

06/1302

Agenda Item
No 2 (a)

Books of Council and Session

Extract Registered 13 Jan 2006

8

TRUST DEED

SHETLAND ARTS DEVELOPMENT
AGENCY

REGISTERS OF SCOTLAND
Executive Agency



Information about Scotland's land & property

[Lead Extract]

Registers of Scotland

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06/1302
AT EDINBURGH the Thirteenth day of January Two thousand and six the Deed
hereinafter reproduced was presented for registration in the Books of the Lords of
Council and Session for preservation and is registered in the said Books as follows:-

WE, SHETLAND ISLANDS COUNCIL, incorporated under the Local Government
(Scotland) Act 1994 ("the Sendor") wishing to make an irrevocable trust in the following
terms make over to LYNSEY ANDERSON, 2 Kirkisdale, Walls, Shetland ZE2 9QX,
LESLIE ANGUS, 12 Lovers Loan, Lerwick, Shetland ZE1 0BA, GEOFFREY BEVAN,
Sandvoe, North Roe, Shetland ZE2 9RY, IVAN MCKENZIE COGHILL, Sound, Weisdale,
Shetland ZE2 9LN, JOANNE JAMIESON, Garths, Upper Langton, Gulberwick, Shetland,
JAMES GEORGE JOHNSTON, Laarsund, Hillswick, Shetland ZE2 9RW, CHRISTINE
MCLEAN, Kinnoull, Levenwick, Shetland ZE2 9HX, DONALD STEPHEN MURRAY, 20
Chromate Lane, Lerwick, Shetland ZE1 0AC, ROXANE PERMAR, The Manse, Bridge
End, Butra Isle, Shetland ZE2 9LD and CAMERON RAE, 4 Charlotte Street, Lerwick,
Shetland ZE1 0JL (hereinafter referred to as "the Initial Trustees") (who and such other
person or persons as may be appointed or assumed to act from time to time as trustee or
trustees and to the survivor or survivors of them are referred to as "the Trustees") the sum
of £10 ("the Initial Fund") to be held in trust in accordance with the following provisions:-

1. Definitions

(a) This Trust shall be known as "Shetland Arts Development Agency" (hereinafter
referred to as "SADA") or by such other name as the Trustees may from time to time
decide.

(b) In this deed the following expressions shall have the following meanings:-

"charitable in law" has the same meaning as the phrase "charitable purposes" has
for the purposes of the Taxes Act.

"the Trust Fund" means

- (i) the Initial Fund;
- (ii) any other property of any description which may be made over to the Trustees
for the purposes of this Trust.

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Kenneth R. N.P.

(Solicitor)
(Notary Public)

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(iii) any property from time to time representing the Initial Fund or property
within (ii) above;

(iv) accumulations of income.

(c) "the Trustees" means the Initial Trustees together with such other person or
persons as may be appointed or assumed to act from time to time as trustee or
trustees and to the survivor or survivors of them.

(d) In this Deed of Trust unless the context otherwise requires:

(i) the singular includes the plural and vice versa;

(ii) the masculine includes the neuter and each includes the feminine;

(iii) any reference to "the Trust Fund" includes a reference to any part of it;

(iv) any reference to "this deed" means this Deed of Trust.

2. Expenses

The Trustees shall pay all expenses incurred by them or under their authority in
connection with this Trust.

3. Purposes of the Trust

(a) The objects of SADA shall be to advance the education of the public resident
in Shetland in the Arts, in particular the Arts of Dance, Drama, Theatre, Film,
Literature, Music, Crafts, Visual Arts and any new form of Media.

(b) In furtherance of the said objects but not otherwise, the Trustees shall seek

to:-

(i) encourage and assist in promoting and advancing the creation, practice,
presentation and study of all forms of art - visual, performing and
creative;

(ii) support and encourage the continual development of all art forms;

(iii) support existing and encourage new work.

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(Notary Public)

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- (iv) improve access to the arts and create opportunities for individuals, geographical communities and communities of interest, at all levels of experience and ability, to participate in and enjoy a diverse range of arts activity through performances, exhibitions and educational activities;
- (v) create opportunities for personal development through arts activities;
- (vi) promote a culture of life long learning through a community development approach within the arts;
- (vii) support professional artists through residencies, workshops and performances;
- (viii) promote excellence in artistic quality;
- (ix) develop the skills and experience of artist practitioners and participants and encourage learning; and
- (x) provide facilities to support artistic activities.

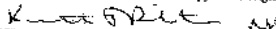
The Trustees shall hold the Trust Fund and the income of it to pay and apply the same to or for the benefit of or in furtherance of these objects or any of them or for such other purposes, objects or institutions charitable in law and in such proportions and manner as the Trustees shall think fit. In exercising their discretion in terms of this Clause the Trustees shall give primary consideration to the wishes of those persons who gift or lend funds to the Trust but this proviso shall impose no binding obligation on the Trustees.

4. Power of Accumulation

The Trustees shall have power at any time and from time to time during the period of 21 years from the date of this deed to accumulate all or so much as they from time to time shall think fit of the income of the Trust Fund arising during that period but with power to resort to that accumulated income in future years.

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5. Power of Appointment

Notwithstanding the foregoing provisions the Trustees shall have power to appoint in writing revocably or irrevocably the whole or any part of the Trust Fund or the income of it for such purposes, objects or institutions charitable in law as the Trustees shall think fit. In the event of any part or the whole of the Trust Fund being so appointed and the trust purposes of that appointment subsequently failing, the appointed part of the Trust Fund shall revert to and be held for the trust purposes of this deed. In relation to any funds held in trust under such an appointment the Trustees shall have the same administrative powers and the same privileges and immunities as they have in terms of this deed and by law except in so far as such powers, privileges and immunities are limited or restricted by the terms of such appointment.

6. Failure of Primary Objects

Should the Trust Fund be reduced at any time to an amount which in the opinion of the Trustees is such that the objects of the Trust cannot usefully be carried on, or if, at any time, the objects of the Trust shall fail or shall otherwise be incapable of fulfilment or if for any other reason the Trustees shall consider it expedient that the Trust be wound up, the Trustees shall pay, convey or make over the Trust Fund to such body or bodies or fund or funds charitable in law with objects similar to those hereinbefore specified or to such other body or bodies or fund or funds charitable in law as the Trustees in their sole discretion see fit.

7. Corporate Governance

The provisions of the Schedule annexed and executed as relative thereto ("the Schedule") shall govern the retiral, resignation, appointment, removal and other matters relating to the Trustees and the general administration of SADA. The

Kathleen M

(Solicitor)
(Notary Public)

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Trustees may from time to time by Deed or Deeds revocable or irrevocable supplement, alter or amend the provision of this Deed or the Schedule to the extent (and such extent only) as may in the opinion of the Trustees be requisite for the purpose of conferring on the Trustees such further or other powers as may be necessary for the better administration and more effectual execution of the Charitable Trust hereby created PROVIDED always that nothing in this clause shall authorise or be deemed to authorise any departure from or modification of the objects declared in Clause 3 hereof or the application of the Trust Fund or the income hereof for any purpose which is not a purpose charitable in law.

8. Trustees' Powers


The Trustees shall have the fullest powers of administration and management of the Trust Fund as if they were absolute owners of the Trust Fund and beneficially entitled to it. No power vested in the Trustees by this deed or otherwise shall be exercised so that the Trust Fund or any income of the Trust Fund shall be held, paid or applied other than for purposes charitable in law. In particular but without limitation the Trustees shall have the following powers:

(a) To invest widely

Power to retain, hold and realise property and investments made over to the Trustees and to re-invest the Trust Fund in the purchase or on the security of such heritable or real property, corporeal moveables, investments, stocks, shares (including partly-paid shares), deposits and securities, real or personal (including bonds or securities payable to bearer) whether within the United Kingdom or abroad, including power to delegate the investment of the Trust Fund on a wholly discretionary portfolio management basis. Power also to hold and to invest in shares in unquoted private companies even if such

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investments comprise the whole Trust Fund and do not produce income. PROVIDED ALWAYS that such investments are reasonably prudent having regard to the charitable purposes for which the Trust Fund is held.

(b) To effect or take over Policies of Assurance

Power to take out or take over policies of assurance on the life of any person with full power to surrender, vary or otherwise deal with any such policies as if they were the absolute owners of these policies. The Trustees shall apply only capital including accumulated income of the Trust Fund for such purposes.

(c) To use nominees etc.

(i) Power to have registered in the name of a nominee any property from time to time forming part of the Trust Fund and to pay reasonable fees to such nominee.

(ii) Power to hold investments in certificated or uncertificated form.

(d) To repair and improve; to manage property etc.

(i) Power to expend both capital and income of the Trust Fund in insuring, putting and keeping in good repair, improving, restoring and replacing any property forming part of the Trust Fund.

(ii) Power to manage, administer and dispose of any property forming part of the Trust Fund as if they were beneficial owners including developing such property.


(iii) Power to enter into Conservation Agreements for the better preservation of the Trust Fund.

(e) To grant warranties and indemnities

In the event of the Trust Fund being sold, power to grant such warranties and indemnities and such counter indemnities and counter guarantees in support

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of such warranties and indemnities as may be required in connection with the sale in accordance with normal commercial practice in relation to the type of asset concerned but only to the extent of the Trust Fund.

(f) To pay taxes

Power to expend both capital and income of the Trust Fund (f) for payment of all duties, rates, taxes, burdens and other charges payable in respect of any property forming part of the Trust Fund or its income (whether or not enforceable) by the Trustees; and (fi) for any purposes which the Trustees judge to be necessary or desirable for the administration and management of the Trust Fund.

(g) To borrow and to lend

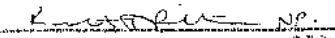
Power to borrow and lend money on such terms and with or without security as the Trustees think fit (including power to make loans with or without interest) and to apply money so borrowed in accordance with their powers. Power also to charge any property forming part of the Trust Fund by way of security for any money borrowed by the Trustees.

(h) To carry on business

Power to begin or carry on or join or concur in the beginning or carrying on of any business for such period as the Trustees think fit and for these purposes to expend money out of the Trust Fund or the income of it; to appoint or concur in appointing any one or more of their own number or any other person as managers, employees, or otherwise, and to pay to him, her or them suitable remuneration including pensions and pensions to spouses
DECLARING THAT at no time shall the number of Trustees appointed as managers, employees or otherwise in receipt of remuneration including

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pensions to spouses ("remunerated Trustees") exceed the number of non-remunerated Trustees and that any remunerated Trustees shall take no part in any meetings where remuneration or conditions of employment are discussed nor have any vote on the matter; to enter into any partnership or other agreement with any person and to modify partnership or other conditions and, if entitled to control, joint control or supervision to exercise it or not to exercise it only to such extent as they think fit. No part of the Trust Fund or the income of it shall be expended in exercise of this power otherwise than for the purposes charitable in law. The Trustees shall be free from all personal responsibility in the event of loss arising from any business operations carried on in accordance with the powers given by this deed.

(A) To permit use of property in kind

Power to permit occupation, use or enjoyment of any moveable or immovable property which for the time being forms part of the Trust Fund on such terms or conditions and for such period as the Trustees think fit.


(B) To promote Companies

Power to promote or concur in the flotation or reconstruction or amalgamation or attempted flotation or reconstruction or amalgamation of any company with limited liability including, but without limitation, any company to take over any business, company or concern carried on by the Trustees or in which they may be interested and to subscribe for and hold the debentures, stocks, shares or other scrip or obligations of such new company or to accept the debentures, stocks, shares or other scrip or obligations of such reconstructed or amalgamated company in lieu of or in substitution for the debentures, stocks and shares or other scrip or other obligations held by

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the Trustees prior to such reconstruction or amalgamation and to contribute to the expenses of such flotation, reconstruction or amalgamation.

(k) **Holdings in Companies**

The Trustees shall not be bound or required to interfere or take part in the management or conduct of the business of any company in which the Trustees shall be interested although holding the whole or a majority of the shares carrying the control of the company and so long as they have no notice of any act of dishonesty or misappropriation of moneys on the part of the directors who are managing such company the Trustees may leave the conduct of its business (including the payment or non-payment of dividends) wholly to such directors and no beneficiary shall be entitled to require the distribution of any dividend by any company in which the Trustees may be interested or require them to exercise any powers they may have of compelling any such distribution.

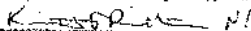
(l) **To grant proxies**

Power to grant proxies in favour of one or more of their own number or any other person to attend, act and vote for them at all meetings of any company, corporation, trust or undertaking or in any bankruptcy proceedings in which the Trustees may be interested as shareholders, stockholders, debenture holders, creditors or otherwise or at any class meeting of shareholders, stockholders, debenture holders or creditors of such company, corporation, trust, undertaking or bankruptcy.

(m) **To settle claims**

Power to settle all disputed claims by or against the Trust Fund.

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(a) To delegate powers

The Trustees shall have power at any time and from time to time (notwithstanding any rule of law to the contrary) in writing revocably or irrevocably to delegate to any person the execution or exercise of all or any trusts, powers and discretions conferred on the Trustees by this Trust or by law or to grant any power of attorney or mandate.

(o) To appoint agents

Power to appoint one or more of their own number or any other person to be solicitors, accountants, stockbrokers or agents for executing and carrying into effect the powers and purposes of this Trust and to allow to such solicitors, accountants, stockbrokers or agents their usual charges.

(p) To create Advisory Councils

Power to create an Advisory Council or Committee to act along with the Trustees and/or advise them on any or all of the objects of the Trust provided always that the creation, constitution, membership and continuance of any such Advisory Council or Committee or the individual membership of it shall be entirely at the discretion of the Trustees.

(q) To make Appeals


Power to organise, advertise and pay the expenses of any appeal for donations to the Trust Fund.

(r) To pay remuneration and expenses

(i) Power to pay to any Trustee who is acting as such in the course of his business or is a company authorised to undertake trust work, remuneration (in addition to reimbursement of his or its proper expenses) in accordance with his or its terms and conditions in terms

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of which his or its rates or modes of charging remuneration are fixed from time to time without such Trustee having to account for any resultant profit and without prejudicing the rights of such Trustee to resign as if he or it were a gratuitous trustee.

(ii) Power to reimburse themselves out of the Trust Fund or its income for all expenses reasonably incurred by them in the administration of the Trust, without in any way prejudicing their rights, privileges and immunities as gratuitous trustees including the right to resign.

(s) To transact with themselves

Power to enter into any transaction concerning the Trust Fund even if one or more of them has or have some interest in such transaction other than as one of the Trustees provided that no such transaction shall be authorised unless at least one of the Trustees has no such interest in such transaction (unless it is only as a beneficiary of this Trust) and shall have been advised by professional advisers competent to consider the nature of such transaction that its terms are such as would be appropriate to a transaction between persons acting at arm's length.

(t) To transact with other Trustees

Power to transact with the trustees of another trust even though one or more persons are common to the two sets of trustees, and even if all the same persons constitute the two sets of trustees.

(u) To appropriate

Power to set apart and appropriate specified investments or assets of the Trust Fund, heritable or moveable, to represent the whole or part of the share or shares of any particular beneficiary or of any share of the Trust Fund, whether

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K. J. D. N. P.
(Solicitor)
(Notary Public)

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any beneficiary has a vested right to it or not and at such valuations as the Trustees shall determine whether made by themselves or others. After such appropriation the particular share shall have the whole benefit and the whole risk of the appropriated investments or assets. A Minute signed by the Trustees shall be sufficient evidence of such appropriation.

(v) To distinguish between capital and income

Power to decide what represents capital and what represents income of the Trust Fund and the proportion in which the expenses of the Trust are to be charged against capital and income, notwithstanding any rule of law to the contrary, and all similar questions which may arise in relation to the Trust.

(w) To exercise powers in Trusts (Scotland) Acts

In so far as more ample powers are not given by this deed the Trustees shall have the powers conferred on trustees by the Trusts (Scotland) Acts 1921 and 1961 and by the Charities and Trustee Investment (Scotland) Act 2005 and by any Acts amending the same relating to trustees in Scotland (which powers shall not be held to be at variance with the purposes or powers of this Trust).

(x) General Powers

Power in general to do everything the Trustees may consider necessary or expedient in the execution of this Trust.

(y) To renounce powers

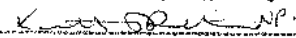
Power to renounce irrevocably in whole or in part at any time and from time to time any power given to the Trustees.

9. No Apportionments

There shall be no apportionments of any kind.

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10. Persons Transacting With Trustees

Persons transacting with the Trustees shall not be concerned with the application of the sums to be paid by them to the Trustees or with any of the conditions and provisions contained in this deed nor shall they be entitled to notice or to enquire whether these sums are applied or not towards the uses and purposes of this Trust and such persons shall be sufficiently exonerated and discharged by the conveyances, discharges or other writings to be granted by the Trustees or by any factor, attorney, solicitor, accountant, stockbroker or agent duly authorised by them.

11. Finality of Discretionary Powers

Whenever it shall be necessary in connection with the affairs of this Trust for the Trustees to exercise any power discretion or authority:

- (a) such power, discretion or authority shall be exercisable at any time and from time to time or not as the Trustees in their sole and absolute discretion think fit; and
- (b) whatever decision or resolution they may act upon shall be final and binding on all parties interested either directly or indirectly and the actings of the Trustees shall not be liable to be called in question upon any ground except fraud.


12. Trustees' Immunity

A Trustee shall not be liable for any loss to the Trust Fund unless that loss is caused by his own fraud. Any liability of a Trustee shall be restricted to liability arising from his own actions or omissions only.

13. Choice of Law

This Trust is established under the laws of Scotland, which shall be the proper law of this Trust.

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(Solicitor)
(Notary Public)

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14. Irrevocability

This Deed of Trust is irrevocable: IN WITNESS WHEREOF these presents typewritten on this and the preceding thirteen pages together with the Schedules annexed and executed as relative hereto are sealed with the common seal of Shetland Islands Council and subscribed for and on its behalf by David Keith Adam, Senior Solicitor, Legal Administration, Hayfield Lane, Lerwick, Shetland all together at Lerwick on the Twenty-eighth day of December Two Thousand and Five.

DK Adam



I certify that this is a true and complete copy of the original deed.

Kumolu N.

(Solicitor)
(Notary Public)

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THIS IS the Schedule referred to in
the foregoing Deed of Trust by
Shetland Islands Council dated 28th
December 2005

1. The minimum number of Trustees shall be ten and the maximum number of Trustees shall be thirteen. The quorum for a meeting of the Trustees shall be six where the number of Trustees is either ten or eleven and seven where the number of Trustees is either twelve or thirteen. Any vacancy shall be promptly filled. In the event of any vacancy occurring for any reason whatsoever the Nominations Committee may co-opt a Trustee to fill the vacancy and such co-opted Trustee will retire at the end of the period of office of the Trustee whose vacancy such co-opted Trustee has filled. Such co-opted Trustee will then be eligible for re-election.
2. A majority of the Trustees at any time shall be permanently resident in the United Kingdom.
3. Each of the Initial Trustees shall hold the office of Trustee for a minimum period of four years. Three of the Initial Trustees will retire on 31st March 2010, three on 31st March 2011 with the remaining Initial Trustees retiring on 31st March 2012. Thereafter, Trustees will retire on the third anniversary of their appointment. The first Trustees to demit office shall be chosen by agreement which failing will be drawn by lot and similar provisions will apply until each of the Initial Trustees has demitted office.
4. A simple majority of all the remaining Trustees must approve the appointment of any new Trustee.
5. Apart from the Initial Trustees, a new Trustee shall hold office for a period of three years with power to be re-appointed for a further period of three years. In the event of appointment for a further period of three years, such Trustee will not be eligible for appointment for a period of three years thereafter.
6. A Nominations Committee will be constituted by the Trustees to deal with the appointment of the new Trustees. The Nominations Committee's terms of reference will be determined by the Trustees. The Nominations Committee will be made up of three Trustees. Each member of the Nominations Committee will serve a maximum period of three years on the Committee and shall not be eligible for re-appointment for a period of three years thereafter. The Nominations Committee will initially be constituted from the Initial Trustees ("the Initial Members") with each of the Initial Members retiring at one, two and three years following appointment as shall be determined on his or her election. The Initial Members retiring in years one and two following their appointment will be eligible for re-appointment. Thereafter, Members will retire on the third anniversary of their appointment.

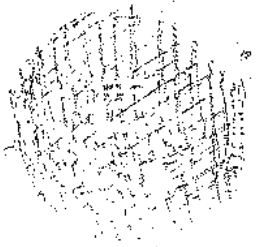
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(Solicitor,
Notary Public)

7. A Trustee shall automatically cease to be a Trustee in the event of his or her failure without the consent of the other Trustees to attend three consecutive meetings of the Trustees. A Trustee shall cease to be a Trustee in the event of his or her permanent incapacity to perform the duties of a Trustee of the Trust due to physical or mental illness or infirmity or in the event of his or her becoming apparently insolvent for the purposes of the Bankruptcy (Scotland) Act 1985 or otherwise insolvent, or in the event of their disqualification from acting as a Trustee in terms of the Charities and Trustee Investment (Scotland) Act 2005. A Trustee may be removed from office by the remaining Trustees, unanimously, in circumstances requiring such removal under the said Charities and Trustee Investment (Scotland) Act 2005.

DK Adam



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I certify that this is a true and complete copy of the original deed

K. [Signature]

(Solicitor)
(Notary Public)

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EXTRACTED by me having commission to that effect from the
Keeper of the Registers of Scotland

[Signature]