

**The Church of Scotland**

**DEED OF CONSTITUTION (UNITARY FORM)**

of

Scottish Charity No. SC

In the Presbytery of

First The control of the affairs of the Congregation, both spiritual and temporal, shall (subject to any Acts, Regulations or Directions which may subsequently be enacted by the General Assembly) be vested in the Kirk Session of the Congregation (hereinafter referred to as “the Session”). Such functions shall include those set out in the Consolidating Act anent Church Courts (Act III, 2000) and all those devolving in terms of General Assembly legislation on the Session and on the Financial Board of a Congregation. Nothing herein shall affect the status of the Session as a Court of the Church.

Functions of  
Kirk Session

Second The Session shall consist of the Minister of the Charge (or if more than one of equal status, the Ministers) together with the Elders ordained and admitted to the Session in accordance with the Act anent Election and Admission of Elders and Deacons (Act X, 1932 (as amended)). Other Ministers and Deacons may be associated with the work of the Kirk Session as permitted by the law of the Church. For the purposes of Charity Law, the members of the Session shall constitute the Charity Trustees.

Membership  
of Session

Third The Minister of the Charge (or if more than one of equal status, the Ministers by rota or on another basis as agreed between or among them) shall *ex officio* be Moderator of the Session. In a vacancy or where the Minister has, for any reason, been granted leave of absence, the Presbytery shall appoint one of its number to act as Interim Moderator (and may do so where a vacancy is anticipated) with all the powers and to fulfil all the usual functions of the Moderator. The Moderator or Interim Moderator shall also be entitled to authorise another minister of the Church to act as Moderator as provided for in Act III, 2000. The Moderator or Interim Moderator shall have a casting, but no deliberative, vote and may introduce items of business and speak to them. It shall be the function of the Moderator to call meetings of the Session and he or she shall be bound to do so within ten days if requested in writing by a majority of the elders, or where these exceed nine in number, by at least one-third with a minimum of five. Meetings shall be called by pulpit intimation or written notice although this may be dispensed with in an emergency where adequate notice is given by other means. Meetings shall normally be held in public with pastoral or disciplinary matters being taken in private by resolution of the Session. The quorum at meetings shall be three of whom

Moderator and  
Meetings

one shall be the Moderator or Interim Moderator. Procedure at meetings shall be in accordance with the law of the Church, subject to which it shall be competent for the Session to frame Standing Orders to regulate its own business. Failing it doing so, its business shall be regulated in terms of the Standing Orders of the Presbytery.

Fourth The Session shall appoint a Clerk who may or may not be a member of the Session but shall be a member of the congregation. The person so appointed shall hold office during the pleasure of the Session and on appointment shall take the oath *de fidei*. It shall be the duty of the Clerk to keep regular Minutes of the proceedings of the Session and also of the proceedings at the Annual Meeting of the Congregation and to maintain these in a permanent Record in which each Minute, when approved, shall be signed by the Moderator and the Clerk. He or she shall issue extract minutes when so instructed, ensure the safe custody of all official records and deal with all correspondence, including extract minutes from other courts and committees. During any period when the Clerk is absent or where no Clerk is in office, a temporary Clerk shall be appointed, which failing the duties of Clerk shall devolve on the Moderator.

Session Clerk

Fifth The Session shall appoint a Treasurer who, if holding only that office, need not be a member of the Congregation. He or she shall hold office at the pleasure of the Session. The Treasurer's duties shall include the keeping of one or more separate Bank Accounts in the name of the Congregation and of such detailed accounting records of the income and expenditure and of the assets and liabilities of the Congregation (including any Poor or Benevolent Funds and bequest funds) as are required for the preparation and independent examination or audit of the Annual Report and Accounts of the Congregation. Such Report and Accounts and all matters connected with them, including their independent examination or audit and submission to Presbytery shall, in all respects, conform to the regulations anent congregational finance as approved by the General Assembly from time to time. The Treasurer and up to four members may be authorised by the Session to act as signatories of all cheques drawn on the Congregation's bank account(s). Such cheques shall be signed by any two of the said persons; provided that it shall further be competent for the Session from time to time to resolve that cheques drawn for sums less than a specified amount may be signed by any one of the said persons alone.

Treasurer

Sixth It shall be the duty of the Session to create and maintain among the members of the Congregation a commitment to provide, by regular giving, sufficient income to meet the cost of the whole financial and other temporal affairs and obligations of the Congregation and to take all necessary and appropriate measures to secure that end.

Provision of  
Income

Seventh It shall be the duty of the Session to maintain the fabric of all heritable properties vested in the Church of Scotland General Trustees and/or belonging to or held for the Congregation in proper order and repair and fully

Maintenance  
etc. of  
Properties

insured against loss or damage by fire and also against loss or damage by such other risks or perils as is appropriate. Such insurances shall be taken in the name of the General Trustees insofar as the subjects insured are vested in them. The Session shall also have responsibility for discharging all duties imposed by Health and Safety and other civil law legislation pertaining to heritable properties. No extraordinary repairs or improvements of the heritable properties shall be undertaken, and no material alterations shall be made to them or to the fixtures and furnishings of the Church or Church Halls, until sufficient funds shall have been raised or assured for the purpose without encroaching upon the Ordinary Income of the Congregation.

Eighth The Session shall apply the whole funds and assets of any description and under its control in any way exclusively for the purposes of the Congregation and/or the Church of Scotland, unless such funds or assets are otherwise appropriated in law to a specific purpose, and in accordance with all relevant Acts, regulations and Deliverances approved by the General Assembly and in particular the Act anent Church Finance (Act V, 1989 (as amended)).

Application  
of Funds  
and Assets

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

Power to  
borrow money

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

Report and  
Accounts of  
the  
Congregation

Eleventh It shall be the responsibility of the Session to afford the Congregation convenient opportunities for contributing to any special collections which the General Assembly has approved and the Session shall also have power to make such collections as may be deemed necessary for religious or charitable purposes. Income received and disbursed or funds held or administered for such objects or purposes, whether originating in such collections or otherwise, shall be shown separately in the Accounts of the Congregation.

Collections  
and Funds for  
Other  
Charitable  
Purposes

Twelfth The Session shall appoint the Church Officer, the Organist (or equivalent post) and other employees of the congregation such as youth workers, secretaries and cleaners and shall enter into contracts of employment which shall define their respective duties, salaries and other terms and conditions of employment. The Session shall have power to deal with any disciplinary matters arising, all in accordance with the terms of the relevant contracts.

Appointment  
of Church  
Officials

Thirteenth (a) The Session may constitute committees and shall specify their remit and duties and may specify any restriction or condition on the committee which it considers appropriate. A committee may constitute sub-committees and shall specify their remit and duties and may specify any restriction or condition on the sub-committee which it considers appropriate. A sub-committee constituted by a committee shall not have any remit or duty beyond those of that committee and shall obey any restriction or condition placed upon that committee.

Constitution  
and Powers  
of Committees  
etc.

(b) The Session shall have the power to appoint as a member of its committees or sub-committees any member of the congregation and may in addition appoint as a corresponding member persons who are not members of the congregation. Such corresponding members shall be entitled to attend meetings of the committee or sub-committee concerned and may speak but shall not be entitled to vote nor to propose motions.

(c) The Session may arrange for any of its functions to be discharged on its behalf by a committee (retaining nevertheless full responsibility for the diligent discharge thereof). When delegating to a committee with powers, the Session shall cause to be minuted the powers so delegated and any conditions or restrictions applicable to the delegation.

Fourteenth If an elder has absented himself or herself from meetings of the Session for more than a year without due cause deemed satisfactory by the Session, the Session may find, after giving due notice for his or her interest, that he or she has ceased to hold office in that congregation.

Absence  
from  
Meetings

Fifteenth The Session shall meet within two months of the close of the General Assembly of the Church to appoint one of their number of elders as Representative Elder to Presbytery.

Appointment  
of  
Represent-  
ative Elder  
to Presbytery

Sixteenth Where the Session has become too small to have a quorum the Presbytery shall, or in cases of difficulty the Presbytery at its discretion may, appoint Assessors who may be ministers or elders to act with the Session. Said Assessors may be appointed by the Presbytery with or without votes according to the terms of their appointment.

Appointment  
of Assessors

Seventeenth Nothing herein contained shall interfere with the functions assigned to the Minister and to Kirk Sessions respectively by the common law of the Church or by any Acts of the General Assembly applicable thereto.

Existing  
Functions of  
Minister and  
Kirk Session

Eighteenth If any question shall arise with reference to the interpretation of any Article of this Constitution or the legality of any particular exercise of the powers herein contained, it shall be competent for any person or body interested to apply by Petition to the Presbytery to adjudicate upon the matter and the judgment of the Presbytery upon such matter or upon any question arising in connection with the annual independent examination or audit provided for in Article Fifth hereof shall be

Interpretation

final, subject only to appeal against the decision of the Presbytery to the Appeals Committee of the Commission of Assembly in accordance with the Appeals Act (Act I 2014).

Nineteenth It shall be in the power of the General Assembly or any body to which they may delegate powers at any time, or from time to time, to alter, revoke, amend or modify this Deed of Constitution, in whole or in part, or to substitute a new Deed of Constitution for this Deed of Constitution, subject always to such conditions and provisions relative thereto as the General Assembly or its delegated body shall determine.

Powers reserved to General Assembly

Given under our hands this \_\_\_\_\_ day of \_\_\_\_\_ 2017, and Signed and Delivered by us, as duly authorised by the General Assembly of the Church of Scotland, and as a Quorum of the Delegation appointed by the said General Assembly for *inter alia* that purpose.

SAMPLE

**The Church of Scotland**

DEED OF CONSTITUTION

of

THE CONGREGATION OF

Dated \_\_\_\_\_ 2017

SAMPLE

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*Form of Unitary Constitution issued in terms of the  
Act anent Congregational Constitutions  
(Act XIX, 1964 (as amended))  
[ last amended 2 March 2017].*