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SCOTTISH STATUTORY INSTRUMENTS

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**2007 No. 204**

**CHARITIES**

**The Charities Reorganisation (Scotland) Regulations 2007**

<i>Made</i>	- - - - -	<i>6th March 2007</i>
<i>Laid before the Scottish Parliament</i>	- - - - -	<i>8th March 2007</i>
<i>Coming into force</i>	- -	<i>31st May 2007</i>

The Scottish Ministers, in exercise of the powers conferred by section 39(2) and (3) of the Charities and Trustee Investment (Scotland) Act 2005(1) and of all other powers enabling them in that behalf, hereby make the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Charities Reorganisation (Scotland) Regulations 2007 and shall come into force on 31st May 2007.

(2) In these Regulations—

“the 2005 Act” means the Charities and Trustee Investment (Scotland) Act 2005;

“latest date for receipt of notices of objection by OSCR” has the meaning given in regulation 3(3);

“OSCR” has the meaning given in section 1 of the 2005 Act; and

“publication period” means the period, fixed by OSCR, which shall be not less than 28 days and not more than 42 days, during which OSCR publishes the notice referred to in regulation 3 on its website in accordance with regulation 3(2).

**Application to reorganise**

2.—(1) An application by a charity for approval to reorganise under section 39 of the 2005 Act must be in writing and include—

(a) a copy of the existing constitution of the charity where one exists;

(b) a copy of the most recent statement of account of the charity or, where it is not possible to provide such a statement, confirmation of gross annual income and a statement of assets and liabilities;

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(1) 2005 asp 10.

- (c) a statement setting out the reasons why it is considered that one or more of the reorganisation conditions in section 42(2) of the 2005 Act have been met;
  - (d) a statement setting out the reasons why the charity considers that the proposed reorganisation scheme will—
    - (i) where it considers that a condition set out in section 42(2)(a) or (b) of the 2005 Act is met, enable the resources of the charity to be applied to better effect for charitable purposes consistently with the spirit of its constitution, having regard to changes in social and economic conditions since the charity was constituted;
    - (ii) where it considers that the condition set out in section 42(2)(c) of the 2005 Act is met, enable the charity to be administered more effectively;
  - (e) details of the proposed reorganisation scheme, including the destination of any assets or liabilities of the charity; and
  - (f) a draft of the proposed new or amended constitution of the charity.
- (2) A charity with a gross annual income of £250,000 or more shall include with the application a draft notice of the proposed reorganisation scheme, which must include—
- (a) the name and address of the charity as entered in the Scottish Charity Register;
  - (b) the registered number allocated to the charity by OSCR as part of the registration process;
  - (c) a statement advising that the charity has applied to OSCR for approval of a proposed reorganisation scheme;
  - (d) a statement advising that the details of the proposed reorganisation scheme can be viewed on OSCR’s website and obtained from OSCR;
  - (e) the internet address of OSCR’s website;
  - (f) the address of OSCR’s registered office;
  - (g) a statement advising that any notices of objection to the proposed reorganisation scheme should be sent to OSCR; and
  - (h) a statement referring objectors to the proposed reorganisation scheme to these Regulations.

**Publication of notice on OSCR’s website**

- 3.—(1) Following receipt of a charity’s application to reorganise OSCR shall—
- (a) write to the charity acknowledging receipt of the application to reorganise within 14 days of the date of receipt of the application; and
  - (b) prepare a notice summarising the details of and reasons for the proposed reorganisation scheme.
- (2) OSCR shall publish the notice referred to in paragraph (1)(b) on its website for a publication period of not less than 28 days and not more than 42 days—
- (a) advising that any notices of objection to the proposed reorganisation scheme should be sent to OSCR’s registered office no later than the latest date for receipt of objections, which must be specified in the notice; and
  - (b) referring objectors to the proposed reorganisation scheme to these Regulations.
- (3) The latest date for receipt of notices of objection by OSCR shall be not less than 14 days after the end of the publication period.
- (4) Not less than 7 days prior to publication of the notice referred to in paragraph (1)(b), OSCR shall advise the charity of the publication period and the latest date for receipt of notices of objection by OSCR.

### **Newspaper notice**

4.—(1) A charity with a gross annual income of £250,000 or more shall, within the first 14 days of the publication period, arrange for the notice prepared in accordance with regulation 2(2), to be published once in a newspaper circulating throughout Scotland.

(2) Where the purposes of the charity relate only to a particular locality, the requirement to publish referred to in paragraph (1) is met if the charity arranges for the notice to be published once in a newspaper circulating in that locality within the timescale referred to in paragraph (1).

(3) The notice published shall include the latest date for receipt of notices of objection by OSCR.

### **Notice of objection to proposed reorganisation scheme**

5.—(1) Where, following the publication of the notice of the proposed reorganisation scheme of a charity on OSCR's website in accordance with regulation 3(2) or in a newspaper in accordance with regulation 4, any person wishes to object to the proposed reorganisation scheme, that person shall send a notice of objection to OSCR to arrive not later than the latest date for receipt of objections by OSCR as specified in the notice.

(2) The notice of objection shall state—

- (a) the name and address of the person objecting;
- (b) the nature of their interest in the charity, if any; and
- (c) the nature of the objection and the reasons for it.

### **OSCR's decision**

6.—(1) OSCR must make a decision whether to approve the proposed reorganisation scheme of a charity within 6 months of the latest date for receipt of objections by OSCR.

(2) Before reaching its decision, OSCR must consider all notices of objection received under regulation 5.

(3) OSCR shall send a copy of its decision to the charity, and to any person that has sent it a notice of objection to the proposed reorganisation scheme, within 7 days of the date of the decision being made.

St Andrew's House,  
Edinburgh  
6th March 2007

*RHONA BRANKIN*  
A member of the Scottish Executive

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations provide for the application procedure that charities must follow in applying to the Scottish Charity Regulator (“OSCR”) for approval to reorganise.

Regulation 2 sets out the information that charities must include with their application. Charities with an income of £250,000 and over in a year must prepare a draft notice of their proposed reorganisation scheme to accompany their application, which informs the public that objections to the reorganisation scheme should be sent to OSCR. Regulation 4 provides that this notice should be published in a newspaper circulating throughout Scotland, unless the purposes of the charity relate to a particular locality, in which case it may either be published in a newspaper circulating throughout Scotland or in a local newspaper.

Regulation 3 provides that OSCR must write to the charity acknowledging receipt of the application to reorganise within 14 days of receipt. It also requires OSCR to prepare and publish a notice summarising the proposed reorganisation scheme of a charity for inclusion on its website, again advising that objections should be sent to OSCR and specifying the latest date for receipt of objections by OSCR.

Regulation 5 sets out how an objection to a charity’s proposed reorganisation scheme can be made and the information that objectors to the scheme must provide to OSCR.

Regulation 6 provides that OSCR must make a decision whether to approve the proposed reorganisation scheme of a charity within 6 months of the latest date for receipt of objections by OSCR and OSCR must consider all objections received before making its decision. Regulation 6 also requires OSCR to send a copy of its decision to the charity and to any person that has sent it a notice of objection, within 7 days.