



Draft Constitution of the Council of Scottish Armigerous Clans and Families

Version 12

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Definitions

“Scottish Armigerous Clan or Family” and “Clan” or “Family” – A group of individuals who bear the same surname (including spelling variations), with a long, continuous and well established history in Scotland, of which at least one individual has been granted or re-matriculated armorial bearings with the Lord Lyon, King of Arms of Scotland, but for whatever reason, the group has not been recognised as an entity in the law of Scotland, as the Lord Lyon, King of Arms has not confirmed any living member of the group as possessing the undifferenced Chiefly armorial bearings.

“The Council” – “The Council of Scottish Armigerous Clans and Families”.

“Armiger” – An individual in possession of a Scottish Grant of Arms, granted or re-matriculated by the Lord Lyon, or borne by courtesy right under the Lord Lyon Act of 1672.

“Applicant” – The armiger, nominated for membership of the council, by the known living armigers of the Scottish Armigerous Clan.

I. Aims and Objectives

The Council of Scottish Armigerous Clans and Families (“the Council”), formed on [insert date], is a non-political and non sectarian body with the following objectives:-

- (a) To unite and represent Scots Armigers of Scottish Armigerous Clans and Families which do not have a Chief recognised by the Lord Lyon, King of Arms of Scotland for whatever reason;
- (b) To provide guidance to Council Members actively seeking to elect and appoint a Chief, through the ad hoc derbhfine process set down by the Lyon Court, or by identifying a proven successor to the last known Chief through genealogical research;
- (c) (i) To support and advise those Scots Armigers of Armigerous Scottish Clans and Families which are long, continuous and well established names in Scotland, and who are actively seeking recognition as a clan from the Lord Lyon, King of Arms through due legal process and (ii) to enter into dialogue with other bodies, such as the Court of the Lord Lyon and the Standing Council of Scottish Chiefs, on the process relating to the recognition of clans where required;

- (d) To consult and lobby on all matters affecting the official recognition of Scottish Clans, through the processes set down by Lyon Court and the confirmation of undifferenced Chiefly armorial bearings by the Lord Lyon, and to be aware of and, where appropriate, to contribute to, oppose, or to seek modification of, the activities of any individuals and organisations (public or private) likely to have an impact on the rights and traditions of Scots Armigers, together with their respective Armigerous Clans and Families, and to take appropriate action;
- (e) To promote awareness amongst the general public and other relevant bodies of the rights, functions, laws and historical position of Scots Armigers together with their respective Armigerous Clans and Families;
- (f) To consider legislation, from whatever source, likely to affect the traditional rights and functions of Scots Armigers and Armigerous Clans and Families, and to make representations on such legislation and take appropriate action to influence any such legislative bodies;
- (g) To take such steps as may seem expedient to protect the titles, honours, territorial designations, armorial bearings or other insignia of council members from misuse and to control the commercial exploitation of the same and to ensure proper standards of accuracy and quality of design;
- (h) To set standards and best practice amongst Council Members to achieve the objectives of this Constitution, in particular adherence to the Law of Arms of Scotland, clan customs and traditions and the promotion of active and well organised Clan and Family organisations;
- (i) To take such steps as are appropriate, including the formation of other subsidiary or associated bodies, incorporated or otherwise, to generate financial resources and income of all kinds in furtherance of the objectives of the council, provided that such steps shall not conflict with any of those objectives; and
- (j) To initiate and support educational, cultural or charitable projects likely to further the objectives of the Council.

II Council Membership

Full membership of the Council is open to the following natural persons over the age of 18 years who are: -

- (i) (a) Scots Armigers, who have been proposed for membership of the Council by the known living armigers of the name and accepted by the Council for membership, and (b) are in lawful possession of armorial bearings granted or re-matriculated by the Lord Lyon, King of Arms of Scotland, or legitimately borne by courtesy right, under the Lord Lyon Act of 1672; and
- (ii) The Scots Armiger, proposed for Council membership, by the known living Armigers of the name, as per Clause II(i)(a) above, bears and represents a Scottish Armigerous Clan Surname which has a long and well established history in Scotland; and
- (iii) An active Clan or Family Society or Association exists to support the Armigerous Clan or Family; or

- (iv) Where the Lord Lyon, King of Arms has appointed a Clan Commander of an Armigerous Scottish Clan or Family on an interim basis, they alone shall be admitted for membership of the Council for the duration of their appointment. They shall follow the admissions procedure in Clause V(a) below, as if proposed for Council Membership by the known living Armigers of their name. (see clause V(a)v)

(Clause II(i) to (iv) should be read in conjunction with the Guidance notes on Council Membership in Clause XIII below).

II(a) Membership of Non-Armigerous Individuals

In exceptional circumstances, the council may grant membership to individuals who are not Armigerous ie. in possession of a Scottish Grant of Arms, where there are other significant factors which establishes a case for the non-armiger to become a member of Council.

II(b) Depute Council Members

A full member under Clause II may request, in writing, that membership be granted to their heir or, alternatively, to a person he or she designates as their representative. Such a member shall have no right to vote by postal ballot or at a meeting where the full member is present, but, unless the full member has provided otherwise in his or her request, may vote at a meeting where the full member is absent.

II(c) Effect of Membership of the Council

Council Membership allows each Armigerous Clan or Family to be represented by a Scots Armiger, selected by the known living Armigers of the name, in order to further the objectives of the Council. Membership does not confer any rights in law or otherwise on Council Members to be Head or Chief of their name, Family or Clan. The Council recognises and acknowledges that it is sole prerogative of the Lord Lyon, King of Arms of Scotland to confirm an individual's right to the undifferenced armorial bearings of any particular Scottish Name, Family or Clan.

III Associate Membership

Associate membership of the Council is open to the following persons over the age of 18 years who are

- (i) Scots Armigers of names which do not qualify for council membership in II above.
- (ii) Armigers of names where a Council member has already been appointed.
- (iii) Advisers appointed to the Council by the Committee.

Associate members are those who fulfil the criteria for Associate membership above and support the work of the Council.

Associate members may apply to the Council to be granted full membership, providing an application for membership has not been submitted and refused within a five year period immediately preceding the submission of the application. Where an application for membership has been rejected by the Council because it does not meet the criteria in II above, where eligible, applicants must become Associate Members for a five year period preceding the submission of a subsequent application for membership of the Council.

IV Supporting Membership

Individuals and corporations, who may or may not be in possession of armorial bearings, and who support the work of the council and have an interest in its affairs, may join the Council as a supporter and be kept informed of its activities. The following groups and individuals are eligible for supporting membership:-

- (i) Members of Clan and Family Societies;
- (ii) Scottish Interest and Cultural Groups;
- (iii) Private and public corporations, academic institutions and heraldic bodies.
- (iv) Any other individuals or groups who support the aims and objectives of the Council.

V Admission Procedure

(a) Admission under Clause II (a) – Council Membership

(i) Clan or Family Societies of Armigerous Clans and Families who wish to nominate an armiger of their name for Council Membership under Clause II should (a) take all reasonable efforts to trace all known living armigers of their name (including those who are may not be lawfully confirmed as in possession of but are eligible for, a Scottish grant of arms through re-matriculation). This should be facilitated through the clan society and (b) Agree on the most appropriate armiger to represent them, from amongst all known living armigers of their name (including those who are eligible for a Scottish grant of arms through re-matriculation).

The Clan or Family Society should submit an application form to the Secretary, along with all supporting information as shall be deemed necessary by the Committee.

(ii) Following receipt by the Committee of an application form and all supporting documentation, the Committee must convene and review the application form against the membership criteria in Clause II above. If found to meet this criteria the Committee must submit a report on the merits of the application to all Council members, no later than 30 days after receipt of the application form, either by post or electronically. .

(iv) If the application is found not to meet the membership criteria in II above, the applicant and the Scottish Armigerous Clan, may not re-submit a subsequent application for Council membership for five years following the decision of the Committee to refuse the original application.

(v) The Council shall vote on each application following the circulation of the Committee's report to Council Members and a two-thirds majority, in favour of election shall be necessary. If following a majority vote by the Council, in favour of accepting the application, the applicant will be duly elected as a member. Council members may submit their votes by post or electronically and in any manner approved by the Committee. All membership fees must be paid in full prior to being admitted as a member and following election.

(vi) If the Council votes to reject an application, the Committee will provide reasons to the applicant where possible, and to the Clan or Family Society, for its rejection, including, where possible, any guidance on actions which may result in the application being successfully re-submitted. Applicants which are rejected may also follow the appeals process in V(f) below.

(vii) Where the applicant is a Clan Commander appointed by the Lord Lyon, King of Arms on an interim basis, their election for membership shall be automatic and they must submit an application form, along with evidence of their Commission from the Lord Lyon, to the Secretary. The Committee will review the application and supporting evidence submitted. The Committee shall circulate their report on the application to the Council members for a decision to be made whether to admit the applicant as above.

(viii) The applicant will be granted Associate Membership until the Committee's recommendation is voted on by Council Members. If an application is rejected by the Council, (subject to Clause V(a)) the applicant's Associate membership shall cease only if found by the Council to become ineligible for Associate membership.

(b) Admission under Clause IIa – Non Armigerous Council Members

Non-Armigerous Council members shall be admitted as per Clause V(a) above.

(c) Admission under Clause II(b) – Depute Council Members

Where a Council Member wishes to be represented on the Council by a Depute member, he must submit a nomination form for depute membership to the Secretary of the Committee in writing detailing the following:-

- (i) The reason for appointing a depute council member;
- (ii) The duration of the appointment; and
- (iii) Confirmation as to the authority of the depute member to act and vote on behalf the member.

(d) Admission under Clause III – Associate Member

Individuals who meet the criteria in III above, should complete an Associate membership application form and submit this to the Secretary. The Committee will review the application to confirm that the applicant meets the

membership criteria for an Associate member in III above, and if approved, the applicant will be admitted as an Associate Member on payment of the necessary subscriptions.

(e) Admission under Clause IV - Supporting Member

Individuals and bodies who meet the criteria in IV above, should complete a Supporting Membership Application form and submit this to the Secretary. The Committee will review the application and if approved, the applicant will be admitted as a Supporting Member, on payment of the necessary subscriptions.

(f) Appeals Process

If an application for Council Membership is rejected under Clause V(v) above, the applicant may appeal by completing an appeals application form and submitting this to the Secretary along with any relevant supporting evidence. The appeal will be circulated around the Council members, either by post or electronically, and voted upon at the Annual General Meeting of the Council. If rejected, the applicant (the individual nominated for Council Membership and their Armigerous Clan and Family), may not re-submit another application for 5 years of the decision of Council. If the appeal is accepted, the applicant shall be admitted as a member of the Council. Applicants who are refused depute membership under Clause II(b), Associate membership under Clause III or Supporting membership under Clause IV above, shall have no right of appeal.

V(a) Duration of Membership

- (i) Council membership shall be for 5 years;
- (ii) Depute council membership under Clause III (a) shall continue until the full member who initially requested it dies or revokes his or her consent in writing either personally or, in the event of incapacity, by a duly appointed attorney;
- (iii) Associate membership under Clause III (b) shall be renewable annually;
- (iv) Supporting Membership under Clause IV shall be renewable annually.
- (v) Where the member is an interim Clan Commander, appointed by Lyon, their membership shall continue for the duration of their Commission. If no duration is stipulated, their membership shall be as in Clause V(a)(i) above.

VI Suspension

Any member (including Associate and Supporting member) may be suspended for any of the following reasons:-

- (a) Failure to conform with the provisions of the Constitution;
- (b) Any unethical or unlawful conduct unbecoming a member (including full, depute, associate and supporting members) and calculated to bring it into disrepute;
- (c) Failure to continue to meet membership, eligibility or financial requirements or obligations;
- (d) In the case of Council Members (including Depute Members), failure to adhere to the Law of Arms of Scotland and where they, other armigers of their name, or their Clan or Family Society or other individuals or bodies within their control, consistently give, in the opinion of the Committee, the misleading impression by whatever means, that by virtue of their Council Membership, the member is Head or Chief or their Name, Family or Clan;
- (e) In the case of Associate and Supporting Members, failure to adhere to the Law of Arms of Scotland and where they, other armigers of their name, their Clan or Family Society, or other individuals or bodies within their control give, in the opinion of the Committee, a misleading impression by whatever means, that they are Council Members or by virtue of their Associate or Supporting Membership, that the Associate or Supporting Member is Head or Chief of their Name, Family or Clan;
- (f) Upon credible and sufficient information being laid before the Committee that an event has occurred that would constitute grounds for suspension of any member, it may suspend such a member by a simple majority vote. Any suspended member may appeal such suspension by notifying the Secretary within thirty five days of being advised in writing of such action. Upon receipt of such notice, the Office Bearers shall schedule a meeting of the Committee to hear the appeal under such procedure as it shall determine in advance thereof. The procedure shall be intimated to the member and shall, in whatever format, conform to the rules of natural justice. In the event that the Committee denies any appeal the suspended member shall have the right of appeal to the next Annual General Meeting;

VII Expulsion

The Council may expel any full, depute, associate or supporting member for any of the following reasons:-

- (a) Failure to conform to the provisions of the Constitution;
- (b) Any unethical or unlawful conduct unbecoming a member of Council and calculated to bring it into disrepute;
- (c) Failure to continue to meet membership or eligibility requirements;
- (d) Any fraudulent misrepresentations made to the council relating to the basis for granting full, associate or supporting membership to the council;

- (e) Failure to continue to meet membership, eligibility or financial requirements or obligations; and
- (f) Suspension on more than three separate occasions.

Any person who is alleged to have so acted shall be requested to attend a meeting of the Committee of the Council to answer the complaints. In the event that the Committee uphold any such complaint they shall submit a report, in writing, to all members of Council and a motion tabled to approve expulsion at the next Annual General Meeting or an Extra-ordinary General Meeting which may be called specifically, but not necessarily exclusively, for this purpose. A two-thirds majority in favour of expulsion shall be required but a postal ballot may be demanded if supported by ten members attending the meeting. The postal ballot will be conducted in the same manner as for the election of members. Any member expelled may reapply for membership but re-election shall require a two-thirds majority in favour, notwithstanding the original category of admission of the member. The heir of any full member expelled shall be entitled to apply for full membership on succession to the Chiefship and shall not be prejudiced by the expulsion in any way.

VIII Office Bearers

The Office Bearers of the Council shall be the Convenor, the Vice-Convenor, both of whom must be full members of the Council, the Honorary Secretary, and the Honorary Treasurer whose functions shall be as follows:-

- (a) The Convenor shall act as Chairman of all Council meetings and of the Committee.
- (b) The Vice-Convenor shall act as Convenor in his or her absence.
- (c) The Honorary Secretary shall carry out all normal secretarial duties and shall prepare reports to the Council and Committee on all activities of the Council. He shall advise the Council on legal and heraldic matters as necessary, and shall pursue the objects of the Council using due professional skill and judgement. He shall receive all applications for approval of commercial products using the heraldry and insignia of members and act on delegated authority to approve the manufacture of such products. The Honorary Secretary does not have to be a Council member to qualify for office.
- (d) The Honorary Treasurer shall be responsible for the collection of all monies due to the Council and for the operation of its bank accounts. He or she shall maintain full financial records of the Council's affairs and, at the end of its financial year, shall present those records to the Independent Examiner for scrutiny. An Income & Expenditure account shall be drawn up and a Balance Sheet constructed for presentation to the members at the Annual General Meeting. Two Office Bearers must sign these accounts and a signed statement by the Independent Examiner must be appended. The Treasurer shall, after consulting the Council's Stockbrokers or Bankers, make recommendations to the Committee about the investment of any surplus funds.

(e) The Treasurer, the Convenor, the Vice-Convenor and the Secretary shall be authorised signatories as regards the Council's bank accounts. Any two of these must sign all cheques issued on the bank accounts. The Treasurer shall not be remunerated but may be reimbursed for any expenses incurred in the course of carrying out the Treasurer's duties.

(f) The Secretary and Treasurer shall be entitled to seek the approval of the Committee to retain the assistance of Solicitors, Advocates or Barristers, Accountants or Financial Advisors to better enable them to perform any duties or tasks required by the administration or promotion of the Council's objects.

(g) Ordinary Committee Members – Six Council members shall be called to serve on the committee to undertake any duties allocated by the Committee.

(h) The Membership Secretary is responsible for the collection of membership subscriptions and the processing and recording membership application forms and supporting documentation.

IX Advisers

The Committee may appoint and remove advisers to the Council as they see fit. Advisers must join the Council as Associate members.

X Accounts

The Financial year of the Council will end on 30th April. The audited accounts will be presented at the next available Annual General Meeting for approval. The Independent Examiner (who may be a member of the Council, if duly qualified) shall be appointed by the Annual General Meeting each year.

XI Administration

(a) The Council shall meet in general session at least once each calendar year. A meeting, which shall be the Annual General Meeting, shall be held, whenever possible, to coincide with St Andrew Day in Edinburgh. In the absence of the Convenor and Vice Convenor any member of the Committee shall be entitled to the chair or such other person as the meeting may approve. The quorum of any general meeting shall be eight, and if a quorum is not present at the commencement of any general meeting, the Convenor shall adjourn the meeting for a period not exceeding one hour. At the expiry of that adjourned period if there is still no quorum, the general meeting shall stand adjourned to a date to be intimated to all members of the Council in writing and which shall be no less than twenty eight days hence. At any such adjourned meeting, the members attending shall be deemed to be a quorum. No business shall be transacted at such adjourned meeting except as tabled on the agenda of the earlier meeting.

(b) The Annual General Meeting shall receive and approve the Annual Accounts of the Council and the Reports of the Office Bearers. It shall also appoint the Office Bearers for the ensuing year, elect new members, other than

when a postal ballot has been requisitioned, appoint the Independent Examiner of Accounts and fix any subscription, levy or financial contribution to be paid by members to enable the administration of the Council to be carried out and its constitutional objects attained.

(c) The Committee of the Council shall consist of the Office Bearers ex officio and no more than seven members elected each year by the Annual General Meeting. The quorum of the Committee shall be three. The Committee shall have the power to co-opt any full member to fill Committee vacancies until the following Annual General Meeting. The Committee shall have no specific functions or powers, save as specifically especially provided by the Constitution, and shall meet as and where required at the direction of the Convenor. The Committee shall consider such business as has been delegated to it by the Council from time to time or matters arising there from including reimbursement of any necessary expenses incurred. The Committee shall also assist in directing the Honorary Secretary with advice on matters raised by him through the Convenor.

(d) The Committee shall be entitled to form additional sub-committees or working parties to research and report on any specified topic and to co-opt any person to such bodies, as they think fit. Each sub-committee shall consist of a Chairman who shall be a member of Committee together with such other committee members or co-opted persons as shall be necessary up to a maximum of six persons in total.

XII Extraordinary General Meeting

Full members of the Council shall be entitled to requisition a General Meeting of the Council by lodging with the Secretary a written requisition together with a note of the matters to be discussed or proposed at the said meeting. The requisition shall be signed by at least thirty full members of the Council. The Secretary shall thereafter summon a meeting, giving at least sixty days clear notice of the date and place of the same and a copy of the requisition and proposed agenda or motions. The Convenor shall chair the meeting or, in his absence, the Vice-Convenor or a member of the Committee. In the event that no such persons are present, the meeting may elect any other full member to preside.

XIII Amendments to the Constitution

Any amendment to the Constitution shall require to be agreed by the Committee and passed by an Annual General Meeting or Extraordinary General Meeting by majority of two thirds of full members attending and eligible to vote. Any motion to amend the Constitution must have been intimated to the Secretary at least sixty days prior to the date of the meeting at which it is to be tabled. The Secretary shall intimate the motion or motions to amend to all members of the Council at least thirty days prior to the meeting. At any meeting where amendments to the Constitution are proposed, on a motion supported by no less than ten full members eligible to vote, the amendments shall be referred to a postal ballot of all members. Any such postal ballot will be held in the same manner as a ballot for the election of members.

XIII Guidance notes on Council Membership

- (i) For the purposes of Clause II(i)(a) and (b) above the Council expects the Clan or Family Society acting on behalf of the armigerous members of the Scottish Armigerous Clan or Family, to take all reasonable efforts to locate, contact and inform them of the existence of the Council, the intention to submit an application for membership and their possible eligibility for membership.

The Clan Society should co-ordinate communication between the living armigers of the Scottish Armigerous Clan, including those who have either been identified or claim to have the right to Scots armorial bearings, in order for the armigers to agree on a proposed candidate for Council membership. The Council accepts that it may not be possible in all cases, for various reasons, to locate all living Armigers of a particular Scottish Armigerous Clan and obtain their support. Providing that the Clan Society, responsible for co-ordinating the application for Council Membership, can demonstrate to the Committee that all reasonable efforts have been made to trace all known living armigers of the name, failure to identify all armigers will not necessarily preclude a Council Member from being elected. The Committee must be satisfied that no armigers who are eligible for membership have been unreasonably excluded from the nominations process carried out by the Clan or Family Society.

It is recognised that on occasions, it may not be possible for all armigers to agree on which from amongst them should be put forward to sit on council, because there is more than one candidate. Following notification of this to the Secretary, the Clan Society, can allow its members to vote on their preferred choice of armiger. A majority voting in favour of the armiger is sufficient. The ballot may be overseen by a member of the Council, if required.

- (ii) Where more than one Clan or Family Society or Association claims to support and represent a Scottish Armigerous Clan, it is at the discretion of the Committee to determine which Society or Societies is most appropriate to engage.
- (iii) If following the election of a Council member for a five year term, a previously unknown armiger is located, and this armiger was not previously included in the application for Council Membership submitted to the Committee by the Scottish Armigerous Clan, the previously elected Council Member shall be entitled to complete their five year term. After which, the newly located armiger must be included in any subsequent selection process to appoint a Council member.
- (iv) Where an investigation is carried out by a Clan Society in support of an Armigerous Clan or Family, to locate the living armigers of the name, and this identifies a person or persons who claim to be in lawful possession of Scottish armorial bearings, but these have not been matriculated by that individual with Lyon Court to confirm they are lawfully entitled to them. They will be required by the Committee to matriculate the arms with Lyon Court, before they can be considered for Council Membership.
- (v) For the purposes of Clause II(ii), a person put forward by the Clan Society for Council Membership, must bear the surname of the Scottish Armigerous Clan they represent (including spelling variations) and the arms of which they are in lawful possession must also have been granted in the name of the Scottish

Armigerous Clan or Family they represent. Double-Barrelled or Compound surnames, providing they contain the surname of the Scottish Armigerous Clan, shall not bar a Scots Armiger from membership of the Council. However, in such cases, the last surname of a compound surname shall be taken to be the surname of the Scottish Armigerous Clan to which the Armiger is a member, by virtue of the name they bear.

- (vi) For the purposes of Clause II(ii) above, names which are predominantly non-Scottish, for example, English or Irish surnames. Applicants will not automatically be barred from Council Membership and can meet the membership criteria above, providing sufficient evidence can be provided to the Committee to demonstrate that (a) in the opinion of the Committee, those bearing the name in Scotland are in sufficiently numerous (either historically or presently) to constitute a Scottish Armigerous Clan (b) that they have a sufficiently long and well documented history in Scotland to merit Council Membership and (c) they meet all other criteria for membership in this Constitution.
- (vii) The following armigers do hereby pledge their support for this Constitution and the Council idea:-
- John Duncan of Sketraw (Clan Duncan)
 - Michael Farquharson Grewar, Esq (Clan Grewar)
 - Dr Andrew Mearns Spragg
 - Andrew Iain Smith, Esq
 - Mitchell Fenton, Esq (Clan Fenton)
 - David Donachie of Brockloch (Clan Donnachie)
 - Donald Anderson of Kinnedar (Clan Anderson)
 - David Waterton-Anderson, Esq (Clan Anderson)
 - David McGeachie, Esq (Clan McGeachie)
 - John Tunesi of Liongam
 - John Sullivan of Braemar
 - Finn Stavnsbo Alpin, Esq. (Clan MacAlpine)
- (viii) Others who pledge their support for this Constitution and the Council idea area as follows:-
- Malcolm Buchanan (Clan Buchanan Society)
 - Roger Moffat (Scotclans)