

THE COMPANIES ACT 2006

COMPANY LIMITED BY GUARANTEE
AND NOT HAVING A SHARE CAPITAL

MEMORANDUM of ASSOCIATION of
The Big Burns Supper Trust

CONSTITUTION

of

Big Burns Supper Trust

(adopted on 21st November 2011)

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Name

1. The name of the Trust is "The Big Burns Supper Trust".

Objects

2. The Trust's objects are:
 - a) The advancement of education
 - b) The advancement of citizenship and community development
 - c) The advancement of the arts, heritage and culture
 - d) The provision of recreational facilities and the organisation of recreational activities, with the object of improving the conditions of life for the persons for whom the facilities and activities are primarily intended.
 - e) Any other purposes that may be reasonably regarded as analogous to any of the preceding purposes.

Powers

3. In pursuance of the objects set out in clause 2 (but not otherwise), the Trust shall have the following powers:-
 - a) To deliver a multi-disciplinary arts festival in Dumfries and Galloway around the annual date of Burns Night. Further activities agreed by the Trustees to be relevant to the Trust's Objects.
 - b) To carry on any other activities which further any of the above objects.
 - c) To purchase, take on lease, hire, or otherwise acquire, any property or rights which are suitable for the Trust's activities.
 - d) To improve, manage, develop, or otherwise deal with, all or any part of the property and rights of the Trust.
 - e) To sell, let, hire out, license, or otherwise dispose of, all or any part of the property and rights of the Trust.
 - f) To borrow money, and to give security in support of any such borrowings by the Trust.
 - g) To employ such staff that are considered appropriate for the proper conduct of the Trust's activities, and to make reasonable provision for the payment of pension and/or

other benefits for members of staff, ex-members of staff and their dependants.

- h) To engage such consultants and advisers as are considered appropriate from time to time.
- i) To effect insurance of all kinds (which may include officers' liability insurance).
- j) To invest any funds which are not immediately required for the Trust's activities in such investments as may be considered appropriate (and to dispose of, and vary, such investments).

- k) To liaise with other voluntary sector bodies, local authorities, UK or Scottish government departments and agencies, and other bodies, all with a view to furthering the Trust's objects.
- l) To establish and/or support any other charity, and to make donations for any charitable purpose falling within the Trust's objects.
- m) To take such steps as may be deemed appropriate for the purpose of raising funds for the Trust's activities.
- n) To accept grants, donations and legacies of all kind (and to accept any reasonable conditions attaching to them).
- o) To do anything which may be incidental or conducive to the furtherance of any of the Trust's objects.

General structure

- 4. The structure of the Trust shall consist of:-
 - a) The MEMBERS – who have the right to attend the annual general meeting.
 - b) The Board of Trustees – who hold regular meetings during the period between annual general meetings, and generally control and supervise the activities of the Trust; in particular, the Board of Trustees is responsible for monitoring the financial position of the Trust.

Qualifications for membership

- 5. Membership shall be open to anyone living in Dumfries and Galloway.
- 6. An employee of the Trust shall not be eligible for membership; a person who becomes an employee of the Trust after admission to membership shall automatically cease to be a member.

Application for membership

7. Any person who wishes to become a member must sign, and lodge with the Trust, a written application for membership.
8. The Board of Trustees may, at its discretion, refuse to admit any person to membership.
9. The Board of Trustees shall consider each application for membership at the first Board of Trustees meeting which is held after receipt of the application; the Board of Trustees shall, within a reasonable time after the meeting, notify the applicant of its decision on the application.

Membership subscription

10. No membership subscription shall be payable

Register of members

11. The Board of Trustees shall maintain a register of members, setting out the full name and address of each member, the date on which s/he was admitted to membership, and the date on which any person ceased to be a member.

Withdrawal from membership

12. Any person who wishes to withdraw from membership shall sign, and lodge with the Trust, a written notice to that effect; on receipt of the notice by the Trust, s/he shall cease to be a member.

Expulsion from membership

13. Any person may be expelled from membership by way of a resolution passed by majority vote at a general meeting (meeting of members), providing the following procedures have been observed:-
 - a) 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.
 - b) The member concerned shall be entitled to be heard on the resolution at the general meeting at which the resolution is proposed.

General meetings (meetings of members)

14. The Board of Trustees shall convene an annual general meeting in each year (but excluding the year in which the Trust is formed); not more than 15 months shall elapse between one annual general meeting and the next.
15. The business of each annual general meeting shall include:-
 - a) A report by the chair on the activities of the Trust

- b) Consideration of the annual accounts of the Trust
 - c) The election/re-election of members of the Board of Trustees, as referred to in clause 30.
16. The Board of Trustees may convene a special general meeting at any time.

Notice of general meetings

17. At least 14 clear days' notice must be given (in accordance with clause 63) of any annual general meeting or special general meeting; the notice must indicate the general nature of any business to be dealt with at the meeting and, in the case of a resolution to alter the constitution, must set out the terms of the proposed alteration.
18. The reference to "clear days" in clause 17 shall be taken to mean that, in calculating the period of notice, the day after the notice is posted, and also the day of the meeting, should be excluded.
19. Notice of every general meeting shall be given (in accordance with clause 63) to all the members of the Trust, and to all the members of the Board of Trustees.

Procedure at general meetings

20. No business shall be dealt with at any general meeting unless a quorum is present; the quorum for a general meeting shall be 3 Trustees present in person.
21. If a quorum is not present within 15 minutes after the time at which a general meeting was due to commence – or if, during a meeting, a quorum ceases to be present – the meeting shall stand adjourned to such time and place as may be fixed by the chairperson of the meeting, but within 1 calendar month.
22. The chair of the Trust shall (if present and willing to act as chairperson) preside as chairperson of each general meeting; if the chair is not present and willing to act as chairperson within 15 minutes after the time at which the meeting was due to commence, the members of the Board of Trustees present at the meeting shall elect from among themselves the person who will act as chairperson of that meeting.
23. The chairperson of a general meeting may, with the consent of the meeting, adjourn the meeting to such a

time and place as the chairperson may determine, but within one calendar month.

24. Every Trustee shall have one vote, which (whether on a show of hands or on a secret ballot) must be given personally.
25. If there is an equal number of votes for and against any resolution, the chairperson of the meeting shall be entitled to a casting vote.
26. A resolution put to the vote at a general meeting shall be decided on a show of hands unless a secret ballot is demanded by the chairperson (or by at least two members present in person at the meeting); a secret ballot may be demanded either before the show of hands is declared.
27. If a secret ballot is demanded, it shall be taken at the meeting and shall be conducted in such a manner as the chairperson may direct; the result of the ballot shall be declared at the meeting at which the ballot was demanded.

Maximum number of Trustees

28. The maximum number of Trustees shall be 7

Eligibility

29. A person shall not be eligible for election/appointment to the Board of Trustees unless he/she is a member of the Trust.

Election, retiral, re-election

30. The Board of Trustees may at any time nominate and appoint any member to be a member of the Board of Trustees (subject to clause 28).
31. At each annual general meeting, 3 members of the Board of Trustees shall retire from office – but shall then be eligible for re-election.

Termination of office

32. A member of the Board of Trustees shall automatically vacate office if:-
 - a) He/she becomes debarred under any statutory provision from being a charity trustee
 - b) He/she becomes incapable for medical reasons of fulfilling the duties of his/her office and such incapacity is expected to continue for a period of more than six months
 - c) He/she ceases to be a member of the Trust

- d) He/she becomes an employee of the Trust
- e) He/she resigns office by notice to the Trust
- f) He/she is absent (without permission of the Board of Trustees) from more than three consecutive meetings of Board of Trustees, and the Board of Trustees resolve to remove him/her from office.

Register of Board of Trustees members

33. The Board of Trustees shall maintain a register of Board of Trustees members, setting out the full name and address of each member of the Board of Trustees, the date on which each such person became a Board of Trustees member, and the date on which the person ceased to hold office as a Board of Trustees member.

Office bearers

34. The Board of Trustees members shall elect from among themselves a chair, a treasurer and a secretary, and such other office bearers (if any) as they consider appropriate.
35. All of the office bearers shall cease to hold office at the conclusion of each annual general meeting, but shall then be eligible for re-election.
36. A person elected to any office shall cease to hold that office if he/she ceases to be a member of the Board of Trustees or if he/she resigns from that office by written notice to that effect.

Powers of Board of Trustees

37. Except as otherwise provided in this constitution, the Trust and its assets and undertaking shall be managed by the Board of Trustees, who may exercise all the powers of the Trust.
38. A meeting of the Board of Trustees at which a quorum is present may exercise all powers exercisable by the Board of Trustees.

Personal interests

39. A member of the Board of Trustees who has a personal interest in any transaction or other arrangement which the Trust is proposing to enter into, must declare that interest at a meeting of the Board of Trustees; he/she will be debarred (in terms of clause 52) from voting on the question of whether or not the Trust should enter into that arrangement
40. For the purposes of clause 40, a person shall be deemed to have a personal interest in an arrangement if any

partner or other close relative of his/hers **or** which he/she is a substantial shareholder or director, has a personal interest in that arrangement.

41. Provided
 - a) He/she has declared his/her interest
 - b) He/she has not voted on the question of whether or not the Trust should enter into the relevant arrangement and
 - c) The requirements of clause 44 are complied with, a member of the Board of Trustees will not be debarred from entering into an arrangement with the Trust in which he/she has a personal interest (or is deemed to have a personal interest under clause 41) and may retain any personal benefit which he/she gains from his/her participation in that arrangement.
42. No member of the Board of Trustees may serve as an employee (full time or part time) of the Trust, and no member of the Board of Trustees may be given any remuneration by the Trust for carrying out his/her duties as a member of the Board of Trustees.
43. Where a Board of Trustees member provides services to the Trust or might benefit from any remuneration paid to a connected party for such services, then
 - a) The maximum amount of the remuneration must be specified in a written agreement and must be reasonable
 - b) The Board of Trustees members must be satisfied that it would be in the interests of the Trust to enter into the arrangement (taking account of that maximum amount)
 - c) Less than half of the Board of Trustees members must be receiving remuneration from the Trust (or benefit from remuneration of the nature).
44. The members of the Board of Trustees may be paid all travelling and other expenses reasonably incurred by them in connection with their attendance at meetings of the Board of Trustees, general meetings, or meetings of committees, or otherwise in connection with the carrying-out of their duties.

Procedure at Board of Trustees meetings

45. Any member of the Board of Trustees may call a meeting of the Board of Trustees or request the secretary to call a meeting of the Board of Trustees.

46. Questions arising at a meeting of the Board of Trustees shall be decided by a majority of votes; if an equality of votes arises, the chairperson of the meeting shall have a casting vote.
47. No business shall be dealt with at a meeting of the Board of Trustees unless a quorum is present; the quorum for meetings of the Board of Trustees shall be 3
48. If at any time the number of Board of Trustees members in office falls below the number fixed as the quorum, the remaining Board of Trustees member(s) may act only for the purpose of filling vacancies or of calling a general meeting.
49. Unless he/she is unwilling to do so, the chair of the Trust shall preside as chairperson at every Board of Trustees meeting at which he/she is present; if the chair is unwilling to act as chairperson or is not present within 15 minutes after the time when the meeting is due to commence the Board of Trustees members present shall elect from among themselves the person who will act as chairperson of the meeting.
50. The Board of Trustees may, at its discretion, allow any person who they reasonably consider appropriate, to attend and speak at any meeting of the Board of Trustees; for the avoidance of doubt, any such person who is invited to attend a Board of Trustees meeting shall not be entitled to vote.
51. A Board of Trustees member shall not vote at a Board of Trustees meeting (or at a meeting of a committee) on any resolution concerning a matter in which he/she has a personal interest which conflicts (or may conflict) with the interests of the Trust; he/she must withdraw from the meeting while an item of that nature is being dealt with.
52. For the purposes of clause 52, a person shall be deemed to have a personal interest in a particular matter if any partner or other close relative of his/hers **or** any firm of which he/she is a partner **or** any limited company of which he/she is a substantial shareholder or director, has a personal interest in that matter.

Conduct of members of the Board of Trustees

53. Each of the members of the Board of Trustees shall, in exercising his/her functions as a member of the Board of

Trustees of the Trust, act in the interests of the Trust; and, in particular, must

- a) Seek, in good faith, to ensure that the Trust acts in a manner which is in accordance with its objects (as set out in this constitution)
- b) Act with the care and diligence which it is reasonable to expect of a person who is managing the affairs of another person
- c) In circumstances giving rise to the possibility of a conflict of interest between the Trust and any other party
 - (i) Put the interests of the Trust before that of the other party, not taking decisions as a member of the Board of Trustees
 - (ii) Where any other duty prevents him/her from doing so, disclose the conflicting interest to the Trust and refrain from participating in any discussions or decisions involving the other members of the Board of Trustees with regard to the matter in question
- d) Ensure that the Trust complies with any direction, requirement, notice or duty imposed on it by the Charities and Trustee Investment (Scotland) Act 2005.

Delegation to sub-committees

54. The Board of Trustees may delegate any of their powers of any sub-committee consisting of one or more Board of Trustees members and such other persons (if any) as the Board of Trustees may determine; they may also delegate to the chair of the Trust (or the holder of any other post) such of their powers as they may consider appropriate.
55. Any delegation of powers under clause 55 may be made subject to such conditions as the Board of Trustees may impose and may be revoked or altered.
56. The rules of procedure for any sub-committee shall be as prescribed by the Board of Trustees.

Operation of accounts and holding of property

57. The signatures of two out of three signatories appointed by the Board of Trustees shall be required in relation to all operations (other than lodgement of funds) on the bank and building society accounts held by the Trust; at least one out of the two signatures must be the signature of a member of the Board of Trustees.

58. The title to all property (including any land or buildings, the tenant's interest under any lease and (so far as appropriate) any investments) shall be held either in the names of the chair, treasurer and secretary of the Trust (and their successors in office) or in name of a nominee company holding such property in trust for the Trust; any person or body in whose name the Trust's property is held shall act in accordance with the directions issued from time to time by the Board of Trustees.

Minutes

59. The Board of Trustees shall ensure that minutes are made of all proceedings at general meetings, Board of Trustees meetings and meetings of committees; a minute of any meeting shall include the names of those present, and (as far as possible) shall be signed by the chairperson of the meeting.

Accounting records and annual accounts

60. The Board of Trustees shall ensure that proper accounting records are maintained in accordance with all applicable statutory requirements.

61. The Board of Trustees shall prepare annual accounts, complying with all relevant statutory requirements; if an audit is required under any statutory provisions or if they otherwise think fit, they shall ensure that an audit of such accounts is carried out by a qualified auditor.

Notices

62. Any notice which requires to be given to a member under this constitution shall be in writing; such a notice may either be given personally to the member or be sent by post in a pre-paid envelope addressed to the member at the address last intimated by him/her to the Trust.

Dissolution

63. If the Board of Trustees determines that it is necessary or appropriate that the Trust be dissolved, it shall convene a meeting of the members; not less than 21 days' notice of the meeting (stating the terms of the proposed resolution) shall be given.

64. If a proposal by the Board of Trustees to dissolve the Trust is confirmed by a two-thirds majority of those present and voting at the general meeting convened under clause 64, the Board of Trustees shall have power to dispose of any assets held by or on behalf of the Trust

– and any assets remaining after satisfaction of the debts and liabilities of the Trust shall be transferred to some other charity or charities having objects similar to those of the Trust; the identity of the body or bodies to which such assets are transferred shall be determined by the members of the Trust at, or prior to, the time of dissolution.

65. For the avoidance of doubt, no part of the income or property of the Trust shall (otherwise than in pursuance of the Trust's charitable purposes) be paid or transferred (directly or indirectly) to the members, either in the course of the Trust's existence or on dissolution.

Alterations to the constitution

66. Subject to clause 68, the constitution may be altered by a resolution passed by not less than two-thirds of those present and voting at a general meeting, providing due notice of the meeting, and of the resolution, is given in accordance with clauses 17, 18 and 19.

67. No amendment to clauses 3, 43, 65 or 66 of the constitution may be made if the effect would be that the Trust would cease to be a charity.

Interpretation

68. For the purposes of this constitution,

a) The expression "charity" shall mean 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 96 of the Charities Act 1993

b) The expression "charitable purpose" shall mean 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;

69. Any reference in this constitution to a provision of any legislation shall include any statutory modification or re-enactment of that provision in force from time to time.

Initial members of the Board of Trustees

70. The initial members of the Board of Trustees, and the positions held by each shall be as set out below.

This constitution was adopted on 21st November 2011

