

# Standing Orders

April 2025

**ENVIRONMENTAL**  
**Standards Scotland**  
Ìrean Àrainneachdail na h-Alba

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## 1. General

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1.1 Environmental Standards Scotland (ESS) (in Gaelic, Ìrean Àrainneachdail na h-Alba) is a body corporate established under Schedule 1 of the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021 ('the Continuity Act'). ESS is the holder of a non-ministerial office within the Scottish Administration.

1.2 These standing orders, for regulation of the conduct and proceedings of ESS, are made under sections 2 to 10 of Schedule 1 of the Continuity Act.

1.3 No standing order is to be made, read, applied or suspended in such a manner that contravenes any rule of law, legislative provision, or the terms of the [ESS Framework Agreement](#).

1.4 These standing orders are made by and can be altered or suspended, in whole or in part, by a majority of the ESS Board members.

1.5 These standing orders should be reviewed at least every three years.

1.6 Where these standing orders do not make specific provision, the Chair of ESS, in consultation with the Chief Executive, will have discretion to determine all questions of procedure for the conduct and proceedings of ESS. The Chair and Chief Executive are obliged to inform the Board of any determination of questions that has taken place.

## 2. Membership

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2.1 ESS Board members are appointed to and hold office in ESS in accordance with the provisions of section 2 (1) of the Continuity Act. The collective membership of ESS will be known as, and may be referred to as, 'ESS'.

2.2 The ESS Secretariat will maintain a register of ESS Board members and ensure appropriate public access to information regarding membership is provided.

2.3 Membership is not representational of any personal or professional group or any professional body. ESS Board members are expected to subscribe to and comply with the Code of Conduct.

2.4 ESS Board members will require to register their interests as defined in Annex A of the Code of Conduct, within one month of the date of their appointment to ESS, in a register kept by ESS Secretariat for that purpose. This register will be available for public inspection.

2.5 Where there is any dispute as to whether a conflict of interest arises in respect of any member, the following procedure will apply:

- a) in the event of the potential conflict arising during the course of a meeting, the Chair of ESS will have the power to rule as to whether such a conflict exists. In the event of a positive ruling, the member concerned will not be permitted to be further involved in that part of the meeting affected by the conflict
- b) in the event that the potential conflict arises outwith a meeting, then the Chair of ESS will have power to rule as to whether such a conflict exists. In the event of a positive ruling, the member concerned will not be permitted to be further involved in the business affected by the conflict
- c) before ruling in either of the circumstances set out in (a) or (b) above, the Chair of ESS may take views of other ESS Board members, as they deem necessary
- d) a record of the area of potential conflict, the ruling reached and by whom will be retained

2.6 The Chair has personal responsibility to identify and declare conflicts of interest.

### **3. Chair of ESS**

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3.1 The Chair of ESS, or in the Chair's absence their nominated deputy, will preside at meetings of the Board in accordance with these standing orders. Any power or duty assigned to the Chair in relation to the conduct of a Board meeting may be exercised by the nominated deputy presiding at the meeting.

3.2 In the event that the Chair is unable to attend a meeting, and no deputy has been nominated or any nominated deputy is also unable to attend, a temporary deputy will be selected by the ESS Board members present. Any power or duty assigned to the Chair in relation to the conduct of a Board meeting may be exercised by the temporary deputy at the meeting.

3.3 The Chair will regulate discussion and debate at Board meetings and will ensure that all have an equal opportunity to express their views.

3.4 If in the opinion of the Chair any person present at a meeting is incapacitated, behaving inappropriately or without due consideration for other members or persons present, the Chair may require that person to leave the meeting.

3.5 The Chair is bound, in the same way as all other ESS Board members, by the provisions of the Code of Conduct and of standing orders 2.3 and 2.4 in respect of the registration and declaration of interests. Where a conflict of interest arises during the course of a meeting, the Chair will not be further involved in that part of the meeting affected by the conflict, and the nominated deputy will preside at that part of the meeting until conclusion of the relevant business. Where a conflict of interest for the Chair arises outwith a Board meeting, the Chair will not be involved in the business affected by the conflict, whether in discussion, in secure electronic communication, or by any other means. Before reaching a conclusion in either of these circumstances, the Chair may consult other ESS Board members as they consider necessary and appropriate. The Chair can be challenged on their interpretation of their conflict of interest by the Chair of the Audit and Risk Committee. A record of the area of potential conflict and of the action taken will be retained by the ESS Secretariat.

## **4. Ordinary Meetings**

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4.1 The Board will meet at least four times in each financial year on dates and at times and places determined by ESS Board members and specified in the notice calling the meeting. Meetings may be via teleconference or videoconference. No period longer than three months should elapse between ordinary meetings.

4.2 Provisional dates for ordinary meetings will usually be set at least three months ahead of the proposed meeting date to assist with diary planning.

4.3 Not less than eight calendar days prior to the date of a Board meeting the following documents will be issued electronically by the ESS Secretariat to each ESS Board member:

- a) a notice convening the meeting (detailing final confirmed date, time and location)
- b) an agenda detailing the business to be transacted (with each item clearly indicating whether the matter is for decision, or for scrutiny)
- c) reports and other documents referred to in, or to be read with, the agenda (specifying whether documents are for decision, scrutiny or information)

4.4 Late papers will be issued or tabled only in exceptional circumstances and at the discretion of the Chair or the nominated deputy.

4.5 Papers for Board and Committee meetings will usually be issued by secure electronic transfer. Any ESS Board member who wishes to receive notice of all or any meetings and/or the agenda and papers for those meetings in paper copy, must ensure that this is agreed with the ESS Secretariat in time for the ESS Secretariat to meet the requirements of standing order 4.3.

4.6 Subject to the agreement of the Board, failure to comply with standing order 4.3 above will not affect the validity of a meeting.

4.7 Where business to be transacted has not been completed within the time allotted for a Board meeting:

- a) those present may resolve to continue the meeting in order to deal with the business, or
- b) the Board may adjourn any meeting to another date, time and place by majority agreement of Board members present, or
- c) the business may be concluded under the arrangements set out at standing order 5.11, or
- d) any business not completed may become part of the agenda for a subsequent Board meeting

4.8 All decisions will be made by the Board, unless the issues concerned are delegated to another individual, group or Committee in line with the provisions of section 8 of Schedule 1 of the Continuity Act. Where issues are delegated, the Board retains overall responsibility and will put appropriate arrangements in place for scrutiny of performance.

4.9 Decisions of the Board will normally be by consensus of those present at Board meetings.

4.10 If consensus cannot be reached on a particular issue by ESS Board members attending, the Chair or another ESS Board member may ask for a vote to be taken. Any matter put to the vote is decided by a simple majority of ESS Board members present. In the event of a tie, the Chair, or in their absence a nominated deputy, has a second or casting vote. The methodology for voting will be determined by the Chair. Only ESS Board members present at a meeting may vote and proxy voting is not allowed.

4.11 ESS Board members departing early will be treated as non-attending for the purpose of any decision taken after the time of departure.

4.12 Decisions of the Board are binding on all ESS Board members and staff.

4.13 A member may have their dissent to a decision of the Board recorded provided they have attended for the whole of the discussion and decision, and ask to record their dissent immediately after the decision is concluded. The recording of any such dissent shall not affect standing order 4.12.

4.14 As section 2(1) of Schedule 1 of the Continuity Act provides for some variation in the number of members, and as vacancies will from time to time arise, the number of members for a quorum at a meeting of the ESS Board will be  $\left\lceil \frac{n+1}{2} \right\rceil$ , where  $n$  is the number of currently serving Board members (including the Chair, if not vacant), and where  $\lceil \ ]$  indicates that the number should be rounded up to the nearest whole number.

4.15 Apologies for absence should be tendered to the ESS Secretariat and will be noted.

4.16 Should an ESS Board member fail to attend two consecutive meetings of the Board without reasonable excuse, or miss three meetings of the Board in a 12-month period, the Chair may discuss with the ESS Board member the circumstances surrounding their absence and whether the ESS Board member will be likely to have sufficient time available to carry out their Board role in future. If there is doubt about the Board member's future ability to meet the expectations of the role, the Chair may raise with the Scottish Ministers the potential removal of that member. Section 5(2)(a) of

Schedule 1 of the Continuity Act gives Scottish Ministers power to remove a member who has been absent, without permission or reasonable excuse, from Board meetings of ESS for a period of longer than three consecutive months.

4.17 The Chair, or in their absence a nominated deputy, may agree to hold a Board meeting by way of either tele- or video-conferencing, or permit one or more ESS Board members to join a meeting in this way when the Board is meeting in person. Where an ESS Board member attends a meeting in this way, they will be regarded as being present for the purposes of constituting a quorum and will be entitled to vote.

4.18 The Board (or its Committees) may invite individuals, bodies or organisations to attend its meetings or parts of its meetings, provide information and/or make representations to it about particular issues. The ESS Board (or its Committees) may also invite individuals, bodies or organisations to provide written submissions for consideration in advance of meetings of the Board (or its Committees).

4.19 All members of the ESS Executive Team will normally attend Board meetings. Any other ESS staff and/or substitutes may attend at the discretion of the Chief Executive.

4.20 The Chief Executive will ensure that the work of all Board and Committees is supported and serviced by appropriate staff.

## 5. Agenda

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5.1 Advised by the Chief Executive (or any officer acting on behalf of the Chief Executive) and the Secretariat to the Board, the agenda for a meeting shall be agreed by the Chair of the Board, or Committee, at least 10 working days in advance of the meeting. It will be circulated to ESS Board members by post and/or e-mail at least six working days prior to the meeting.

5.2 The following will be standing items on the agenda of Ordinary meetings of ESS:

- a) declarations of interest
- b) apologies for absence
- c) minutes of last meeting and issues arising

- d) ESS Board Decision/Milestone Tracker
- e) verbal report by the Chair [as required]
- f) verbal or written report by the Chief Executive
- g) corporate/Business Plan reports, reports on matters under investigation and highlight reports of any major change projects or programmes

5.3 The following will be items on the agenda of ordinary meetings of the ESS at least twice a year, or whenever there are significant developments which need to be brought to the attention of the Board:

- a) finance report
- b) corporate risk register
- c) staffing update

5.4 Following meetings of Board Committees, the Board will consider oral and/or written updates from the Committee on the areas of the Committee's delegated responsibility at the next Ordinary Board meeting. The Committee will refer any recommendations arising from its meetings to the Board for approval. Minutes of meetings of Committees will also be circulated to the Board for information, and the Board will receive an annual written report from each Committee.

5.5 Any ESS Board member may propose an item for the Agenda of an ordinary Board meeting by contacting the ESS Secretariat, copying the proposal to the Chair, not less than 14 calendar days before the date of the meeting. The Chair of the meeting will consider the request, taking advice from the Chief Executive (or any officer acting on behalf of the Chief Executive) and the secretariat to the Board. If the Chair decides not to include the item on the Agenda, the member will be advised and the Board, or Committee, informed during the Chair's opening remarks.

5.6 Exceptionally and only with the agreement of the Board, changes may be made to the Agenda to deal with urgent business. Where an agenda changes, a revised agenda should be circulated to members or, if not practicable, tabled at the beginning of the meeting.

## Special Meetings of the Board and Board decisions outwith meetings

5.7 The Chair, an ESS Board member or ESS Board members, or the Chief Executive may at any time propose a special meeting of the Board to deal with urgent business. The Chair or Chief Executive will call a special meeting of the Board on receipt of a formal request which specifies the business to be transacted at the meeting and which has the support of no fewer than three members of the Board. Formal requests under this standing order will be sent to the ESS Secretariat.

5.8 Where a formal request is received in accordance with standing order 5.7, the meeting shall be held within 14 calendar days of receipt of the request and no business shall be transacted at that meeting other than that specified in the request.

5.9 Special meetings may be held by tele- or video-conference, or individual ESS Board members may with the permission of the Chair or their nominated deputy use tele- or video-conferencing to attend an in-person Special meeting of the Board, in line with arrangements for Ordinary meetings (standing order 4.17).

5.10 Decisions of the Board and transaction of business at Special meetings will be subject to the same quorum requirements (standing order 4.14) as Ordinary meetings.

5.11 When there is urgent business that does not require a Special meeting of the Board, or when holding a Special meeting is not practical, the Chair or their nominated deputy may agree to transact Board business by secure electronic communication (e.g. secure email). Decisions made by the Board in this way will only be valid if explicitly supported in the electronic correspondence by a majority of ESS Board members.

5.12 On every occasion on which any of standing orders 5.7 to 5.11 is invoked, the circumstances will be reported to all ESS Board Members and the ESS Secretariat at the earliest opportunity. All such actions will be reported at the next Ordinary meeting of the Board.

5.13 The Board or its Committees may organise, as appropriate, discussions on longer-term issues or in-depth explorations of particular topics. Such meetings will be discursive rather than decision-taking. Decisions on whether it is appropriate to take minutes of such discussions will be made on a case-by-case basis. Decisions will also be taken on a case-by-case basis on whether to publish any minutes or output of the

discussion. Output from any such discussions will be referred to the Board or to the appropriate Committee for consideration or decision.

## **6. Minutes**

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6.1 Minutes will be kept of each ESS Board and Committee meeting, recording the members present, staff in attendance, apologies tendered and accepted for non-attendance, issues considered, decisions reached and actions agreed.

6.2 Within 15 working days of a meeting, draft minutes will be approved by the Chair and published on the ESS website as draft copy. These draft minutes will then be included on the agenda at the next Ordinary meeting for final approval.

6.3 Where those present at a meeting of ESS or any of its Committees determine that any part of the business conducted is confidential, that part of the proceedings will be minuted separately and will not be published under standing order 6.4.

6.4 Minutes will be published on the ESS website in final form within seven calendar days of the meeting at which they were approved. Minutes will be made available on the ESS website for two years following the date of the meeting after which time they will be removed and placed in an electronic archive by the ESS Secretariat.

6.5 Decisions on issues of immediate importance to operational staff may be disseminated to them, in advance of the minutes of the meeting recording the decision being approved or published, but only with approval of the person chairing the meeting.

## **7. Committees**

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7.1 Committees are established under section 7 of Schedule 1 to the Continuity Act and will operate strictly in accordance with the terms of their remit.

7.2 When establishing Committees, ESS will:

- a) determine the chair, membership and period(s) of appointment
- b) in consultation with the Committee, establish the terms of reference and the frequency of meetings

- c) determine procedures, including the Committee's quorum and which of these standing orders will apply to the conduct of the Committee

7.3 Committees may comprise ESS Board members and individuals who are not ESS Board members. The membership of each Committee must include at least two ESS Board members. The quorum for the Committee must require at least one ESS Board member to be present for any Committee business to be transacted.

7.4 Members of a Committee who are not ESS Board members are not entitled to vote at meetings of the Committee.

7.5 Members of a Committee who are not ESS Board members are nevertheless bound by the provisions of the Environmental Standards Scotland Code of Conduct.

7.6 The Board may delegate to its Committees such of its functions as it considers appropriate. The Board, however, remains responsible for the performance of its functions.

7.7 The following will be standing committees of ESS:

- a) Audit and Risk Committee

7.8 All members of the Audit and Risk Committee will be appointed for an initial term of four years, and may be reappointed for a further term of four years (subject to their continued membership of the Board if they are ESS Board members), with membership reviewed and reconfirmed annually by the Board.

7.9 ESS will review its Committee structure at least once every three years.

7.10 The minutes of Committees will be reviewed at each subsequent Board meeting. Minutes will be published on the ESS website in final form within seven calendar days of the Committee meeting at which they were approved.

7.11 Recommendations arising from meetings of the Board's Committees will be reviewed and approved at each subsequent Board meeting.

## **8. Decisions Reserved for ESS and Scheme of Delegation**

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8.1 The following matters are reserved for the ESS Board:

- a) approval of a strategy that sets out how ESS intends to exercise its functions under section 22 and Schedule 2 of the Continuity Act
- b) the decision to issue an improvement report under section 29 of the Continuity Act, and the content of any improvement report
- c) the decision to issue a compliance notice under section 31 of the Continuity Act, and the content of any compliance notice
- d) the decision to apply for or participate in judicial review under section 38 of the Continuity Act
- e) the decision to establish any Committee acting on behalf of ESS, and the remit and reporting arrangements for such a Committee
- f) corporate financial and audit reporting arrangements
- g) corporate performance management reporting arrangements
- h) approval of annual accounts
- i) standing orders, including a scheme of delegation

8.2 The Board has agreed a scheme of delegation setting out responsibility for other matters. The scheme of delegation will be reviewed by the Board at least once per year.

## **9. Correspondence**

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9.1 It is essential that ESS as a body corporate has an overview of all correspondence, including any correspondence with individual members. The ESS Secretariat will receive and log all official correspondence to and from ESS body corporate. Any such correspondence received or sent by an individual member in relation to ESS will be copied to the ESS Secretariat for this purpose. The Chief Executive will, as part of their delegated responsibilities, ensure that any important or contentious issues arising from correspondence are highlighted to the Board as appropriate.

## **10. Urgent actions**

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10.1 The Chief Executive will usually deal with all matters that are not reserved exclusively to the Board under standing order 8.1, including any urgent matters, and will keep the Board informed as required.

10.2 Where urgent action is required on any matter that is reserved exclusively to the ESS Board under standing order 8.1, the Chair has the authority to deal with the issue. The Chair will in such circumstances inform the Board of the action taken at the earliest opportunity, and certainly no later than at the next meeting of the Board.

## **11. Public statements**

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11.1 Public statements concerning ESS will normally be made by the Chair, the Chief Executive, or by another member of ESS Board or staff authorised by the Chair or the Chief Executive.

## **12. Signing of Documents**

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12.1 Where any documents are required to be executed on behalf of ESS, they shall be signed:

- a) by the Chair (or their nominated deputy), plus one other ESS Board member, or
- b) by any person operating within their remit under the scheme of delegation

## **13. Confidentiality**

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13.1 All ESS Board members, the ESS Secretariat and any other person present at a meeting of the ESS Board have a duty:

- a) not to discuss items of business agreed under standing order 6.3 to be confidential with any person who was not present at that meeting unless authorised to do so by the Chair of ESS or the Chief Executive

- b) not to comment on any matter in any way that undermines the principle of collective responsibility for decisions reached at such meetings

13.2 The duty set out in standing order 14.1 is in addition to the statutory obligation on confidentiality of proceedings under section 40 of the Continuity Act.

13.3 This standing order is without prejudice to the terms of the Public Interest Disclosure Act 1998.

## **14. Security of documents**

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14.1 ESS Board members will be held personally responsible for the safe custody of any papers or documents which have been received by or entrusted to them in the course of their duties. The loss of any such documents must be reported immediately to the Chief Executive, the Senior Information Risk Owner (SIRO) and, in the absence of either the Chief Executive or the SIRO, the ESS Secretariat.

## **15. Members' remuneration and expenses**

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15.1 ESS will remunerate ESS Board members, and any other persons appointed to any Committee established by the Board, in accordance with the scales set out in the Code of Conduct, provided that the person is not already in receipt of a publicly-funded salary or payment for the time they expend on ESS business.

15.2 ESS will reimburse expenses incurred by ESS Board members, and any other persons appointed to any Committee established by the Board, in accordance with the scales set out in the Code of Conduct.

15.3 The scales for remuneration and reimbursement of expenses will be reviewed annually by ESS, and any proposed changes will be agreed with Scottish Ministers as required by section 4 of Schedule 1 of the Continuity Act.

## **16. Interpretation**

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16.1 In these standing orders and accompanying documents:

“a non-ministerial office holder within the Scottish Administration” means a body named as such in section 126 (8)(a) of the Scotland Act 1998 as amended by an Order of Council made by Her Majesty under subsection (b) of that section

“ESS Secretariat” means any officer or officers appointed by the CEO of ESS to act in this capacity

“financial year” means the period beginning with the establishment of ESS and ending on 31 March next occurring and each subsequent period of a year ending on 31 March

“ESS website” means [www.environmentalstandards.scot](http://www.environmentalstandards.scot).

## CONTACT

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