

These are the draft Rules to be tabled at the Annual General Meeting of Proprietors of Randolph Crescent Garden to be held on Thursday, 6 July 2023

Draft:

Rules for the Randolph Crescent Garden Committee

The purpose of the Randolph Crescent Garden Committee (“the RCG Committee”) is to liaise with the Moray Feu Gardens Committee (“the MF Committee”) in relation to the maintenance and planting by the MF Committee of the Randolph Crescent Garden (“the RCG”), to include:

- carrying out an overall monitoring role of such maintenance and planting,
- discussing and agreeing with the MF Committee items of work in relation to the RCG involving expenditure which is significant in the context of the resources and income of the RCG and
- discussing with the MF Committee in respect of each financial year the expenditure budget and setting the assessment for the RCG at a level reasonably considered sufficient to provide for the projected expenditure for the relevant financial year to be met and appropriate reserves for cashflow and contingencies to be built up and thereafter maintained.

To the extent that it is provided by the RCG Proprietors with funds to do so, the RCG Committee may instruct repair and maintenance work in relation to the walls, gates and railings surrounding the RCG.

Further Definitions

In these Rules:

“Associated Property” means, in respect of a right to a share in the RCG, the heritable property with which such right is associated;

“Joint Proprietor” means a legal person who has a joint legal title along with one or more other specified legal persons to a particular share in the RCG;

“Member” means a member of the RCG Committee; and

“RCG Proprietor” means a legal person who has a legal title to a particular share in the RCG as sole proprietor or as a Joint Proprietor thereof.

Resident Nominees

An RCG Proprietor may appoint an individual as their Resident Nominee, provided such individual is normally resident in the Associated Property with which the relevant share in the RCG is associated. A person may only be appointed as Resident Nominee in respect of a share in the RCG, the legal title to which is held by Joint Proprietors, if all such Joint Proprietors agree to the appointment. Any appointment of a Resident Nominee must be made in writing.

The appointment of a Resident Nominee may be revoked at any time by the RCG Proprietor who appointed them. In the case of a Resident Nominee of Joint Proprietors, any one of such Joint Proprietors may revoke the appointment. The

appointment of a Resident Nominee shall lapse if the person or persons who have appointed the Resident Nominee cease to be an RCG Proprietor.

Subject always to the further provisions of these Rules, a Resident Nominee may be proposed for election as a Member of the RCG Committee, provided that the RCG Proprietor who has appointed them is not a Member nor being proposed for election or re-election to the RCG Committee. A Resident Nominee or the RCG Proprietor(s) appointing them, but not both, may propose or second a candidate for election or re-election as a Member, subject always to the further provisions of these Rules including (where the appointing RCG Proprietor is a Joint Proprietor) the limitations applicable to a Joint Proprietor.

Members of Committee

The RCG Committee shall consist of a minimum of three and a maximum of five Members.

Election of Members

The Members shall, save as provided hereafter, be elected at Annual General Meetings of the RCG Proprietors, such election to take effect from the end of the relevant meeting, and shall be subject to retirement by rotation.

At the Annual General Meeting at which these Rules are adopted all the Members shall retire from office, and at every subsequent Annual General Meeting one-third of the Members who are subject to retirement by rotation or, if their number is not three or a multiple of three, the number nearest to one-third, shall retire from office; but if there is only one Member who is subject to retirement by rotation, such Member shall retire. Any retirement in terms of this paragraph shall take effect at the end of the relevant meeting.

The Members to retire by rotation shall be those elected Members who have been longest in office since their last election or re-election, but as between persons who became or were last re-elected as such Members on the same day, those to retire shall (unless they otherwise agree among themselves) be determined by lot.

A Member who retires at an Annual General Meeting may, if willing to act, be re-elected. If they are not re-elected, they shall cease to hold office at the end of the meeting.

Nominations of Candidates

Nominations for re-election or election to the RCG Committee shall be made in writing and delivered, not less than the day falling seven days before the date of the Annual General Meeting at which the election is to take place, to such person as shall be specified on the Notice convening such meeting. This is subject to the proviso that the preceding sentence of this paragraph need not be complied with in respect of nominations for re-election or election to the RCG Committee at the Annual General Meeting at which these Rules are adopted, which may be made in writing or orally at such meeting.

A candidate must be an individual who is an RCG Proprietor, or an individual who is a Resident Nominee of an RCG Proprietor, and must be proposed by an RCG Proprietor or a Resident Nominee of an RCG Proprietor and seconded by, or by the Resident Nominee of, a different RCG Proprietor. An RCG Proprietor cannot propose or second themselves and an RCG Proprietor who is a Joint Proprietor cannot propose or second a person who is a fellow Joint Proprietor together with them. For the avoidance of doubt, an RCG Proprietor cannot propose or second a Resident Nominee appointed by them, nor may a Resident Nominee propose or second an RCG Proprietor by whom they are appointed.

A nomination made in writing shall be signed by the candidate, the proposer and the seconder and shall state in respect of each of them their name and the address of the property by reference to which they are qualified to be the candidate, proposer or seconder, as the case may be.

Joint Proprietors

Where legal title to any share in the RCG is held by two or more Joint Proprietors, only one of such proprietors (or their Resident Nominee) may at any one time be a Member, or be proposed for election or re-election thereto, or act as a proposer or seconder for the election or re-election of another person thereto.

Disqualification and Cessation as Members

No person shall be eligible to be elected or co-opted as a Member at any time when any assessment relating to the RCG remains outstanding in whole or in part in respect of the share in the RCG of which such person is an RCG Proprietor or (where such person is a Resident Nominee) of which the person or persons who have appointed the Resident Nominee is or are the RCG Proprietor.

A person shall cease to be a Member if:

- (a) they resign as a Member by giving notice in writing or by email to the other Members or a majority of them; or
- (b) they cease to be an RCG Proprietor or, where such person qualified to be a Member in their capacity as a Resident Nominee, either (i) their appointment as such Resident Nominee is revoked, or (ii) the person or persons who have appointed the Resident Nominee cease to be an RCG Proprietor; or
- (c) in respect of the share in the RCG of which such person is an RCG Proprietor or, where such person qualified to be a Member in their capacity as a Resident Nominee, in respect the share in the RCG of which the person or persons who have appointed that Resident Nominee is or are the RCG Proprietor, the assessment due for the financial year of the RCG then current remains unpaid in whole or in part three months or more after it has fallen due (or any assessment remains due by the relevant RCG Proprietor in whole or in part in respect of a previous financial year); or
- (d) the RCG Committee resolves to remove them under the Rule below relating to "Attendance at Meetings".

Co-option of Members

The RCG Committee shall have power to co-opt an individual as a Member to replace any Member who resigns, dies or otherwise ceases to hold office during the year. Only an individual who would qualify for election to the RCG Committee may be so co-opted. Any such co-opted Member may serve until the next following Annual General Meeting of the RCG Proprietors, at which they shall resign but may stand for election to the RCG Committee. A co-opted Member resigning at an Annual General Meeting shall not be taken into account for the purposes of determining the number and identity of the Members who are to retire by rotation at that meeting.

Chairperson

The Committee shall from time to time elect a Chairperson of the RCG Committee from among their number and may at any time remove such person from that office. A Chairperson may resign that office by giving notice in writing or by email to the other Members or a majority of them.

Unless unwilling to do so, the Chairperson so appointed shall preside at every meeting of the RCG Committee at which they are present. If there is no Member holding that office, or if the Member holding it is unwilling to preside or is not present within ten minutes after the time appointed for the meeting, the Members present may appoint one of their number to chair that meeting.

Committee Meetings

The Members shall meet together as they consider necessary throughout the year to fulfil their functions and may adjourn and otherwise regulate their meetings as they see fit. Two Members shall constitute a quorum at any such properly convened meeting. Questions arising at any meeting shall be determined by a simple majority of votes. In the case of equality of votes, the Chairperson shall have a second or casting vote.

Attendance at Meetings

It is acknowledged that the Members may not be able to attend every RCG Committee meeting but there is a minimum attendance that is reasonably expected. If a Member is absent, without a good reason in the opinion of the RCG Committee, for more than three consecutive meetings, the RCG Committee may resolve to remove them.

Notice of Committee Meetings

Notice of meetings of the RCG Committee shall be given to all then current Members and shall be deemed to be duly given if given to them personally or sent in writing by letter or by electronic communication.

A properly convened meeting at which a quorum is present shall be competent to exercise all or any of the authorities, powers and discretions of the RCG Committee.

Resolution in Writing and Emails

A resolution in writing signed by a majority of the then current Members shall be as effective for all purposes as a resolution of the Members passed at a meeting of the RCG Committee duly convened and held and may consist of several documents in the

same terms which may be either in paper or in electronic form, each signed by one or more Members.

The Committee may also agree matters by a majority by exchange of emails.

Sub-Committees

The Committee may delegate any of its functions to a sub-committee consisting of such Member or Members of the RCG Committee as it sees fit.

All sub-committees shall in the exercise of the functions delegated to them conform to any mode of proceedings and regulations which may be prescribed by the RCG Committee.

Minutes of Proceedings

The RCG Committee shall cause minutes to be made of the following matters, namely:-

1. of all appointments of Chairpersons and of sub-committees;
2. of the names of Members present at every meeting of the RCG Committee and the business transacted at such meetings; and
3. of all decisions taken at meetings of the RCG Committee.

Any such minute purporting to be signed by the person who chaired the meeting at which the proceedings were held or by the person who chairs the next succeeding meeting shall be *prima facie* evidence of the matters stated in such minutes without any further proof.

Defective Appointment of Members not to Invalidate Actions

All acts done in good faith by a meeting of the RCG Committee or by any person acting as a Member shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any person or persons acting as a Member or that they or any of them were or was disqualified from holding office or not entitled to vote, be as valid as if every such person had been duly appointed, duly qualified and had continued to be a Member.

Amendments to Rules

These Rules may be amended with the approval of a resolution passed at a general meeting of the RCG Proprietors duly convened and held.

Draft:

Rules for General Meetings of the Randolph Crescent Garden Proprietors

In these Rules:

“Associated Property” means, in respect of a right to a share in the RCG, the heritable property with which such right is associated;

“Joint Proprietor” means a legal person who has a joint legal title along with one or more other specified legal persons to a particular share in the RCG; and

“RCG Proprietor” means a legal person who has a legal title to a particular share in the RCG as sole proprietor or as a Joint Proprietor thereof.

Annual General Meeting

The Randolph Crescent Garden Committee (“the RCG Committee”) shall convene an Annual General Meeting (“AGM”) of the RCG Proprietors each year, at such time and place as may be determined by the RCG Committee.

The ordinary business of an AGM shall be to consider the accounts of the RCG for the previous financial year, to consider the report of the RCG Committee for the previous financial year, to re-elect and/or elect Members of the RCG Committee, and to consider any extraordinary expenditure proposed to be incurred. Any other business conducted at an AGM, and any business conducted at an Extraordinary General Meeting, shall be special business.

Extraordinary General Meetings

Any general meeting of the RCG Proprietors other than the AGM shall be called an Extraordinary General Meeting (“EGM”). The RCG Committee may convene an EGM at any time if it considers that necessary or expedient.

Notice of Meetings

The AGM and any EGM shall be called by not less than 21 days’ notice sent in writing by letter or by electronic communication. The notice shall be exclusive of the day on which it is served or deemed to be served and of the day on which the meeting is to be held and shall specify the place, the date and time and the purpose of the meeting and in the case of any special business shall give fair notice of such business. The notice shall be given to all RCG Proprietors of whom the RCG Committee is aware and for whom it has a postal or electronic contact address. Notice sent by letter shall be deemed to be served on the next business day after it is sent. Notice sent by electronic communication shall be deemed to be served at the time and on the day on which it is sent.

Omission to Send Notice

The accidental omission to send notice to or the non-receipt of notice by any RCG Proprietor shall not invalidate the proceedings at any general meeting.

Resident Nominees and Proxies, etc

An RCG Proprietor who is entitled to attend and to vote at any meeting of RCG Proprietors may appoint an individual as their Resident Nominee, provided such individual is normally resident in the Associated Property with which the relevant share in the RCG is associated. A person may only be appointed as Resident Nominee in respect of a particular share in the RCG, the legal title to which is held by Joint Proprietors, if all those Joint Proprietors agree to the appointment. Any appointment of a Resident Nominee must be made in writing.

The appointment of a Resident Nominee may be revoked at any time by the RCG Proprietor who appointed them. In the case of a Resident Nominee of Joint Proprietors, any one of such Joint Proprietors may revoke the appointment. The appointment of a Resident Nominee shall lapse if the person or persons who have appointed the Resident Nominee cease to be an RCG Proprietor.

A Resident Nominee shall be entitled to speak at meetings of the RCG Proprietors in addition to the RCG Proprietor who has appointed them.

Any RCG Proprietor entitled to attend and vote at any meeting of RCG Proprietors may appoint a proxy or other authorised representative (neither of whom need be an RCG Proprietor) to attend and vote in their place. A proxy shall not be entitled to speak at any such meeting. An RCG Proprietor appointing a Resident Nominee, an authorised representative or a proxy must do so in writing and, save in the case of the Annual General Meeting at which these Rules are adopted, such appointment must be lodged not less than 48 hours before the start of the meeting of RCG Proprietors at which it is to be used, with such person and at such address as shall be specified on the Notice convening such meeting. In the case of the Annual General Meeting at which these Rules are adopted, any such appointment not so lodged at least 48 hours before the start of the meeting shall be presented at the meeting. The preceding provisions of this paragraph are subject to the proviso that, where an appointment of a Resident Nominee has been duly lodged prior to a meeting of RCG Proprietors and remains in effect, it shall not be necessary to re-lodge such appointment prior to a subsequent such meeting.

Notice of Candidates and Resolutions

Save in the case of the Annual General Meeting at which these Rules are adopted, a list of candidates, if any, for re-election or election as Members of the RCG Committee, and a note of any other matters to be considered at an AGM shall be published on the Moray Feu website, or in such other manner as the RCG Committee may determine, not later than 48 hours prior to the date of the AGM.

Chairperson

The Chairperson, if any, of the RCG Committee shall preside at every meeting of the RCG Proprietors at which they are present. In their absence (or if they are unwilling to chair the meeting) some other Member of the RCG Committee nominated by the RCG Committee shall preside as chairperson of the meeting.

Quorum

The quorum for a general meeting shall be five RCG Proprietors present in person or by Resident Nominee or by authorised representative or by proxy and entitled to vote. Not more than one person may be counted in the quorum in respect of the same share in the RCG.

How Questions to be Decided at a Meeting

At any general meeting a resolution put to the vote of the meeting shall be decided by a show of hands.

Votes of RCG Proprietors

Persons entitled to vote at general meetings shall be RCG Proprietors, Resident Nominees of RCG Proprietors and duly appointed proxies and authorised representatives of RCG Proprietors. This is subject to the proviso that no vote may be cast by or on behalf of an RCG Proprietor at any general meeting, in person or by a Resident Nominee or by a proxy or authorised representative, unless all assessments due by such RCG Proprietor in respect of the RCG shall have been paid in full.

Not more than one person may vote in respect of the same share in the RCG. In the event that more than one person is present at a general meeting and potentially eligible to vote in respect of the same share in the RCG, those persons shall agree amongst them who shall exercise the voting rights attaching to such share. In the absence of any such agreement, the person whose name is shown on the Register of Feuars of the Moray Feu as the sole proprietor, or as the first-named of joint proprietors, of the relevant Associated Property, and no other person, shall be entitled to vote in respect of the relevant share in the RCG.

Adjournment of General Meetings

If the Chairperson shall consider it necessary or advisable, they shall have power to adjourn any general meeting of the RCG Proprietors to such time and place as may be appointed, either when the meeting is being adjourned or subsequently. No business shall be transacted at an adjourned meeting other than business which might properly have been transacted at the meeting had the adjournment not taken place. When a meeting is adjourned for 14 days or more, at least seven days' notice (exclusive of the day on which it is served or deemed to be served and of the day on which the meeting is to be held) shall be given to the RCG Proprietors specifying the time and place of the adjourned meeting and the nature of the business to be transacted. Otherwise it shall not be necessary to give any such notice.

Amendments to Rules

These Rules may be amended with the approval of a resolution passed at a general meeting of the RCG Proprietors duly convened and held.