



THE **ORKNEY SHEEP
FOUNDATION**

| Conserving An Island Heritage

THE CONSTITUTION OF
THE
ORKNEY SHEEP
FOUNDATION
SCIO

FEBRUARY 2015

GENERAL

Type of organisation

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

Scottish principal office

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

Name

- 3 The name of the organisation is “The Orkney Sheep Foundation”.

Purposes, Area of Benefit & Beneficiaries

- 4 The organisation is established for charitable purposes only, and in particular, the objects are:
 - 4.1 to advance environmental protection and animal welfare by ensuring the conservation of pure bred North Ronaldsay sheep on the Island of North Ronaldsay; and
 - 4.2 to advance heritage by supporting the sustainable production of the breed by traditional methods through the restoration and maintenance of the Sheep Dyke.
- 5 The area within which the organisation shall operate (in this constitution referred to as the ‘Area of Benefit’) shall be the island of North Ronaldsay, Orkney.
- 6 The organisation shall promote (but not promote exclusively) its activities and delivery operations to people within the immediate ‘Area of Benefit’ who are the residents of the island of North Ronaldsay (upon which island the unique breed of native sheep is endangered by the loss of integrity of the Sheep Dyke) and in view of the global importance of conserving a unique breed to a wider constituency of farmers, stockbreeders and the general public. All of these may benefit from the organisation’s activities.

Powers

- 7 The organisation has power to do anything which is calculated to further its purposes or is conducive or incidental to doing so, as stated in Section 50 (5) of the Charities and Trustee Investment (Scotland) Act 2005.

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

General structure

- 9 The structure of the organisation consists of the CHARITY TRUSTEES who are also the organisation's only members and comprise the organisation's BOARD.

Liability of Charity Trustees (members)

- 10 The Charity Trustees (the only members) of the organisation have no liability to pay any sums to help to meet the debts (or other liabilities) of the organisation if it is wound up; accordingly, if the organisation is unable to meet its debts, the Charity Trustees will not be held responsible.
- 11 The Charity Trustees have certain legal duties under the Charities and Trustee Investment (Scotland) Act 2005; 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.

BOARD

Qualifications for Charity Trusteeship

- 12 Charity Trusteeship is open to;
- 12.1 any person aged 16 or over; and/or
 - 12.2 any individual who has been nominated for membership by an unincorporated organisation; and/or
 - 12.3 any corporate body,
- who subscribes to the purposes of the organisation and wishes to see them fulfilled.

Application for Charity Trusteeship

- 13 Any person, nominated individual or body who/which wishes to become a Charity Trustee must sign a written application for Charity Trusteeship; and for a corporate body, that application must be signed by an appropriately authorised officer of that body who will remain as the representative of that corporate body until such time as the corporate body informs the Board otherwise.
- 14 The application will then be considered by the Board at its next Board meeting.

- 15 The Board may, at its discretion, refuse to admit any person, nominated individual or corporate body, or veto the proposed authorised officer acting as a representative of a corporate body, to Charity Trusteeship.
- 16 The Board must notify each applicant promptly (in writing, which includes by e-mail) of its decision on whether or not to admit him/her/it to Charity Trusteeship.

Subscription to the SCIO

- 17 No subscription will be payable.

Number of Charity Trustees

- 18 The maximum number of Charity Trustees is 7 [seven].
- 19 The minimum number of Charity Trustees is 3 [three].

Eligibility

- 20 A person will not be eligible for election or appointment to the Board if he/she:
 - 20.1 is disqualified from being a charity trustee under the Charities and Trustee Investment (Scotland) Act 2005; or
 - 20.2 has entered into a full time or part time employment contract with the organisation, with the exception of employment as described in clauses 42 and 43.

Initial Charity Trustees

- 21 The individuals who signed the Charity Trustee declaration forms which accompanied the application for incorporation of the organisation shall be deemed to have been appointed as Charity Trustees with effect from the date of incorporation of the organisation and its entry on the Scottish Charity Register.

Annual General Meeting

- 22 The Board must arrange a meeting of the Charity Trustees (an annual general meeting or "AGM") in each calendar year, reporting on the immediately preceding financial year of the organisation.
- 23 The gap between one AGM and the next must not be longer than 15 months.
- 24 Notwithstanding clause 22, an AGM does not need to be held during the calendar year in which the organisation is formed; but the first AGM must still be held within 15 months of the date on which the organisation is incorporated and entered on the Scottish charity Register.

- 25 The business of each AGM must include:-
- 25.1 a report by the Convenor on the activities of the organisation;
 - 25.2 consideration of the annual statement of account of the organisation, as prepared under Section 44 of the Charities and Trustee Investment (Scotland) Act 2005;
 - 25.3 the election/re-election of Charity Trustees, as referred to in clauses 26 and 27.

Election, retirement, re-election

- 26 At each AGM, all of the charity trustees must retire from office - but may then be re-elected under clause 27.
- 27 A charity trustee retiring at an AGM will be deemed to have been re-elected unless: -
- 27.1 he/she/it advises the Board prior to the conclusion of the AGM that he/she/it does not wish to be re-appointed as a charity trustee; or
 - 27.2 an election process was held at the AGM and he/she/it was not among those elected/re-elected through that process; or
 - 27.3 a resolution under sub-clauses 28.5, 28.6, 28.7, 28.8 was put to the AGM and was carried.

Termination of office

- 28 A Charity Trustee will automatically cease to hold office if: -
- 28.1 he/she becomes disqualified from being a charity trustee under the Charities and Trustee Investment (Scotland) Act 2005; or
 - 28.2 he/she becomes incapable for medical reasons of carrying out his/her duties as a charity trustee - but only if that has continued (or is expected to continue) for a period of more than six months; or
 - 28.3 he/she enters into a full time or part time employment contract with the organisation, with the exception of employment as described in clauses 42 and 43; or
 - 28.4 he/she/it gives the organisation a notice of resignation, signed by him/her/its authorised representative; or
 - 28.5 he/she/it is absent (without good reason, in the opinion of the Board) from more than three consecutive meetings of the Board - but only if the Board resolves to remove him/her/it from office; or

- 28.6 he/she/it is removed from office by resolution of the Board on the grounds that he/she/it is considered to have committed a material breach of the code of conduct for Charity Trustees (as referred to in clauses 46 and 47); or
 - 28.7 he/she/it is removed from office by resolution of the board on the grounds that he/she/it is considered to have been in serious or persistent breach of his/her/its duties under section 66(1) or (2) of the Charities and Trustee Investment (Scotland) Act 2005; or
 - 28.8 he/she/it is removed from office for any other reason by resolution of the Board.
- 29 A resolution under sub-clauses 28.5, 28.6, 28.7, 28.8 shall be valid only if: -
- 29.1 the Charity Trustee who is the subject of the resolution is given 14 days written notice of the grounds upon which the resolution for his/her/its removal is to be proposed;
 - 29.2 the Charity Trustee concerned is given the opportunity to address the meeting at which the resolution is proposed, prior to the resolution being put to the vote; and
 - 29.3 at least two thirds (to the nearest round number) of the Charity Trustees vote in favour of the resolution as set out in clause 69.

Register of Charity Trustees

- 30 The Board must keep a register of Charity Trustees, setting out
- 30.1 for each current Charity Trustee:
 - 30.1.1 his/her/its full name and address; and
 - 30.1.2 the date on which he/she/it was appointed as a Charity Trustee; and
 - 30.1.3 any office held by him/her/it in the organisation; and
 - 30.2 for each former Charity Trustee - for at least 6 years from the date on which he/she/it ceased to be a Charity Trustee:
 - 30.2.1 the name of the Charity Trustee; and
 - 30.2.2 any office held by him/her/it in the organisation; and
 - 30.2.3 the date on which he/she/it ceased to be a Charity Trustee.
- 31 The Board must ensure that the register of Charity Trustees is updated within 28 days of any change:

31.1 which arises from a resolution of the Board; or

31.2 which is notified to the organisation.

32 If any person requests a copy of the register of charity trustees, the Board must ensure that a copy is supplied to him/her within 28 days, providing the request is reasonable; if the request is made by a person who is not a Charity Trustee of the organisation, the board may provide a copy which has the addresses blanked out - if the SCIO is satisfied that including that information is likely to jeopardise the safety or security of any person or premises.

Office-bearers

33 The Charity Trustees must elect (from among themselves) a Convenor, a Treasurer and a Secretary.

34 In addition to the office-bearers required under clause 33, the Charity Trustees may elect (from among themselves) further office-bearers if they consider that appropriate.

35 All of the office-bearers will cease to hold office at the conclusion of each AGM, but may then be re-elected at the first Board meeting after the AGM, under clause 33 and 34.

36 A person/nominated individual/corporate body elected to any office will automatically cease to hold that office: -

36.1 if he/she/it ceases to be a charity trustee; *and/or*

36.2 if he/she/it gives to the organisation a notice of resignation from that office, signed by him/her/its authorised officer.

Powers of Board

37 Except where this constitution states otherwise, the organisation (and its assets and operations) will be managed by the Board; and the Board may exercise all the powers of the organisation.

38 A meeting of the Board at which the appropriate quorum (as set out in clauses 55 and 68) is present may exercise all powers exercisable by the Board.

Charity Trustees - general duties & remuneration

- 39 Each of the Charity Trustees has a duty, in exercising their functions as a Charity Trustee, to act in the interests of the organisation; and, in particular, must:-
- 39.1 seek, in good faith, to ensure that the organisation acts in a manner which is in accordance with its purposes; and
 - 39.2 act with the care and diligence which it is reasonable to expect of a person who is managing the affairs of another person; and
 - 39.3 in circumstances giving rise to the possibility of a conflict of interest between the organisation and any other party:
 - 39.3.1 put the interests of the organisation before that of the other party; or
 - 39.3.2 where any other duty prevents him/her from doing so, disclose the conflicting interest to the organisation and refrain from participating in any deliberation or decision of the other Charity Trustees with regard to the matter in question;
 - 39.4 ensure that the organisation complies with any direction, requirement, notice or duty imposed under or by virtue of the Charities and Trustee Investment (Scotland) Act 2005.
- 40 In addition to the duties outlined in clause 39, all of the Charity Trustees must take such steps as are reasonably practicable for the purpose of ensuring: -
- 40.1 that any breach of any of those duties by a Charity Trustee is corrected by the Charity Trustee concerned and not repeated; and
 - 40.2 that any Charity Trustee who has been in serious and persistent breach of those duties is removed as a Charity Trustee as described in clause 28.7.
- 41 Provided he/she/it has declared his/her/its interest - and has not voted on the question of whether or not the organisation should enter into the arrangement - a Charity Trustee will not be debarred from entering into an arrangement with the organisation in which he/she/it has a private interest; and (subject to clauses 42 and 43 and to the provisions relating to remuneration for services contained in Sections 67, 68 and 68A of the Charities and Trustee Investment (Scotland) Act 2005), he/she/it may retain any private benefit which arises from that arrangement.
[Please see Appendix 'A' to this document – Item 5]
- 42 No Charity Trustee may serve as an employee (having entered into a full time or part time contract) of the organisation with the only exception being as stated in clause 43.

- 43 For the avoidance of doubt, it is permissible for a Charity Trustee to be employed as a temporary sessional worker, provided that:
- 43.1 such employment is explicitly authorised by the Board; and
 - 43.2 it is temporary; and
 - 43.3 it be in accordance with the rules laid down in clause 41.
- 44 No Charity Trustee may be given any remuneration by the organisation for carrying out his/her/its duties as a Charity Trustee.
- 45 The Charity Trustees may be paid all 'out of pocket' 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. The Charity Trustees must have a written policy and approved procedure** on such matters. [**Please refer to Appendix 'A' to this document]

Code of conduct for Charity Trustees

- 46 Each of the Charity Trustees shall comply with the code of conduct of the organisation (incorporating detailed rules on conflict(s) of interest) adopted by the Board.
- 47 The code of conduct referred to in clause 46 shall be supplemental to the provisions relating to the conduct of Charity Trustees contained in this constitution and the duties imposed on Charity Trustees under the Charities and Trustee Investment (Scotland) Act 2005. All relevant provisions of this constitution shall be interpreted and applied in accordance with the provisions of the code of conduct which must be annually reviewed by the Board.

DECISION-MAKING BY THE CHARITY TRUSTEES

Notice of meetings

- 48 Any Charity Trustee may call a meeting of the Board *and/or* ask the secretary to call a meeting of the Board. Meetings may be by teleconference or other electronic means.
- 49 At least 14 clear days' notice must be given of the AGM, or of a Board meeting at which the business of the meeting includes consideration of any resolution.
- 50 At least 7 clear days' notice must be given for other Board meetings unless in the opinion of the Convenor there is a degree of urgency which makes that inappropriate.
- 51 The notice calling an AGM or a Board meeting at which the business of the meeting includes consideration of any resolution, must specify in general terms what business is to be dealt with at the meeting; and

- 51.1 in the case of any other resolution falling within clause 69 (requirement for two-thirds majority) must set out the exact terms of the resolution.
- 52 The reference to “clear days” in clauses 49 and 50 shall be taken to mean that, in calculating the period of notice,
- 52.1 the day after the notices are posted (or sent by e-mail) should be excluded; and
- 52.2 the day of the meeting itself should also be excluded.
- 53 Notice of the AGM and Board meetings must be given to all the Charity Trustees; but the accidental omission to give notice to one or more Charity Trustees will not invalidate the proceedings at the meeting.
- 54 Any notice which requires to be given to a Charity Trustee under this constitution must be: -
- 54.1 sent by post to the Charity Trustee, at the address last notified by him/her to the organisation and on the register of charity trustees as described in clause 30; *and/or*
- 54.2 sent by e-mail to the Charity Trustee, at the e-mail address last notified by him/her to the organisation. It is the responsibility of each Charity Trustee to keep their personal email details up to date.

Procedure at Board meetings

- 55 No valid decisions can be taken at a Board meeting unless a quorum is present; the quorum for Board meetings is 3 [three] Charity Trustees, present in person, except for Board meetings at which a resolution(s) is to be considered, as described in clause 68.
- 56 If at any time the number of Charity Trustees in office falls below the number stated as the quorum in clause 55, the remaining Charity Trustee(s) will have power to fill the vacancies - but will not be able to take any other valid decisions.
- 57 The Convenor of the organisation should act as convenor of each Board meeting.
- 58 If the Convenor is not present within 15 minutes after the time at which the meeting was due to start (or is not willing to act as Convenor), the Charity Trustees present at the meeting must elect (from among themselves) the person who will act as chairperson of that meeting.
- 59 Every Charity Trustee has one vote, which must be given personally except in the case of a vote with regard to a resolution under clause 65 and 66.

- 60 All decisions at Board meetings will be made by majority vote. (For procedure on resolutions either at Board meetings or AGMs see clauses 65 - 72).
- 61 If there are an equal number of votes for and against any decision, the Convenor or the chairperson of the meeting (in the circumstances described in clause 58) will be entitled to a second (casting) vote.
- 62 The Board may, at its discretion, allow any person to attend and speak at a Board meeting notwithstanding that he/she is not a Charity Trustee - but on the basis that he/she must not participate in decision-making. The minute of that meeting must make the status of any such person clear for the avoidance of doubt as to their status.
- 63 A Charity Trustee must not vote at a Board meeting (or at a meeting of a sub-committee) on any decision which relates to a matter in which he/she/it has a private interest or duty which conflicts (or may conflict) with the interests of the organisation; he/she/it must withdraw from the meeting while an item of that nature is being dealt with as described in clause 39, 46 and 47.
- 64 For the purposes of clause 63: -
- 64.1 Any private interest held by an individual who is “connected” with the Charity Trustee under section 68(2) of the Charities and Trustee Investment (Scotland) Act 2005 (husband/wife, partner, child, parent, brother/sister and their spouses etc) shall be deemed to be held by that Charity Trustee; and/or
- 64.2 a Charity Trustee will be automatically deemed to have a private interest in relation to a particular matter, if a body in relation to which he/she is an employee, director, member of the management committee, charity trustee, officer or elected representative has an interest in that matter.

Voting on Resolutions

- 65 Every Charity Trustee has one vote with regard to voting on resolutions, which (whether on a show of hands or on a secret ballot as described in clauses 71 and 72) may be given either personally, or by proxy given to a fellow Charity Trustee.
- 66 A member who wishes to appoint a fellow Charity Trustee as their proxy to vote on his/her/its behalf with regard to (and only with regard to) resolutions, must lodge with the Convenor or the chairperson of that meeting (in the circumstances described in clause 58), prior to the time when the meeting commences, a written proxy authorisation form, signed by him/her/its authorised representative.
- 67 All decisions on resolutions will be made by majority vote - with the exception of the types of resolution listed in clause 69.

- 68 The quorum for meetings (AGMs or Board meetings) at which a resolution(s) is to be considered is 3 [three]. For these meetings, and these meetings only, this quorum shall include proxies as described in clauses 65 and 66.
- 69 The following resolutions will be valid only if passed by not less than two thirds of those voting (either on person or by proxy as described in clauses 65 and 66) on the resolution at an AGM or at a Board meeting (or if passed unanimously by way of a written resolution under clause 73) and will also be subject, (with the exception of clauses 69.2 and 69.3) to clause 89:
- 69.1 a resolution amending the constitution (including changing the name of the organisation); or
 - 69.2 a resolution expelling a person from Charity Trusteeship under clauses 28.5, 28.6, 28.7 or 28.8; or
 - 69.3 a resolution directing the Board to take any particular action (or directing the board not to take any particular action); or
 - 69.4 a resolution approving the amalgamation of the organisation with another SCIO (or approving the constitution of the new SCIO to be constituted as the successor pursuant to that amalgamation); or
 - 69.5 a resolution to the effect that all of the organisation'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); or
 - 69.6 a resolution for the winding-up of the organisation.
- 70 If there are an equal number of votes for and against any resolution, the Convenor or chairperson of the meeting (in the circumstances described in clause 58), will be entitled to a second (casting) vote.
- 71 A resolution put to the vote at an AGM or Board meeting will be decided on a show of hands - unless the Convenor or chairperson of the meeting (or at least two other Charity Trustees present at the meeting, whether voting personally or as proxies), ask for a secret ballot.
- 72 The Convenor or chairperson of the meeting will decide how any secret ballot is to be conducted, and he/she will declare the result of the ballot at the meeting.

Written resolutions by Charity Trustees

- 73 A resolution agreed to in writing (including by e-mail) by all the Charity Trustees will be as valid as if it had been passed at an AGM or Board meeting; the date of the resolution will be taken to be the date on which the last member agreed to it and it must be unanimous.

Minutes

- 74 The Board must ensure that proper minutes are kept in relation to all Board meetings and meetings of sub-committees.
- 75 The minutes to be kept under clause 74 must include the names of those present; and (so far as possible) should be signed by the Convenor of the meeting.
- 76 With due reference to all applicable statutory requirements, it is wholly at the discretion of the Board as to whether or not the minute of a meeting, or any excerpt from the minute of a meeting, is to be made available to members of the public or any body.

ADMINISTRATION

Delegation to sub-committees

- 77 The Board may delegate any of their functions or 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.
- 78 The Board may also delegate to the Convenor of the organisation (or the holder of any other post) such of their powers (but not their responsibilities) as they may consider appropriate.
- 79 When delegating powers under clause 77 or 78, the Board must set out appropriate conditions (which must include an obligation to report regularly to the Board).
- 80 Any delegation of powers under clause 77 or 78 may be revoked or altered by the Board at any time.
- 81 The rules of procedure for each sub-committee, and the provisions relating to membership of each sub-committee, shall be set by the Board.

Operation of accounts

- 82 Subject to clause 83, the signatures of two out of three signatories appointed by the Board will be required in relation to all operations (other than the lodging of funds) on the bank and building society accounts held by the organisation; at least one out of the two signatures must be the signature of a Charity Trustee.

- 83 Where the organisation uses electronic facilities for the operation of any bank or building society account, the authorisations required for operations on that account must be consistent with the approach reflected in clause 82.

Accounting records and annual accounts

- 84 The Board must ensure that proper accounting records are kept, in accordance with all applicable statutory requirements.
- 85 The Board must prepare an annual statement of account, complying with all relevant statutory requirements; which includes deciding the correct format of the accounts, and the appropriate external scrutiny requirement by either a registered auditor or an appropriately qualified independent examiner.

MISCELLANEOUS

Dissolution and wind-up of the organisation

- 86 If the organisation is to be dissolved and wound-up, the dissolution and wind-up process will be carried out in accordance with the procedures set out under the Charities and Trustee Investment (Scotland) Act 2005 and the Scottish Charitable Incorporated Organisation (Removal from Register and Dissolution) Regulations 2011.
- 87 Any surplus assets available to the organisation immediately preceding its winding-up must be used for purposes which are the same as - or which closely resemble - the purposes of the organisation as set out in this constitution.

Alterations to the constitution

- 88 This constitution may (subject to clause 89) be altered by resolution of the Charity Trustees passed at an AGM or Board meeting (subject to achieving the two thirds majority referred to in clause 69) or by way of a unanimous written resolution of the members (as described in clause 73).
- 89 The Charities and Trustee Investment (Scotland) Act 2005 requires that consent is sought from the Office of the Scottish Charity Regulator (OSCR) to action the following changes: change of name, an alteration to the purposes, amalgamation and/or winding-up.

Interpretation

- 90 References in this constitution to the Charities and Trustee Investment (Scotland) Act 2005 and other statutory regulations should be taken to include:
- 90.1 any statutory provision which adds to, modifies or replaces that Act or the regulations; and

- 90.2 any statutory instrument issued in pursuance of that Act or in pursuance of any statutory provision falling under paragraph 90.1 above.

In this constitution:

- 90.3 “charity” means a body which is either a “Scottish charity” within the meaning of section 13 of the Charities and Trustee Investment (Scotland) Act 2005 or a “charity” within the meaning of section 1 of the Charities Act 2006, providing (in either case) that its objects are limited to charitable purposes; and
- 90.4 “charitable purpose” means a charitable purpose under section 7 of the Charities and Trustee Investment (Scotland) Act 2005 which is also regarded as a charitable purpose in relation to the application of the Taxes Acts.

**Code of Conduct for Trustees
and
Arrangements for the Reimbursement of Trustee Expenses**

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Personal Interest

1. 'Declarations of Interest' will be a standing item on all Board Meeting agendas and all General Meetings of the Orkney Sheep Foundation.
2. Attention of Trustees is drawn to Clauses 39, 46 and 47 of this Constitution and in particular to Clause 39.3.2. as it relates to possible conflicts of interest, their declaration by affected Trustees and the withdrawal from the decision-making process of Trustees so affected.
3. Trustees must not vote at a Board meeting (or at a meeting of a sub-committee) on any decision which relates to a matter in which he/she/it has a private interest or duty which conflicts, or may conflict, with the interests of the organisation. Trustees so affected must withdraw from the meeting for the duration of the consideration of such items.
4. Trustees shall declare a private interest by any person with whom they are "connected" and in such circumstances that private interest will be deemed to be held by any Trustee so affected. For the avoidance of doubt, attention is drawn to Clauses 64.2. and 64.2 of this constitution.
5. No remuneration shall be payable to Trustees of the Orkney Sheep Foundation, notwithstanding the provisions of Clause 41 of the Constitution.

Procedure for the Approval and Payment of Expenses
incurred by Trustees in the conduct of their duties

6. In accordance with clause 45 of the Constitution of the Orkney Sheep Foundation the Charity Trustees may be paid all 'out of pocket' travelling and other expenses reasonably incurred by them in connection with carrying out their duties e.g.: travel and accommodation expenses relating to their attendance at meetings and site visits.
7. Payment of Expenses will only be approved by the Board on production of valid receipts and/or certified mileage claims (ratified by <http://www.theaa.com/route-planner>)
8. Car mileage expenses will be payable at the rate of 30 pence per mile.
9. Standard Class rates will apply to all essential rail travel.
10. Essential air travel will be at prevailing standard /economy/ concessionary rates.