

Draft Regulations laid before the Scottish Parliament under section 103(5) of the Charities and Trustee Investment (Scotland) Act 2005, for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2011 No.

CHARITIES

**The Scottish Charitable Incorporated Organisations
(Removal from Register and Dissolution) Regulations 2011**

Made - - - - *2011*
Coming into force - - *1st April 2011*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 64(d) and 103(2) of the Charities and Trustee Investment (Scotland) Act 2005⁽¹⁾ and all other powers enabling them to do so.

In accordance with section 103(5)(c) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Scottish Charitable Incorporated Organisations (Removal from Register and Dissolution) Regulations 2011 and come into force on 1st April 2011.

(2) In these Regulations “the 2005 Act” means the Charities and Trustee Investment (Scotland) Act 2005.

(3) In these Regulations, words used have the same meaning as in the 2005 Act, unless the context indicates otherwise.

Application of 2005 Act

2.—(1) Section 16(1) of the 2005 Act does not apply in relation to any action taken by a SCIO of the type described in paragraphs (b) and (c) of section 16(2) of that Act.

(2) A SCIO may apply to be removed from the Register only in accordance with regulations 3 or 4 (and section 18 of the 2005 Act accordingly does not apply in relation to a SCIO).

(1) 2005 asp 10.

Dissolution of a solvent SCIO

3.—(1) A SCIO may make an application to OSCR for the SCIO to be removed from the Register and dissolved.

(2) An application must be accompanied by a copy, certified by either at least two thirds of the charity trustees of the SCIO or by one trustee only if authorised to sign on behalf of the other trustees, of a resolution of the members of the SCIO that it, subject to the consent of OSCR—

- (a) wind up its affairs;
- (b) transfer any surplus assets after settlement of all outstanding debts and liabilities to another named body (or bodies) which has purposes which are the same as or which resemble closely the purposes of the SCIO set out in its constitution; and
- (c) be removed from the Register and dissolved.

(3) A resolution must be passed by at least two-thirds of its members voting at a general meeting or otherwise than at a general meeting of the SCIO (including those voting by proxy or by post, if voting that way is permitted) and must have been passed not more than 21 days before the making of the application.

(4) The application must also be accompanied by—

- (a) a copy of the constitution of the SCIO including any amendment;
- (b) a copy of the register of the charity trustees of the SCIO;
- (c) a declaration of solvency of the SCIO signed by at least two thirds of the charity trustees of the SCIO or by one trustee only if authorised to sign on behalf of the other trustees in the form of the form set out in Schedule 1;
- (d) notice of application for dissolution of the solvent SCIO in the form of the form set out in Schedule 2; and
- (e) a statement outlining the proposed dissolution of the SCIO, which must include details of all the assets and liabilities of the SCIO at the time the application is made, including liabilities to return funds to a funding body or any other body under contractual or other terms, and proposals for how the outstanding stated liabilities will be met and specifying the named body (or bodies) to which surplus assets will be transferred.

(5) Immediately after the making of the application, the SCIO shall write to all creditors of the SCIO known to it, notifying them of the application.

(6) Within 14 days of receipt of the application, OSCR shall publish on its website the notice of proposed dissolution referred to in paragraph (4)(d).

(7) If on receipt of the application, OSCR requires more information to enable it to proceed with the application, OSCR may require further information from the SCIO; in which case the date of receipt of the application for the purposes of paragraph (6) shall be the date of receipt of the further information required.

(8) The notice of proposed dissolution shall remain on OSCR's website for 28 days, during which time any person may make representations to OSCR about the proposed dissolution.

(9) Within 21 days of the expiry of the 28 days referred to in paragraph (8) OSCR must—

- (a) consent to the application;
- (b) consent to the application subject to any condition; or
- (c) refuse the application.

(10) Chapter 10 of Part 1 of the 2005 Act applies to a decision to refuse an application under paragraph (9)(c) as it applies to a decision listed in section 71 of that Act.

(11) If OSCR consents to the application, then subject to any condition mentioned in paragraph (9) being accepted in writing and met by the SCIO and the surplus assets of the SCIO being transferred to the named body (or bodies) in accordance with the resolution referred to in paragraph (2)—

- (a) OSCR must remove from the Register the entry for the SCIO as soon as OSCR receives from the SCIO notification in writing that any condition mentioned in paragraph (9) has been met and the surplus assets of the SCIO have been transferred to the named body (or bodies) in accordance with the resolution referred to in paragraph (2); and
- (b) the SCIO is dissolved.

Application for dissolution of an insolvent SCIO

4. A SCIO may make an application to OSCR for the SCIO to be removed from the Register and dissolved on the grounds that the SCIO is insolvent, having outstanding debts of at least £1500.

Accompanying documents

5.—(1) The application referred to in regulation 4 must be accompanied by a copy, certified by either at least two thirds of the charity trustees of the SCIO or by one trustee only if authorised to sign on behalf of the other trustees, of a resolution of the members of the SCIO that, subject to OSCR being satisfied that the application meets the requirements of these Regulations—

- (a) the SCIO's estate be sequestrated;
- (b) in the event of the SCIO having any surplus assets after settlement of all outstanding debts and liabilities, the surplus assets be transferred to another named body (or bodies) which has purposes which are the same as or which resemble closely the purposes of the SCIO set out in its constitution; and
- (c) the SCIO be removed from the Register and dissolved.

(2) A resolution referred to in paragraph (1) must be passed by at least two-thirds of its members voting at a general meeting or otherwise than at a general meeting of the SCIO (including those voting by proxy or by post, if voting that way is permitted) and must have been passed not more than 21 days before the making of the application.

(3) The application referred to in regulation 4 must also be accompanied by the following documents:—

- (a) a copy of the constitution of the SCIO including any amendment;
- (b) a copy of the register of the charity trustees of the SCIO;
- (c) a declaration of insolvency of the SCIO signed by at least two thirds of the charity trustees of the SCIO or by one trustee only if authorised to sign on behalf of the other trustees in the form of the form set out in Schedule 3;
- (d) an application by the SCIO (for onward transmission by OSCR) to the Accountant in Bankruptcy for sequestration of the estate of the SCIO signed by at least two thirds of the charity trustees of the SCIO or by one trustee only if authorised to sign on behalf of the other trustees in the form of the application set out in Schedule 4; and
- (e) a notice of application for dissolution of the SCIO in the form of the form set out in Schedule 5.

Accountant in Bankruptcy and sequestration of estate of SCIO

6.—(1) Within 14 days of receipt of an application under regulation 4, OSCR shall publish on its website the notice of application for dissolution listed in regulation 5(3)(e).

(2) If within 14 days of publication of the notice referred to in paragraph (1), OSCR is satisfied that the SCIO has complied with the requirements of regulation 5, OSCR shall transmit the application and all accompanying documents to the Accountant in Bankruptcy.

(3) The Accountant in Bankruptcy shall, subject to paragraph (4), award sequestration of the estate of the SCIO, if satisfied that the SCIO is insolvent having outstanding debts of at least £1500, and send a copy of the award of sequestration to OSCR, who shall publish the award of sequestration in relation to the SCIO on its website.

(4) The Accountant in Bankruptcy may only award sequestration if they are in receipt of—

- (a) the application;
- (b) the accompanying documents from OSCR; and
- (c) the fee for the determination of a debtor application as laid down in the Bankruptcy Fees (Scotland) Regulations 1993(2).

(5) The fee payable to the Accountant in Bankruptcy by virtue of paragraph (4) must be paid to the Accountant in Bankruptcy not later than 21 days from the receipt by the Accountant in Bankruptcy from OSCR of the application and accompanying documents referred to in paragraph (4); otherwise the Accountant in Bankruptcy must refuse to award sequestration in respect of the application.

(6) In the case of an award of sequestration of the estate of a SCIO—

- (a) the award of sequestration shall be treated as an award of sequestration of the estate of a body corporate by the Accountant in Bankruptcy following a debtor application by the body corporate (but without the need for the concurrence of a qualified creditor or qualified creditors and without the debtor being able to nominate the trustee in terms of section 2(1A)(a) of the Bankruptcy (Scotland) Act 1985(3));
- (b) the provisions of the Bankruptcy (Scotland) Act 1985 in respect of the sequestration of the estate of a body corporate following a debtor application shall apply to the sequestration of the estate of a SCIO as a body corporate; and
- (c) the Accountant in Bankruptcy shall have the same powers and duties in relation to the estate of a SCIO as the Accountant in Bankruptcy has in relation to the sequestration of the estate of a body corporate following a debtor application.

(7) On completion of the sequestration of the estate of a SCIO in terms of this regulation, the Accountant in Bankruptcy shall transfer any surplus assets that emerge to the named body (or bodies) specified in the resolution of the SCIO referred to in regulation 5(1).

(8) Having transferred any assets under paragraph (7), the Accountant in Bankruptcy shall send notification to OSCR that the sequestration of the SCIO is completed and include copies of the final accounts of the Accountant in Bankruptcy's intromissions with the SCIO's estate and a determination of the fees and outlays calculated in accordance with regulations made under section 69A(4) of the Bankruptcy (Scotland) Act 1985.

(9) On receipt of the notification and final accounts referred to in paragraph (8)—

- (a) OSCR must remove from the Register the entry for the SCIO; and
- (b) the SCIO is dissolved.

(10) Subject to regulation 7, the estate of a SCIO may not be sequestrated except in terms of regulations 4 to 6.

(2) S.I. 1993/486, as amended by S.I. 1999/752, S.S.I.s 2007/220, 2008/5 and 79, 2009/97 and 2010/76.

(3) 1985 c.66. Section 2(1A) was inserted by the Bankruptcy and Diligence etc. (Scotland) Act 2007, (asp 3), section 14(2).

(4) Section 69A was inserted by the Bankruptcy (Scotland) Act 1993 (c.6) section 8.

Right of qualified creditor and others to petition for sequestration of SCIO

7.—(1) Subject to paragraphs (2) to (6), a qualified creditor or qualified creditors, a temporary administrator or a member State liquidator appointed in main proceedings may petition for the sequestration of the estate of a SCIO as a body corporate under section 6(6)(b) of the Bankruptcy (Scotland) Act 1985.

(2) At least 7 days but not more than 14 days before a petition is lodged under paragraph (1), the prospective petitioner must notify OSCR and the SCIO that a petition is to be lodged and proof of the notification must be lodged with any subsequent petition, without which proof of notification the sheriff shall not award sequestration in respect of the petition.

(3) If following the lodging of a petition, sequestration is awarded by the court, the trustee must immediately notify OSCR of the award of sequestration, and OSCR shall publish on its website a notice of the sequestration of the SCIO and intimate that following the completion of the sequestration the SCIO shall be removed from the Register by OSCR and dissolved.

(4) On completion of the sequestration, and having transferred any surplus assets to another body (or bodies) which has purposes which are the same as or which resemble closely the purposes of the SCIO set out in its constitution, the trustee shall send notification to OSCR that the sequestration of the SCIO is completed and include copies of the final accounts of his intromissions with the SCIO's estate and a determination of his fees and outlays calculated in accordance with regulations made under section 69A of the Bankruptcy (Scotland) Act 1985.

(5) On receipt of the notification and final accounts referred to in paragraph (4)—

- (a) OSCR must remove from the Register the entry for the SCIO; and
- (b) the SCIO is dissolved.

(6) In this regulation the terms “qualified creditor”, “qualified creditors”, “temporary administrator”, “member State liquidator” and “main proceedings” have the meanings they have in section 73(1) of the Bankruptcy (Scotland) Act 1985.

SCIOs no longer meeting charity test or failing to comply with direction

8.—(1) Where it appears to OSCR, as a result of inquiries under section 28 of the 2005 Act or otherwise, that a SCIO no longer meets the charity test OSCR must direct the SCIO—

- (a) to take, within such period as may be specified in the direction, such steps as OSCR considers necessary for the purposes of meeting the charity test, including applying to OSCR for approval under section 39 of the 2005 Act for a reorganisation scheme in relation to the SCIO's constitution; or
- (b) to make, within such period as may be specified in the direction, an application to OSCR under regulation 3 or regulation 4 of these Regulations to be removed from the Register and dissolved,

(and, subject to paragraph (5), section 30 of the 2005 Act does not accordingly apply to a SCIO).

(2) Where it appears to OSCR that a SCIO has failed to comply with a direction under paragraph (1)(a), OSCR must direct the SCIO, within such period as may be specified in the direction, to make an application to OSCR under regulation 3 or regulation 4 of these Regulations to be removed from the Register and dissolved.

(3) If within the period specified in a direction under paragraphs (1)(b) or (2), a SCIO has failed to comply with the direction, OSCR must make an application for an order under paragraph (4) to the Court of Session under this regulation.

(4) On an application by OSCR under paragraph (3), the Court of Session may—

- (a) inquire into the matter and, after hearing any witness who may be produced against or on behalf of the SCIO, and after hearing any statement as to why the order of OSCR has

not been complied with, deal with the SCIO and its charity trustees in any way the court thinks fit;

- (b) make any other order it thinks appropriate in the circumstances including but not limited to ordering the SCIO to comply with the direction under paragraphs (1)(a) or (b) or (2), making any of the orders listed in section 34(5) of the 2005 Act and exercising any of its other powers under that Act.
- (5) The power of OSCR to direct under paragraphs (1) or (2) shall—
- (a) include a power to vary or revoke the direction; and
 - (b) be subject to reviews and appeals under Chapter 10 of Part 1 of the 2005 Act, as if it were a direction under section 30(1)(a) of the 2005 Act⁽⁵⁾.

St Andrew's House,
Edinburgh

Authorised to sign by the Scottish Ministers

(5) Sections 30, 71 and 73 of the 2005 Act were amended by the Public Services Reform (Scotland) Act 2010 (asp 8), section 121.

SCHEDULE 1

Regulation 3(4)(c)

DECLARATION OF SOLVENCY OF SCIO

Name of SCIO

Principal Office of SCIO

We the charity trustees of the above named SCIO hereby affirm that as of this date the SCIO is solvent, being able to pay its debts as they become due and having a surplus of assets over liabilities.

Name of charity trustee:

Signature of charity trustee:

Name of charity trustee:

Signature of charity trustee:

Name of charity trustee:

Signature of charity trustee:

Name of charity trustee:

Signature of charity trustee:

Name of charity trustee:

Signature of charity trustee:

Name of charity trustee:

Signature of charity trustee:

Name of charity trustee:

Signature of charity trustee:

Date:

***Please note that this form must be signed by at least two thirds of the charity trustees of the SCIO or by one trustee only if authorised to sign on behalf of the other trustees.**

Draft Legislation: This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Scottish Charitable Incorporated Organisations Regulations 2011 No. 44

SCHEDULE 2

Regulation 3(4)(d)

NOTICE OF APPLICATION FOR DISSOLUTION OF SOLVENT SCIO

Name of SCIO

Principal Office of SCIO

Notice is hereby given by the above noted SCIO that it has applied to OSCR for consent to wind up its affairs, transfer any surplus assets after settlement of all outstanding debts and liabilities to another named body (or bodies) which has purposes which are the same as or which resemble closely the purposes of the SCIO as set out in its constitution, and be removed from the Register and dissolved.

SCHEDULE 3

Regulation 5(3)(c)

DECLARATION OF INSOLVENCY OF SCIO

(Form to be sent to OSCR)

Name of SCIO

Principal Office of SCIO

We the charity trustees of the above named SCIO hereby affirm that as of this date the SCIO is insolvent, having outstanding debts of at least £1500.

Name of charity trustee:

Signature of charity trustee:

Name of charity trustee:

Signature of charity trustee:

Name of charity trustee:

Signature of charity trustee:

Name of charity trustee:

Signature of charity trustee:

Name of charity trustee:

Signature of charity trustee:

Name of charity trustee:

Signature of charity trustee:

Name of charity trustee:

Signature of charity trustee:

Date:

***Please note that this form must be signed by at least two thirds of the charity trustees of the SCIO or by one trustee only if authorised to sign on behalf of the other trustees.**

Please now send the completed form and other accompanying documents to OSCR

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SCHEDULE 4

Regulation 5(3)(d)

Form

Application of SCIO to Accountant in Bankruptcy
for Sequestration of Estate of SCIO
in terms of Regulation 4 of
the Scottish Charitable Incorporated Organisations
(Removal from Register and Dissolution) Regulations 2011

(Form to be sent to OSCR)

Please complete this form clearly in **BLACK INK** using **CAPITAL LETTERS**.

<u>WARNING</u>	
You may be committing a criminal offence if you deliberately do not disclose all relevant information or if you deliberately make a false statement when completing the form.	
1. Name of SCIO	
2. Principal Office of SCIO	
Town	
County	
Postcode	
3. Contact telephone number for SCIO (including STD code)	
SCIO's e-mail address	
4. Contact Person's Title: (Mr/ Mrs/ etc)	
Surname	
First and middle names	

5.	Home address: (house name, street etc)	
	Town	
	County	
	Postcode	
6.	Telephone (including STD code)	
	Mobile	
	e-mail address	
7.	Your relationship to the SCIO, e.g. Secretary, Chief Executive, Chair-person of Charity Trustees.	
8.	Previous addresses in last 3 years: (building name, street etc)	
	Town	
	County	
	Postcode	
9.	Other address where the SCIO has obtained credit. (building name, street etc)	
	Town	
	County	
	Postcode	
10.	Names and Addresses of Charity Trustees of SCIO	
	Name of Charity Trustee	
	Address of Charity Trustee	

Draft Legislation: This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Scottish Charitable Incorporated Organisations Regulations 2011 No. 44

Name of Charity Trustee	
Address of Charity Trustee	
Name of Charity Trustee	
Address of Charity Trustee	
Name of Charity Trustee	
Address of Charity Trustee	
Name of Charity Trustee	
Address of Charity Trustee	
Name of Charity Trustee	
Address of Charity Trustee	
Name of Charity Trustee	
Address of Charity Trustee	

Yes No

11. Has the SCIO ever had a business address or traded anywhere outside of Scotland? If "yes" please provide details.

Yes No

12. Has the SCIO been subject to any insolvency proceedings in any country outside of Scotland? If "yes" please provide details.

13. Please list outstanding debts of the SCIO which must total at least £1500.

Debtor Name Amount due Date debt was due

Debtor Address

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Debtor Name Amount due Date debt was due

Debtor Address

Debtor Name Amount due Date debt was due

Debtor Address

Debtor Name Amount due Date debt was due

Debtor Address

Debtor Name Amount due Date debt was due

Debtor Address

Debtor Name Amount due Date debt was due

Debtor Address

..... Total debts *

***Please note outstanding debts must be due and payable**

Signature of Charity Trustees of SCIO*

We, the charity trustees of the SCIO, certify that the information supplied on this application including annexed Form 25 of Statement of Assets and Liabilities of the entity SCIO, as prescribed for a body corporate in terms of Regulation 14(1)(c) of the Bankruptcy (Scotland) Regulations 1985, is true, complete and accurate to the best of our knowledge and belief.

Name of charity trustee:

Signature of charity trustee:

Name of charity trustee:

Signature of charity trustee:

Name of charity trustee:

Signature of charity trustee:

Name of charity trustee:

Signature of charity trustee:

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Name of charity trustee:

Signature of charity trustee:

Date:

***Please note that this form must be signed by at least two thirds of the charity trustees of the SCIO or by one trustee only if authorised to sign on behalf of the other trustees.**

Please now send the completed form and Annexe to OSCR

Annexe

Form 25

**STATEMENT OF ASSETS AND LIABILITIES
(Trusts, Partnerships etc.)**

Bankruptcy (Scotland) Act 1985: Section 5(6A)

WARNING

You may be committing a criminal offence if you deliberately do not disclose all relevant information or if you deliberately make a false statement when completing the forms in this pack.

Insert Name of Entity	
Insert Address of Entity	
Town	
County	
Postcode	
Insert Contact Name	
Insert Contact Address	
Town	
County	
Postcode	

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The information on this page will help you complete the questions on following page.

It may be useful to read it question by question as you go along.

Q1. Tick 'yes' if the entity is receiving any income.

If you answered 'yes', complete the table giving details of any income the entity receives, grants, lottery money, money from trusts etc.

Enter the address from where this income comes, the frequency of the payments such as weekly, monthly, fortnightly etc, and the amount the entity receives.

Q2. Tick 'yes' if you are a licensee (licence holder) under the licensing legislation, the Licensing (Scotland) Act 2005. This includes a Premises or Personal licence. Also tick 'yes' if you are involved in the licensed trade for example, if you own a pub but there is a tenant and the tenant has a licence.

Q3. Tick 'yes' if the entity owns a motor vehicle. 'Motor vehicle' includes: car; van; motorbike; moped and truck.

If you tick 'yes', state whether the motor vehicle is provided under a Hire Purchase agreement, lease, credit or other finance agreement.

Provide details of all motor vehicles the entity owns.

You must enclose a copy of the Hire Purchase, finance or credit agreement with your form.

Q3a. Provide details of what the motor vehicle is used for.

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The information on previous page will help you complete this page.

1. Is the entity currently receiving any income? Yes No

If 'yes' enter details of any income received:

Type of other income	Name & address of income source	Frequency	Gross amount £

2. Do you currently hold a premises or personal licence under the Licensing (Scotland) Act 2005 or are you involved in the licensed trade?
Yes No

3. Does the entity own a motor vehicle? Yes No

If 'yes', is the motor vehicle provided under Hire Purchase (HP) or other finance or credit agreement?

Yes No

Provide details of every motor vehicle owned:

Make and model of vehicle	Actual Mileage	Registration number	Estimated value £	HP or Finance Company details

You **must** enclose a copy of any agreement with this form.

3a. If the entity owns a motor vehicle, provide details of what it is use for.

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It may be useful to read it question by question as you go along.

Q4a. Tick 'yes' if any of the entity's possessions, such as electrical goods, mobile phones, fruit machines, furniture etc., are subject to hire purchase or credit agreement.

You must enclose a copy of the hire purchase or credit agreement.

Q4b. Does the entity have any possessions, which are not subject to a hire purchase or credit agreement, such as satellite equipment, caravans, boats, video recording equipment, tools, fixtures and fittings, electrical goods, paintings, sports equipment, etc.?

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The information on previous page will help you complete this page.

4a. Are any of the entity's possessions, other than any motor vehicle detailed above, subject to a hire purchase or credit agreement?

Yes No

If 'yes' enter details of these possessions and the agreements below:

Hire Purchase or Finance company details	Possession Description	Date purchased	Term of agreement	Estimated value £

You must enclose a copy of the hire purchase or credit agreement.

4b. Does the entity have any possessions, which are not subject to a hire purchase or credit agreement?

Yes No

If 'yes' enter details of items below:

Possession Description	Date purchased	Estimated value £

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Q5. Tick 'yes' if the entity has any bank or building society account(s), either in Scotland or any other country. This includes current accounts and savings accounts.

If you answered 'yes', complete the table giving details of all the entity's bank and/or building society accounts, including any accounts held in trust.

Enter the name of the bank and/or building society branch, the name of the account(s), the account number(s), sort code, and the balance of the account.

Continue on a separate sheet if necessary

Q6. Tick 'yes' if the entity has any post office, credit union or other type of accounts.

If you answered 'yes', complete the table giving details of all post office, credit union or other accounts which are in the entity's name, including accounts held in trust.

Enter the name and address of the post office, credit union or other establishment where the account was opened, the name of the account(s), the account number(s), sort code, and the balance of the account.

Continue on a separate sheet if necessary.

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The information on previous page will help you complete this page.

5. Does the entity have any bank or building society account(s)?

Yes No

If 'yes' enter details of all bank and building society accounts.

Name and address of bank/building society	Name(s) of account (s)	Account number	Sort code	Balance £

Continue on a separate sheet if necessary

6. Does the entity have any post office, credit union or other type of account(s)?

Yes No

If 'yes' enter details of all post office, credit union or other accounts.

Name and address of post office/credit union etc	Name(s) of account(s)	Account number	Sort code	Balance £

Continue on a separate sheet if necessary

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Q7. Tick 'yes' if the entity has any assurance policies, endowment policies or savings plans, for example an ISA.

If you answered 'yes', complete the table giving details of the assurance policies, endowment policies and savings plans. Also provide details of the sum assured and an estimate of the surrender value.

Q8. Tick 'yes' if the entity has any investments, such as stocks, shares, bonds, saving certificates or Premium Bonds.

If you answered 'yes', complete the table giving details of the investments. Also provide an estimate of their surrender value.

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The information on previous page will help you complete this page.

7. Does the entity have any assurance policies or endowment policies or savings plans?
Yes No

If 'yes' enter details of all the policies and savings plans:

Type of policy/plan	Name & address of company	Reference number	Sum Assured £	Estimated surrender value £

8. Does the entity have any investments, such as stocks, shares, bonds, saving certificates or Premium Bonds?
Yes No

If 'yes' enter details of all the investments:

Type of investment	Name & address of company	Reference number	Estimated surrender value £

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The information on this page will help you complete the questions on following page.

It may be useful to read it question by question as you go along.

Q9a. Tick 'yes' if the entity rents the property it does business from.

If 'yes' complete the table with the details of the property the entity rents, including the name and address of the property owner or landlord, name on the tenancy agreement and date of tenancy agreement.

Q9b. Tick 'yes' if the entity owns the property it does business from.

Q9c. Tick 'yes' if the entity owns property jointly with another person/entity.
If 'yes' provide the names and, if different, address(es) of the joint owner(s).

Q9d. Provide details of any mortgage or secured loan.

This will include the name and address of the mortgage or secured lender, the mortgage or loan reference number, the date the loan was obtained the amount borrowed and an estimate of what is currently outstanding to the secured lender.

Q9e. Tick 'yes' if the mortgage and/or secured loan is in joint names.

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The information on previous page will help you complete this page.

9a. Does the entity rent the property where it does business from?

Yes No

If 'yes' complete details:

Name & address of property owner or landlord	Name on rental/tenancy agreement	Date of rental/ tenancy agreement

Enclose a copy of your rental or tenancy agreement or letter from your landlord.

9b. Does the entity own the property where it does business from?

Yes No

9c. If the entity owns property, is the property in joint names?

Yes No

If 'yes' provide the names, and if different, the address(es) of the joint owner(s).

9d. Provide details of any mortgage or secured loan.

Name and address of Mortgage Company/Lender	Mortgage account no./Lender reference no.	Date loan was obtained	Amount borrowed £	Estimated amount still owed £

9e. Is the mortgage and/or secured loan in joint names? Yes No

Draft Legislation: This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Scottish Charitable Incorporated Organisations Regulations 2011 No. 44

The information on this page will help you complete the questions on the following pages.

It may be useful to read it question by question as you go along.

Q10a. Tick 'yes' if the entity owns any other properties. This includes any property within Scotland or elsewhere.

If 'yes' provide details and the address(es) of properties the entity owns, either wholly or jointly. Also detail the property type which includes land, timeshares, or any other property, including business or agricultural property.

Provide the name and address of any joint owners

Q10b. Provide details of any mortgage or secured loan against the other properties.

Q10c. Tick 'yes' if the mortgage and/or secured loan for the other properties is in joint names.

Provide the names and, if different, address(es) of the joint owner(s).

Continue on a separate sheet for all other properties the entity owns, providing details of addresses and any mortgages or secured loans.

Q11. Tick 'yes' if the entity has previously owned any property or land in any country outside Scotland in the last 5 years.

Property includes all or any part of a house, land, timeshare or any other property, including business or agricultural property. This includes property which is solely or jointly owned with another person or organisation.

Provide details, stating address, type of property and dates property owned from and to.

Draft Legislation: This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Scottish Charitable Incorporated Organisations Regulations 2011 No. 44

The information on the previous page will help you complete this page.

10a. Does the entity own, either wholly or jointly any other properties, within Scotland or elsewhere?

Yes No

If 'yes' provide details and the address(es) of properties.

10b. Provide details of any mortgage or secured loan against the properties:

Name and address of Mortgage Company/Lender	Mortgage Account no./Lender Reference no.	Date loan was obtained	Amount borrowed £	Estimated amount still owed £

10c. Is the mortgage and/or secured loan in joint names?

Yes No

If 'yes' provide the names, and if different, the address(es) of the joint owner(s).

Continue on a separate sheet for all other properties the entity owns, providing details of addresses and any mortgages or secured loans.

11. Has the entity previously owned any property or land in any country outside Scotland in the last 5 years?

Yes No

If 'yes' state:

address _____

type of property or land _____

dates property or land owned _____

Draft Legislation: This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Scottish Charitable Incorporated Organisations Regulations 2011 No. 44

The information on this page will help you complete the questions on the following page.

It may be useful to read it question by question as you go along.

Q12. Provide details of **all** the entity's unsecured debts, for example, loans, credit card, catalogue accounts, unpaid council tax, overdrafts, rent arrears, utility bills and any debts due to individuals. **DO NOT** include any mortgage or secured debts in this table.

Please provide details of the type of debt, the name and address of the company or person the entity owes the money to, any account or reference number, the date the debt was obtained and the amount owed.

Please provide as much detail as possible with up-to-date amounts owed.

Draft Legislation: This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Scottish Charitable Incorporated Organisations Regulations 2011 No. 44

The information on the previous page will help you complete this page.

12. Provide details of all the entity’s unsecured debts:

Type of debt	Name & address of creditor	Account/reference number	Approximate date credit obtained	Amount owed £
			TOTAL	£

Once OSCR are satisfied the application meets the requirements of the Scottish Charitable Incorporated Organisations (Removal from Register and Dissolution) Regulations 2011, they will pass your completed application to the Accountant in Bankruptcy. At this stage you will be contacted by OSCR and advised to send the appropriate fee for determination of a debtor application as laid down in the Bankruptcy Fees (Scotland) Regulations 1993 to the Accountant in Bankruptcy.

Draft Legislation: This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Scottish Charitable Incorporated Organisations Regulations 2011 No. 44

SCHEDULE 5

Regulation 5(3)(e)

Notice of application for dissolution of insolvent SCIO

(To be sent to OSCR)

Name of SCIO

Principal Office of SCIO

Notice is hereby given by the above noted SCIO that, being insolvent, it has applied to OSCR for consent to its being sequestrated, removed from the Register and dissolved.

Please now send the completed form and other accompanying documents to OSCR

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations set out a machinery for the dissolution of Scottish Charitable Incorporated Organisations (“SCIOs”). Applications by a SCIO must be made to the Office of the Scottish Charity Regulator (“OSCR”) who must publish a statutory notice of proposed dissolution or dissolution on its website. Applications may be made by a solvent SCIO (regulation 3), or by an insolvent SCIO (regulation 4). In the case of insolvent SCIOs the ground of dissolution is that the SCIO is insolvent having outstanding debts of at least £1500. The process commences in the case of insolvent SCIOs with OSCR being satisfied that the application complies with statutory requirements as regards documentation. If these are met, OSCR refers the application to the Accountant in Bankruptcy (AiB), who awards sequestration of the SCIO’s estate if the AiB finds it insolvent. The AiB then sequestrates the estate of the SCIO as a body corporate as on a debtor application. The AiB, after finalising sequestration, refers the application back to OSCR and OSCR removes the SCIO from the Scottish Charity Register and the SCIO is then dissolved. A qualified creditor or qualified creditors, a temporary administrator and a member State liquidator appointed in main proceedings as defined in section 73(1) of the Bankruptcy (Scotland) Act 1985 are entitled to sequestrate a SCIO by petitioning the court for sequestration (regulation 7). This must first be intimated to OSCR and the SCIO. If sequestration is awarded this process also leads to the dissolution of the SCIO (regulation 7).

A SCIO failing to meet the charity test may be ordered by OSCR to meet the test or alternatively OSCR may order the SCIO to apply for dissolution. If this order is not obeyed OSCR can take the matter to the Court of Session (regulation 8), which can order the application for dissolution to proceed or make any other order it considers appropriate in the circumstances.