purposes;
- 1.1.5 Council members** means the members of council of the Society from time to time who, for the purposes of the Act, are the trustees of the Society;
- 1.1.6 Charitable and charitable purpose** means a charitable purpose under section 7 of the Act which is also regarded as a charitable purpose in relation to the application of the Taxes Acts;
- 1.1.7 Constitution** means this constitution;
- 1.1.8 Member** means a member of the Society from time to time;
- 1.1.9 President** means the president of the Society appointed in accordance with clauses 33.1 and 33.2;
- 1.1.10 Property** means any property, heritable or moveable, real or personal, wherever situated; and
- 1.1.11 Society** means [The Scottish Society of Artists].

- 1.2** Reference to any statute or statutory provision includes a reference to that statute or statutory provision as from time to time amended, extended or re-enacted, provided that such amendment, extension or re-enactment does not in the case of a defined word or meaning alter the substance of the definition.

- 1.3 Words denoting the singular number only shall include the plural and *vice versa*.
- 1.4 Reference to persons shall include unincorporated associations, partnerships and bodies corporate.
- 1.5 Reference to any clause is to a clause of this constitution.
- 1.6 The headings of this constitution are inserted for convenience only and shall not affect its construction.
- 1.7 Any phrase introduced by the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

2 **Type of organisation**

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

3 **Scottish principal office**

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

4 **Name of organisation**

The name of the Society is **The Scottish Society of Artists**.

5 **Purposes**

- 5.1 This clause 5 shall be interpreted as if it incorporates an over-riding qualification limiting the powers of the Society such that any activity which would otherwise be permitted by the terms of the constitution may be carried on only if that activity furthers a purpose which is regarded as charitable.
- 5.2 The purpose of the Society is, for the benefit of people in Scotland and elsewhere, to advance the arts and culture by:-
 - 5.2.1 promoting the contemporary arts in Scotland by increasing audience and widening access;
 - 5.2.2 promoting Scottish art and culture internationally;
 - 5.2.3 providing exhibition opportunities for members; and
 - 5.2.4 promoting educational projects to encourage a wider understanding and appreciation of contemporary art,and to do all of the foregoing under a policy of equal opportunities, access and inclusion.

6 **Powers**

- 6.1 The Society has power to do anything which is calculated to further its purposes or is conducive or incidental to doing so.

6.2 No part of the income or property of the Society may be paid or transferred (directly or indirectly) to the members - either in the course of the Society's existence or on dissolution - except where this is done in direct furtherance of the Society's charitable purposes.

6.3 Clause 6.2 does not prevent the Society making any payment which is permitted under clause 48 (expenses and remuneration).

7 **Liability of members**

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

7.2 The members and council members have certain legal duties under the Scottish Charities Act; and clause 7.1 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.

8 **Liability of council members**

8.1 The council members of the Society (in their capacity as members) have no liability to pay any sums to help to meet the debts (or other liabilities) of the Society if it is wound up; accordingly, if the Society is unable to meet its debts, the council members will not be held responsible.

8.2 The council members have certain legal duties under the Act; and clause 8.1 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.

9 **General structure**

The structure of the Society consists of:

9.1 the members - who have the right to participate in members' meetings (including any annual general meeting) and have important powers under the constitution; for example, the members propose people to serve on council and take decisions on changes to the constitution itself;

9.2 the council - who hold regular meetings and generally control the activities of the Society; for example, the council is responsible for monitoring and controlling the financial position of the Society.

MEMBERS

10 **Eligibility for and classes of membership**

10.1 The Society shall have of the following classes of members:

10.1.1 *Honorary members*, who shall be persons elected by the council in recognition of their services to art. They shall pay no fees or subscriptions and shall have no rights or liabilities in connection with the Society. All past presidents, administrators, secretaries and treasurers of the Society shall be awarded honorary life membership.

- 10.1.2 *Elected members*, who shall be artists who practise professionally one or more branches of the visual arts and who are elected by the council. Elected members must have at least three years' continuous membership of the Society as an artist member and must, in addition, have had their work selected for at least 2 juried SSA exhibitions.
- 10.1.3 *Artist members*, who shall be natural persons who are practising artists.
- 10.1.4 *Student members*, who shall be students currently undertaking full time study in art or a related discipline.
- 10.1.5 *Graduate members*, who shall be recent graduates who have completed studies in art or a related discipline within the last two years.
- 10.1.6 *Associate members*, who shall be persons who wish to support the Society and keep up to date with news. This membership is suited to curators, gallerists, educators and those with a professional interest in contemporary art in Scotland.
- 10.1.7 *Corporate members*, which shall be organisations, howsoever constituted, which wish to support the Society and keep up to date with news. An organisation which is an unincorporated association shall appoint a natural person in writing to be its representative and exercise its rights as a member on its behalf.

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

11 **Application for membership**

- 11.1 Any person who wishes to become a member must submit an application for membership (in writing or by email); the application will then be reviewed in accordance with such arrangement as council makes for the admission of members from time to time.
- 11.2 The Society will notify each applicant promptly (in writing or by email) of its decision on admission to membership.

12 **Membership subscription**

- 12.1 Annual subscriptions shall be determined by decision of the council and may be changed from time to time in line with inflation and other financial factors.
- 12.2 No person shall have any privilege as a member of the Society until such subscription has been paid.
- 12.3 In the event of an annual general meeting wishing to review the subscriptions payable by any section of the membership of the Society, such a meeting shall be obliged to consider all subscriptions and payments due in terms of this clause 12 at the same time.
- 12.4 Members are able to make payment of the annual subscription by paying at the time of becoming a member or at renewal.

13 **Register of members**

- 13.1 Council must keep a register of members, setting out:
 - 13.1.1 for each current member:
 - 13.1.1.1 their full name and address;
 - 13.1.1.2 their current class of membership; and
 - 13.1.1.3 the date on which they were registered as a member of the Society;
 - 13.1.2 for each former member - for at least six years from the date on which they ceased to be a member:
 - 13.1.2.1 their name; and
 - 13.1.2.2 the date on which they ceased to be a member.
- 13.2 Council must ensure that the register of members is updated within 28 days of any change:
 - 13.2.1 which arises from a resolution of council or a resolution passed by the members of the Society; or
 - 13.2.2 which is notified to the Society.
- 13.3 If a member or council member requests a copy of the register of members, council 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 council member), council may provide a copy which has the addresses blanked out.

14 **Withdrawal from membership**

Any person who wants to withdraw from membership must submit a notice of withdrawal to the Society (either in writing or by email); they will cease to be a member from the time the notice is received by the Society.

15 **Transfer of membership**

Membership of the Society may not be transferred by a member.

16 **Re-registration of members**

- 16.1 Council may, at any time, issue notices to the members (either in writing or by email) requiring them to confirm that they wish to remain as members of the Society and allowing them a period of 28 days (running from the date of issue of the notice) to provide that confirmation to council.
- 16.2 If a member fails to provide confirmation to council (in writing or by email) that they wish to remain as a member of the Society before the expiry of the 28-day period referred to in clause 16.1, council may expel that person from membership.
- 16.3 A notice under clause 16.1 will not be valid unless it refers specifically to the consequences (under clause 16.2) of failing to provide confirmation within the 28-day period.

17 Expulsion from membership

Any person whose membership is no longer considered appropriate by the members may be expelled from membership by way of a resolution passed by not less than three-quarters of those present and voting at a members' meeting, providing the following procedures have been observed:

- 17.1 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;
- 17.2 the member concerned will be entitled to be heard on the resolution at the members' meeting at which the resolution is proposed.

18 Termination of membership

Membership of the Society will terminate on death.

DECISION-MAKING BY THE MEMBERS**19 Members' meetings**

- 19.1 Council must arrange a meeting of members (an **annual general meeting** or **AGM**) in each calendar year.
- 19.2 The gap between one AGM and the next must not be longer than 15 months.
- 19.3 The business of each AGM must include:
 - 19.3.1 a report by the president on the activities of the Society; and
 - 19.3.2 consideration of the annual accounts of the Society.

20 Power to request the council to arrange a members' meeting

- 20.1 Council must arrange a members' meeting – including for the purpose of removing a council member or elected office bearer - if it is requested to do so by the president or by a notice (in writing or by email) from no fewer than eight members, providing:
 - 20.1.1 the notice states the purposes for which the meeting is to be held; and
 - 20.1.2 those purposes are not inconsistent with the terms of this constitution, the Scottish Charities Act or any other statutory provision.
- 20.2 A notice under clause 20.1 may take the form of:
 - 20.2.1 two or more documents in the same terms, each signed by one or more members; and/or
 - 20.2.2 a number of emails, each issued by a member;

and council 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 eight-member threshold referred to in clause 20.1.

- 20.3 If council receive a notice under clause 20.1, 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.

21 **Notice of motions**

All notices of motions relating to any alteration of the constitution, or rules or regulations of the Society must be given in writing or electronically to the administrator at least twenty-one days before a members' meeting.

22 **Notice of members' meetings**

- 22.1 At least 14 clear days' notice must be given of any AGM or any members' meeting.
- 22.2 The notice calling a members' meeting must specify in general terms what business is to be dealt with at the meeting; and
- 22.2.1 in the case of any resolution falling within clause 24.3 (requirement for three-quarters majority) must set out the exact terms of the resolution; and
- 22.2.2 in the case of a resolution to alter the constitution, must set out the exact terms of the proposed alteration(s).
- 22.3 The reference to **clear days** in clause 22.1 shall be taken to mean that, in calculating the period of notice:
- 22.3.1 the day after the notices are posted (or sent by email) should be excluded; and
- 22.3.2 the day of the meeting itself should also be excluded.
- 22.4 Notice of every members' meeting must be given to all members of the Society and to all council members; but the accidental omission to give notice to one or more members or council members will not invalidate the proceedings at the meeting.
- 22.5 Any notice which requires to be given to a member under this constitution must be:
- 22.5.1 sent by post to the member, at the address last notified by them to the Society; or
- 22.5.2 sent by email to the member, at the email address last notified by them to the Society.
- 22.6 If members and council members are to be permitted to participate in a members' meeting by way of audio and/or audio-visual link(s) (see clause 23.1), the notice (or notes accompanying the notice) must:
- 22.6.1 set out details of how to connect and participate via that link or links; and
- 22.6.2 (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:
- 22.6.2.1 participating in the meeting via remote access;

- 22.6.2.2 (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;
- 22.6.2.3 (where clause 22.7 applies) submitting questions and/or comments in advance of the meeting.
- 22.7 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 to clause 22.8) the chairperson of the meeting will be expected to read out, and address, in the course of the meeting.
- 22.8 Where clause 22.7 applies, the chairperson of a members' meeting will not be required 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, discriminatory or otherwise offensive.

23 Procedure at members' meetings

- 23.1 Council may if they consider appropriate (and must, if this is required under clause 23.2) make arrangements for members and council members 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:
 - 23.1.1 the means by which members and council members 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;
 - 23.1.2 the notice calling the meeting (or notes accompanying the notice) contains the information required under clause 22.6; and
 - 23.1.3 the manner in which the meeting is conducted ensures, so far as reasonably possible, that those members and council members 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 council members (if any) who are attending in person (and *vice versa*).
- 23.2 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 council must make arrangements for members and council members 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 23.1.1 to 23.1.3 will apply.
- 23.3 A members' meeting may involve two or more members or council members participating via attendance in person while other members and/or council members participate via audio and/or audio-visual links; or it may involve participation solely via audio and/or audio-visual links.
- 23.4 The quorum for a members' meeting is ten members, present in person.

- 23.5 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.
- 23.6 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.
- 23.7 The president should act as chairperson of each members' meeting.
- 23.8 If the president 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 council members present at the meeting must elect (from among themselves) the person who will act as chairperson of that meeting.

24 **Voting at members' meetings**

- 24.1 Every member has one vote, which must be given personally (subject to clause 24.6).
- 24.2 All decisions at members' meetings will be made by majority vote - with the exception of the types of resolution listed in clause 24.3.
- 24.3 The following resolutions will be valid only if passed by not less than three quarters of those voting on the resolution at a members' meeting (or if passed by way of a written resolution under clause 26):
 - 24.3.1 a resolution amending the constitution;
 - 24.3.2 a resolution expelling a person from membership under clause 17;
 - 24.3.3 a resolution removing a person from office as a council member under paragraph 41.1.7;
 - 24.3.4 a resolution approving the amalgamation of the Society with another SCIO (or approving the constitution of the new SCIO to be constituted as the successor pursuant to that amalgamation);
 - 24.3.5 a resolution to the effect that all of the Society'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);
 - 24.3.6 a resolution for the winding up or dissolution of the Society.
- 24.4 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.
- 24.5 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) asks for a secret ballot.
- 24.6 Where members are participating in a meeting via audio or audio-visual link(s), 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 council 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.

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

24.8 Where members are participating in a meeting via audio and/or audio-visual link(s), 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 24.6, providing reasonable steps are taken to preserve anonymity (while at the same time, addressing any risk of irregularities in the process).

25 **Technical objections to remote participation in members' meetings**

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

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

25.2 the members' meeting need not be held in any particular place;

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

25.4 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;

25.5 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 council) and which permits that member's vote to be taken into account in determining whether or not a resolution is passed.

26 **Written resolutions by members**

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.

27 **Minutes of members' meetings**

27.1 Council 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 26.

27.2 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.

27.3 The records of resolutions kept under clause 27.1 must include confirmation that members approved or rejected the resolution, the majority by which this decision was

taken and the total number of votes cast. These records should be signed by the chairperson of the meeting.

EXHIBITIONS

28 Powers of council to arrange exhibitions etc.

The holding of juried and non-juried exhibitions (including the Society's Annual Exhibition), receptions, concerts, lectures etc. shall be arranged by the council who shall have power to make byelaws for their management, and to contribute out of the funds of the Society towards the expenses of the same.

29 Intimation of exhibitions etc.

The administrator shall, as early as possible, give intimation by electronic circular to each member of the dates fixed as (1) sending in day, (2) collection day(s) for work not selected, (3) the opening of the exhibition, and (4) the close of the exhibition and day(s) for collection of exhibited work. All members must abide by these dates and should work not be collected on the appointed days then council has the right to dispose of it as it thinks fit.

30 Selection Committees

30.1 The Selection Committee for the Annual Exhibition is appointed by the council and consists of a minimum of six persons, including artist members, elected members and an elected office bearer. This Committee may also include student and graduate members.

30.2 In the case of other juried exhibitions, the Committee is selected at the council's discretion from time to time.

30.3 Any Selection Committee shall have full powers to accept or reject all works sent for exhibition, except those works specially invited by the council.

30.4 If a member of a Selection Committee has submitted work for the exhibition under consideration, that person shall notify the Committee and recuse themselves when their own work is reviewed by the Committee.

31 Hanging and Arranging Committees

31.1 There shall be an elected Hanging and Arranging Committee for the Annual Exhibition consisting of a minimum of eight persons, including artist members, elected members and an elected office bearer. The Committee may also include student and graduate members. The exact means of appointing the Hanging and Arranging Committee shall be decided by the council from time to time.

31.2 The hanging and arranging process for Society exhibitions other than the Annual Exhibition shall be decided by the council from time to time.

31.3 The Hanging and Arranging Committee shall, on the completion of their work, hand over the exhibition to the charge of the council, who shall have power only to make recommendations to the said Committee, but not power to reject any of the works, nor to introduce any other exhibits.

31.4 The council shall thereafter be responsible for the conduct of the exhibition. The council shall have power, if the council deems fit, to invite a donation of such sum as it may from time to time decide, in respect of each work placed.

- 31.5 The Hanging and Arranging Committee shall retain the right to reject any work previously selected if it agrees that a work is unsound, detrimental or in any way unsuitable for exhibition.

32 Members' privileges in relation to exhibitions, including the Annual Exhibition

- 32.1 The number of works each category of membership (elected, artist, graduate and student) can submit to an Annual Exhibition, as well as the associated submission and hanging fees, if any, will be a matter for council to determine from time to time. The council will make a similar determination for any other exhibitions organised by the Society. All members will be charged a commission rate as stipulated by the host gallery or the Society on the sale price of all work sold in a given exhibition.
- 32.2 Honorary office bearers and other honorary members can visit the Annual Exhibition as many times as they wish free of charge.
- 32.3 Non-members of the Society are invited to submit such work and pay such fees as the council shall determine from time to time for Annual Exhibitions. This amount may be reviewed by council and altered at any time, however council must ensure that in any such arrangement, it is always more beneficial to be an artist member of the Society than a non-member and, specifically, must ensure that non-members do not have the possibility of submitting more work than an artist member to the Annual Exhibition or any other exhibition organised by the Society.
- 32.4 Non-members whose work is selected will be required to pay such additional fees as the council shall determine from time to time by way of hanging fee per work. Non-members will be charged a commission as stipulated by the host gallery or the Society on the sale price of all work sold in the Exhibition.

OFFICE BEARERS AND COUNCIL

33 Elected and honorary office bearers

- 33.1 The office bearers of the Society shall consist of an elected president and elected vice-president (or elected co-presidents or co-vice-presidents) and an honorary president and honorary vice-president. The elected president shall be the chairperson of the council and must be an elected member of the Society. The elected vice-president may be either an elected member or artist member of the Society.
- 33.2 The elected office bearers are appointed by the council from among the council members on the basis of a simple majority vote. Candidates for these positions must inform the administrator of their intention to stand, and must be seconded by another council member.
- 33.3 The administrator will notify the members of the appointment of an office bearer at the earliest opportunity.
- 33.4 The Society is required at all times to have an elected president and elected vice-president. An honorary president or honorary vice-president is not required for the good functioning of the Society and may be appointed from time to time.
- 33.5 The honorary president and honorary vice-president are invited and appointed by council vote, in recognition of their outstanding contribution to the visual arts in Scotland in general, or to the Society in particular. Honorary office bearers do not have voting rights at meetings of the council.

- 33.6 Elected office bearers may delegate to any one of their own number or to such persons they think appropriate, such powers, tasks or roles as they may think fit.
- 33.7 Elected office bearers may, with the approval of council, engage and remunerate any person on an employed or self-employed basis, and on such terms as may be agreed with that person or individual, to attend to particular tasks or roles.
- 33.8 Elected office bearers will always ensure that the person appointed pursuant to clause 33.7 will report to one or more of the office bearers or, as appropriate, the administrator and/or the treasurer, under such arrangements as the elected office bearers and council may approve from time to time.

34 **Vacancies in elected office bearers**

Any vacancy among elected office bearers occurring during any year shall be filled at the earliest opportunity by vote of the council according to the procedure set out in clause 33.2.

35 **Tenure of office bearers**

- 35.1 The elected office bearers of the Society shall hold office for three years, with the option to renew their position for up to an additional two years, subject to a vote of approval by the council. Elected office bearers may also decide to end their tenure by giving notice to the council in writing.
- 35.2 Any person may only serve once as elected president and once as elected vice-president of the Society.
- 35.3 Former elected office bearers are not debarred from seeking re-election to council, however they shall not be eligible to do so until after the lapse of three years.
- 35.4 The position of honorary president is for life unless the bearer of this office a) decides to step down from this position by notifying the council in writing or, b) is removed by a simple majority vote of the council on the grounds that their continued tenure is not in the best interests of the Society.

36 **Nominations for president, vice-president and council**

- 36.1 In the event of a vacancy among elected office bearers, any council member not being debarred from election to this office by virtue of clause 38 hereof, who wishes to stand for position of elected president or elected vice-president must a) be proposed by another council member, and b) notify the administrator in writing or electronically of their intention to stand. A council vote to fill this vacancy should be held at the earliest opportunity and the Society members should be notified of the outcome in a timely manner.
- 36.2 All Society members wishing to stand as candidates for the council must be in good standing with the Society. Nominations will be invited no later than 14 days before a scheduled members' meeting and voting will be by electronic ballot within one month of said meeting taking place.

37 **Council members**

- 37.1 The council shall be made up of both artist and elected members and may also include up to 30 per cent student and graduate members. The minimum number of council members should be three, of whom one must be appointed president and one vice-president. This minimum number of council members should be increased to at least

seven at the earliest opportunity. The maximum number of elected council members shall be 17.

37.2 Council members are drawn from the membership of the Society and are selected by democratic vote of the membership conducted in accordance with clause 36. Any member wishing to apply to serve on the council must submit a brief written presentation outlining their qualifications and motivations for joining the council. This presentation shall be shared with the members of the Society prior to a vote taking place.

37.3 Any vacancy occurring during any year in the list of council members may be filled by a member of the Society co-opted by the council as set out in clause 42. The member so appointed will be eligible to stand, should they wish, for formal election to the council at the next members' meeting according to the procedure set out in clause 37.2.

38 **Appointment of council members**

38.1 A person will not be eligible for appointment to the council if that person is:

38.1.1 disqualified from being a charity trustee under the Act; or

38.1.2 an employee of the Society.

38.2 Subject to clause 38.1, the individuals who signed the Charity Trustee Declaration Forms which accompanied the application for incorporation of the Society shall be deemed to have been appointed as council members with effect from the date of incorporation of the Society.

39 **Re-election of council members**

39.1 Members of council shall hold office for three years, with the option to renew their position for up to an additional two years, subject to a vote of approval by the council. In either case council members can serve more than one term, but such terms shall not be consecutive: former council members shall not be eligible for re-election until after the lapse of three years.

39.2 Any vacancy thus created shall be filled in accordance with the provisions of clause 36.

40 **Electronic ballot**

In an election of any council member, voting may, at the discretion of the council, be conducted by electronic ballot prior to a members' meeting in such manner as the council shall determine; and in the event ballot forms will be sent by the administrator to the members at least seven days before such meeting and the completed forms must be with the administrator at least 24 hours prior to such meeting.

41 **Termination of office: council members and elected office bearers**

41.1 A council member, including the elected president or elected vice-president, will automatically cease to hold office if:

41.1.1 that council member becomes disqualified from being a charity trustee under the Act;

- 41.1.2 that council member becomes incapable for medical reasons of carrying out their duties - but only if that has continued (or is expected to continue) for a period of more than six months;
 - 41.1.3 that council member becomes an employee of the Society;
 - 41.1.4 that council member gives the Society a notice of resignation, signed by that member;
 - 41.1.5 that council member is absent (without good reason, in the opinion of council) from more than three consecutive meetings of council - but only if council resolves to remove that council member from office;
 - 41.1.6 that council member is considered to have been in serious or persistent breach of their duties under section 66(1) or (2) of the Act, the present constitution or any code of conduct that accompanies it. The decision to remove a council member from office requires the approval of at least 75 per cent of council;
 - 41.1.7 such council member is removed from office by resolution of members on the grounds that that council member's removal is in the best interests of the Society.
- 41.2 A resolution under clause 41.1.6 or 41.1.7 shall be valid only if:
- 41.2.1 the council member who is the subject of the resolution is given reasonable prior written notice of the grounds upon which the resolution for that council member's removal is to be proposed;
 - 41.2.2 the council member 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
 - 41.2.3 at least three quarters (to the nearest round number) of the council members then in office or of the members (as the case may be) vote in favour of the resolution.
- 41.3 Any council vacancy created under clause 41.1 shall be filled in accordance with the provisions of clause 36.
- 41.4 Removal of a council member from office does not necessarily imply that person's expulsion from the Society.

42 **Co-option of Society members to council**

The council is further empowered to co-opt onto council or onto a sub-committee a member or members of any category in view of their qualifications, professional background, experience or knowledge. The council may also co-opt a non-member with appropriate professional experience to advise the council or a sub-committee. Any such co-opted person shall act in a special advisory capacity and shall not have voting rights.

In order to become full members of the council, co-opted members shall follow the procedure set out in clause 37.3.

43 Sub-committees

The council shall have power to appoint sub-committees, which shall only have power to make recommendations to the council.

44 Administrator's and treasurer's duties**44.1 Administrator's duties**

44.1.1 There shall be an administrator, who will only be an employee of the Society if the office bearers specifically agree to that. The administrator may act as treasurer, if the council so agrees.

44.1.2 The administrator shall not be a member of the Society. The administrator shall conduct the business of the Society under the direction of the council and shall keep all the necessary books, correspondence and records.

44.1.3 The administrator may be eligible for remuneration for work undertaken for the Society and/or for reimbursement of reasonable expenses incurred during the conduct of the administrator's duties. The council may annually review the level of remuneration and in doing so the council should ensure that the administrator is remunerated at a fair level for the work carried out, bearing in mind the basis agreed on which the services will be provided by the position holder. Where exceptional additional projects occur, then additional payments should be agreed.

44.1.4 The administrator shall normally be required to be in attendance at any meetings of the council, but is empowered in the administrator's absence to appoint a deputy.

44.2 Treasurer's duties

44.2.1 There shall be a treasurer, who will only be an employee of the Society if the office bearers specifically agree to that and intimate it to the person who is the treasurer. The treasurer may act as administrator if the council so agrees.

44.2.2 The treasurer will be responsible for the financial transactions of the Society and shall be responsible for and may carry out this work subject to such directions as the council may give from time to time.

44.2.3 The treasurer may be eligible for remuneration for work undertaken for the Society and/or for reimbursement of reasonable expenses incurred during the conduct of the treasurer's duties.

44.2.4 The council may annually review the level of remuneration and in doing so the council should ensure that the treasurer is remunerated at a fair level for the work carried out bearing in mind the basis agreed on which the services will be provided by the position holder. Where exceptional additional projects occur, then additional payments should be agreed.

45 Register of council members

45.1 Council must keep a register of council members, setting out:-

- 45.1.1 for each current council member:
 - 45.1.1.1 that council member's full name and address; the date on which that person was appointed as a council member; and
 - 45.1.1.2 any office held by that person in the Society;
 - 45.1.2 for each former council member - for at least six years from the date on which such person ceased to be a council member:
 - 45.1.2.1 the council member's full name;
 - 45.1.2.2 any office held by that person in the Society; and
 - 45.1.2.3 the date on which such person ceased to be a council member.
 - 45.2 The council must ensure that the register of council members is updated within 28 days of any change:
 - 45.2.1 which arises from a resolution of the council; or
 - 45.2.2 which is notified to the Society.
 - 45.3 If any person requests a copy of the register of council members, the council must ensure that a copy is supplied to that person within 28 days, providing the request is reasonable. If the request is made by a person who is not a council member, the council may provide a copy which has the addresses blanked out - if the council is satisfied that including such information might jeopardise the safety or security of any person or premises.
- 46 **Powers of the council**
- 46.1 Except where this constitution states otherwise, the Society (and its assets and operations) will be managed by the council; and the council may exercise all the powers of the Society.
 - 46.2 A meeting of the council at which a quorum is present may exercise all powers exercisable by the council.

COUNCIL MEMBERS' DUTIES

47 General duties

- 47.1 Council members, including the elected president and vice-president, are required to act legally, morally, in good faith, and always in the best interests of the Society, to respect the terms of the constitution at all times, and to act in accordance with the terms of any code of conduct for council members that is put in place by the council from time to time.
- 47.2 Each council member has a duty, in exercising functions as a council member, to act in the interests of the Society; and, in particular, must:
 - 47.2.1 seek, in good faith, to ensure that the Society acts in a manner which is in accordance with its purposes;

- 47.2.2 act with the care and diligence which it is reasonable to expect of a person who is managing the affairs of another person;
- 47.2.3 respect the confidentiality of all council proceedings, discussions and documents;
- 47.2.4 in circumstances giving rise to the possibility of a conflict of interest between the Society and any other party:
 - 47.2.4.1 put the interests of the Society before that of the other party;
 - 47.2.4.2 where any other duty prevents that council member from doing so, disclose the conflicting interest to the council and refrain from participating in any deliberation or decision of the other council members with regard to the matter in question; and
- 47.2.5 ensure that the Society complies with any direction, requirement, notice or duty imposed under or by virtue of the Act.
- 47.3 In addition to the duties outlined in clauses 47.1 and 47.2, all council members must take such steps as are reasonably practicable for the purpose of ensuring:
 - 47.3.1 that any breach of any of those duties by a council member is corrected by the council member concerned and not repeated; and
 - 47.3.2 that any council member who has been in serious and persistent breach of those duties is removed as a council member and trustee of the Society.
- 47.4 Provided a council member has declared the council member's interest - and has not voted on the question of whether or not the Society should enter into the arrangement – a council member will not be debarred from entering into an arrangement with the Society in which that council member has a personal interest; and (subject to clause 51.7 and to the provisions relating to remuneration for services contained in the Act) that council member may retain any personal benefit which arises from that arrangement.
- 47.5 No council member may serve as an employee (full time or part time) of the Society; and no council member may be given any remuneration by the Society for carrying out their duties as a council member.

48 **Expenses and remuneration for services**

- 48.1 Council members 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.
- 48.2 All members of Selection Committees and Hanging and Arranging Committees shall be entitled to reimbursement of reasonable travel expenses incurred in the execution of their committee duties.
- 48.3 Any member undertaking work connected with special Society projects where funding has been obtained from outside sources, shall be entitled to fair and agreed remuneration for this work. This shall also apply to members of council and to honorary and elected office bearers.

- 48.4 Should any member of the Society, including the president or any council member, wish to undertake activities or research into projects etc. for which they would like the Society to bear any financial responsibility, should the anticipated expense exceed the amount of £150, the member must make a formal written or electronic application to council for approval to undertake such activities. The application must include a budget and details of benefits to be gained by the Society from its support of such activities. No expense beyond the base figure of £150 will be covered by the Society without such application and approval by the president and council. Any request for an amount below £150 shall be submitted for approval by an elected office bearer, the administrator or the treasurer.

49 Code of conduct for council members

- 49.1 Council members, including the elected president and vice-president, shall comply with any code of conduct (incorporating detailed rules on appropriate behaviour, including with regard to conflict of interest) prescribed by the council from time to time. Council members shall revisit and sign any code of conduct on a regular basis.
- 49.2 The code of conduct referred to in clause 49.1 shall be supplemental to the provisions relating to the conduct of council members contained in this constitution and the duties imposed on council members under the Act; and all relevant provisions of this code of conduct in force from time to time shall be interpreted and applied in accordance with the provisions of this constitution.

DECISION-MAKING BY COUNCIL MEMBERS

50 Notice of council meetings

- 50.1 Any council member may call a meeting of the council.
- 50.2 At least seven days' notice must be given of any council meeting, unless (in the opinion of the person calling the meeting) there is a degree of urgency which makes that inappropriate.

51 Procedure at council meetings

- 51.1 No valid decisions can be taken at a council meeting unless a quorum is present; the quorum for council meetings is two thirds of all council members.
- 51.2 In the absence of a quorum, council members will not be able to take any valid decisions other than to call a members' meeting or issue a call for new council members.
- 51.3 The president should act as chairperson of each council meeting. If the president 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 council members present at the meeting must elect (from among themselves) the person who will act as chairperson of that meeting.
- 51.4 Every council members has one vote, which must be given personally.
- 51.5 All decisions at council meetings will be made by majority vote. In the case of removal of a council member from the council, this must be a three-quarters majority in accordance with clause 41.2.3.
- 51.6 The council may, at its discretion, allow any person to attend and speak at a council meeting notwithstanding that such person is not a council member - but on the basis that such person must not participate in decision-making.

51.7 A council member must not vote at a council meeting (or at a meeting of a sub-committee) on any resolution which relates to a matter in which such council member has a personal interest or duty which conflicts (or may conflict) with the interests of the Society; such council member must withdraw from the meeting while an item of that nature is being dealt with.

51.8 For the purposes of clause 51.7:

51.8.1 an interest held by an individual who is connected with the council member under section 68(2) of the Act (husband/wife, partner, child, parent, brother/sister or other close relation) shall be deemed to be held by that council member; and

51.8.2 a council member will be deemed to have a personal interest in relation to a particular matter if a body in relation to which that council member is an employee, director, member of the management committee, officer or elected representative has an interest in that matter.

52 Minutes

52.1 Council must ensure that proper minutes are kept in relation to all council meetings and meetings of sub-committees.

52.2 The minutes to be kept under clause 52.1 must include the names of those present; and (so far as possible) should be signed by the chairperson of the meeting.

ADMINISTRATION

53 Operation of accounts

53.1 Subject to clause 53.2, the signatures of two out of three signatories appointed by the council will be required in relation to all operations (other than the lodging of funds) on the bank and building society accounts held by the Society; at least one of the two signatures must be the signature of a council member.

53.2 Where the Society uses electronic facilities for the operation of any bank or building society account, or any other electronic payment system, the authorisations required for operations on that account must be consistent with the approach reflected in clause 53.1.

54 Accounting records and annual accounts

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

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

MISCELLANEOUS

55 Winding-up

55.1 If the Society 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 Act.

- 55.2 Any surplus assets available to the Society 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 Society as set out in this constitution.

56 **Alterations to the constitution**

- 56.1 This constitution may (subject to clause 56.2) be altered by resolution of members of the Society passed at a members' meeting (subject to achieving the three quarters majority referred to in clause 24.3) or by way of a written resolution of the members.
- 56.2 The Act prohibits taking certain steps without the consent of the Office of the Scottish Charity Regulator (OSCR).