
SCOTTISH STATUTORY INSTRUMENTS

2007 No. 5

**The Tarbert (Loch Fyne) Harbour
Revision (Constitution) Order 2007**

Election, appointment and terms of office of first Trustees

- (a) 5. (2) (a) The first elections under article 4(1)(a) above shall take place on the second Tuesday of March 2008 and the Trustees elected at that election shall assume office on 1st April 2008 and shall hold office until 1st April 2011 when the Trustees elected at the next election meeting to be held on the second Tuesday of March 2011 shall come into office and so on in every third year thereafter.
- (b) the three Trustees to be appointed under article 4(1)(b) above shall assume office on 1st April 2009 and shall hold office for three years until 1st April 2012 and those who are appointed on 1st April 2012 will hold office for three years and so on.
- (2) A timetable and procedure for election of elected Trustees shall be as follows:
 - (a) the election shall be held by secret ballot between the hours and at a place in Tarbert appointed by the Trustees on the second Tuesday in March 2008 and on the second Tuesday in March in every third year thereafter and at that election the Tarbert electors shall elect the four Trustees to serve for three years from the immediately following 1st April;
 - (b) at every election the clerk not being a candidate for election shall be the chair and returning officer of the election and failing him the Trustees shall appoint some person, not being a candidate for election, to be chair and returning officer;
 - (c) the Trustees shall cause the day, hours and place of each election to be made public by a notice to be affixed to the door of the Trustees' office in Tarbert and on such other conspicuous places as may be directed by the Trustees and also to be advertised once at least in at least one newspaper published or circulated in the district. The notice shall be posted and such advertisements placed no later than 31st December in the year prior to the election, seeking applications to be submitted to the Trustees no later than 31st January following;
 - (d) on each occasion when Trustees are to be elected the Trustees will convene an appointments panel;
 - (e) the appointments panel shall consider the nominations for the positions of elected Trustees, interview some or all of them as the panel sees fit, and determine which nominees are suitable for election as elected Trustees;
 - (f) any two of the Tarbert electors may nominate any person to be a Trustee by sending to the clerk a nomination paper. The nomination paper shall be dated and signed by the two Tarbert electors and shall contain the full names, addresses and designations of those Tarbert electors and of the person who is nominated as a candidate. No nomination paper shall be validly accepted after 31 January immediately preceding the day of election. Public notice shall be given of the list of candidates nominated and determined to be suitable by the appointments panel by fixing the same to the door of the Trustees' office and on such other conspicuous places as the Trustees may direct. Any candidate may at

- any time before the day of election withdraw from the election by delivery of a notice of withdrawal signed by him and addressed to the clerk;
- (g) in the event of only four duly qualified candidates having been nominated (and remaining nominated and not having withdrawn) the chair and returning officer of the election shall without further procedure declare those candidates to be duly elected as Trustees and such declaration shall be in writing signed by the chair and returning officer and shall be conclusive evidence of the due election of those candidates;
 - (h) only in the event of more than four candidates remaining nominated on the day of election will the poll be conducted by secret ballot and in that event each of the Tarbert electors shall be entitled to four votes for the offices of Trustee but in no case shall an elector be entitled to give more than one vote to any one candidate;
 - (i) the four candidates for the office of Trustees having the greatest number of votes at any contested election shall be elected and in every case of equality the chair and returning officer shall have a casting vote in addition to the vote (if any) to which that person may have been entitled as an elector;
 - (j) any question or dispute regarding the election of any candidate or the conduct of the secret ballot or otherwise in connection with the election process shall be summarily determined at the election by the chair and returning officer of the election whose decision shall be final;
 - (k) notice of the election of any person to be a Trustee shall be sent to that person in writing by the clerk together with a notice to attend the first meeting of the Trustees to be held on or after 1st April following the election. Such notice shall state the time and place at which such meeting is to be held;
 - (l) the poll at every contested election shall be taken by secret ballot in such manner as the chair and returning officer shall direct;
 - (m) if at any election the number of candidates remaining nominated on election day is less than four the existing Trustees shall agree that one or more Trustees from their number (who have not been elected at the election) shall remain as Trustees for the period which would have been served by the elected Trustee or Trustees had he or they been validly nominated;
 - (n) on the first occasion the four elected Trustees will hold office from 1st April 2008 until 1st April 2011 and the foregoing procedure will be repeated every three years on the basis that each group of four elected Trustees will hold office for three years;
 - (o) provided the foregoing procedure is followed it shall be permissible for an elected Trustee or elected Trustees to be re-elected, subject to the provisions at paragraph (3)(g) below.
- (3) The procedure for appointment of Trustees under article 4(1)(b) above shall be as follows:
- (a) as an interim provision and for the period from 1st April 2008 until 1st April 2009 the existing Trustees will nominate three of their number to be interim appointed Trustees to serve until 1st April 2009 along with the elected Trustees;
 - (b) the elected Trustees and the interim appointed Trustees shall elect from amongst their number a chair of Trustees;
 - (c) the Trustees shall, by advertisement affixed to the door of the Trustees' office in Tarbert and on such other conspicuous places as may be directed by the Trustees and also by notice to be advertised once at least in at least one newspaper published or circulated in the district, invite suitably qualified persons (bearing in mind the terms of article 4(1)(b) hereof) to apply to be appointed Trustees and such notices shall be posted and such advertisements placed no later than 31st December in the year prior to appointment seeking applications to be submitted to the Trustees no later than 31st January following;

- (d) on each occasion when Trustees are to be appointed the Trustees will convene an appointments panel;
- (e) the appointments panel shall consider the applications received for the positions of appointed Trustees, interview some or all of them as the panel sees fit, and shall, bearing in mind the provisions of Article 4(2) hereof, appoint three appointed Trustees;
- (f) on the first occasion the three appointed Trustees will hold office from 1st April 2009 until 1st April 2012 and the foregoing procedure will be repeated every three years on the basis that each group of three appointed Trustees will hold office for three years;
- (g) the appointments panel shall not appoint as a Trustee or select as a candidate for election or appointment a person who has served two previous terms of office after the new constitution date unless the appointments panel considers that there are exceptional circumstances to justify a further term, and in no event should such a person be selected or appointed for a fourth term. The chair of the board should also be subject to an absolute maximum of 12 years on the board in whatever capacity.