SCOTTISH STATUTORY INSTRUMENTS

2012 No. 220

CHARITIES

The Charities Reorganisation (Scotland) Amendment Regulations 2012

Made - - - -	*4th July 2012*
Laid before the Scottish Parliament	*6th July 2012*
Coming into force - -	*1st November 2012*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 39(2) and (3) and 103(2) of the Charities and Trustee Investment (Scotland) Act 2005(**a**) and all other powers enabling them to do so.

Citation, commencement and savings

1.—(1) These Regulations may be cited as the Charities Reorganisation (Scotland) Amendment Regulations 2012 and come into force on 1st November 2012.

(2) These Regulations do not apply in respect of any application made under regulation 2 of the 2007 Regulations and received by OSCR before 1st November 2012.

Interpretation

2. In these Regulations—

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

"the 2007 Regulations" means the Charities Reorganisation (Scotland) Regulations 2007(**b**).

Amendment of the Charities Reorganisation (Scotland) Regulations 2007

3. The 2007 Regulations are amended as follows.

4. In regulation 1(2)—

(a) after the definition of "the 2005 Act" insert—

""gross annual income" means the gross annual income of the charity as shown in the charity's most recent statement of account;

"large charity" means a charity with a gross annual income of £250,000 or more;";

(b) for "latest date for receipt of notices of objection by OSCR" substitute "latest date for receipt of representations by OSCR";

(c) after the definition of "OSCR" omit "and"; and

(**a**) 2005 asp 10.
(**b**) S.S.I. 2007/204.

(d) after the definition of "publication period" insert—

""small charity" means a charity with a gross annual income of less than £250,000; and

"very small charity" means a small charity whose assets do not include any heritable property or shares in a private limited company, and with a gross annual income of less than £1,000.".

5. In regulation 2—

(a) in paragraph (2), for "charity with a gross annual income of £250,000 or more" substitute "large charity";

(b) in paragraph (2)(g), for "notices of objection to" substitute "representations in relation to"; and

(c) in paragraph (2)(h), for "objectors" substitute "those persons making representations".

6.—(1) In the heading to regulation 3, after "website" insert ": large and small charities".

(2) In regulation 3(1), after "receipt of a" insert "large or small".

(3) In regulation 3(3) and (4), for "notices of objection" substitute "representations".

7.—(1) For the heading to regulation 4 substitute "Newspaper or periodical notice: large charity".

(2) In regulation 4(1)—

(a) for "charity with a gross annual income of £250,000 or more" substitute "large charity"; and

(b) after "newspaper" insert "or periodical relevant to the purposes of the charity and".

(3) After regulation 4(1), insert—

"(1A) The notice must be in the form set out in the Schedule.".

(4) In regulation 4(3), for "notices of objection" substitute "representations".

8. For regulation 5, substitute—

"**5.**—(1) Any person may make a representation to OSCR either supporting or opposing a proposed reorganisation scheme for a large or small charity.

(2) A representation must be in writing and may be sent to OSCR by email or by post or may be delivered personally.

(3) A representation must state—

(a) the name and address (which may be an email address) of the person making the representation;

(b) the name of the charity concerned as it appears in the notice on OSCR's website or the notice published in a newspaper or periodical; and

(c) the nature of the representation and the reasons for it.

(4) Representations must be received by OSCR not later than the deadline for making representations to OSCR, as specified in the notice on OSCR's website.

(5) Not later than 7 days after the deadline for making representations to OSCR, as specified in the notice on OSCR's website, OSCR must send to the charity a summary of the representations received which may include the name and address of the maker of the representation.".

9.—(1) In the heading to regulation 6, after "decision" insert ": large and small charities".

(2) In regulation 6—

(a) in paragraph (1), for "objections" substitute "representations";

(b) for paragraph (2) substitute—

"(2) Before reaching its decision OSCR must consider—

(a) all of the representations it has received which comply with the requirements of regulation 5; and

(b) any response it has received to those representations by the charity."; and

(c) in paragraph (3), for "notice of objection to" substitute "representation in relation to".

10. After regulation 6, insert—

"**Very small charities: simplified procedure**

7.—(1) On receipt of an application under section 39 of the 2005 Act by a very small charity, OSCR may apply a simplified procedure to the application.

(2) Where OSCR applies a simplified procedure—

(a) OSCR must write to the charity to confirm that a simplified procedure will be applied to the application, within 14 days of the date of receipt of the application; and

(b) regulations 3, 5 and 6 do not apply to the application.

(3) Under the simplified procedure, OSCR must—

(a) make a decision on the application within 13 weeks of receipt of the application; and

(b) send a copy of its decision to the charity within 7 days of the date of the decision being made.".

11. As the Schedule to the 2007 Regulations, insert—

"SCHEDULE

Regulation 4(1A)

FORM OF NOTICE OF PROPOSED REORGANISATION SCHEME

[Insert the name of the charity as entered in the Scottish Charity Register] ([insert the registered number allocated to the charity]) has applied to the Office of the Scottish Charity Register ("OSCR") for approval of a reorganisation scheme. Details of the proposed reorganisation scheme may be obtained from OSCR's website (www.oscr.org.uk) or by writing to OSCR [insert OSCR's postal address]. Anyone who wishes to make representations to OSCR may do so in accordance with regulation 5 of the Charities Reorganisation (Scotland) Regulations 2007. All representations must reach OSCR not later than [insert the deadline for making representations to OSCR, as specified in the notice on OSCR's website].".

JOHN SWINNEY
A member of the Scottish Government

St Andrew's House,
Edinburgh
4th July 2012

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Charities Reorganisation (Scotland) Regulations 2007 ("the 2007 Regulations"). Regulation 2 provides that the 2007 Regulations, as unamended by these Regulations, will continue to apply to any applications received by the Office of the Scottish Charity Regulator ("OSCR") before 1st November 2012. Regulation 8 substitutes a new regulation 5 into the 2007 Regulations which provides that anyone may make a representation to OSCR supporting or opposing a proposed reorganisation scheme of a small or large charity.

Regulation 10 inserts a new regulation 7 into the 2007 Regulations which provides that OSCR may apply a simplified procedure to applications by very small charities.

Regulations 4 to 7 and 9 make consequential amendments to the 2007 Regulations as a result of the new regulations 5 and 7.

Regulation 11 inserts a Schedule into the 2007 Regulations which specifies the form of notice of the proposed reorganisation scheme of a large charity.

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