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

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2013 No.

CHARITIES

The Scottish Charitable Incorporated Organisations (Removal from Register and Dissolution) Amendment Regulations 2013

Made - - - -

Coming into force - - *6th January 2014*

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(**a**) and all other powers enabling them to do so.

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

Citation, commencement and application

1.—(1) These Regulations may be cited as the Scottish Charitable Incorporated Organisations (Removal from Register and Dissolution) Amendment Regulations 2013 and come into force on 6th January 2014.

(2) These Regulations apply in respect of any direction by OSCR under section 12 of the Charities and Trustee Investment (Scotland) Act 2005 (power of OSCR to require a charity to change name) made on or after 6th January 2014.

Amendment of the Scottish Charitable Incorporated Organisations (Removal from Register and Dissolution) Regulations 2011

2.—(1) The Scottish Charitable Incorporated Organisations (Removal from Register and Dissolution) Regulations 2011(**c**) are amended as follows.

(2) In regulation 2(2) (application of the 2005 Act), for "section 18 of the 2005 Act accordingly does" substitute "sections 12(5) and 18 of the 2005 Act accordingly do".

(3) In regulation 8 (SCIOs failing to comply with direction)—

(a) after paragraph (2) insert—

"(2A) Where it appears to OSCR that a SCIO has failed to comply with a direction under section 12(2) or (3) of the 2005 Act, OSCR must direct the SCIO to make, within such

(**a**) 2005 asp 10.
(**b**) Section 103(5)(c) has been modified by paragraph 5 of Schedule 3 to the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10).
(**c**) S.S.I. 2011/237.

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

(b) in paragraphs (3), (4)(b) and (5), for "or (2)" each time it occurs, substitute ", (2) or (2A)".

Name
A member of the Scottish Government

St Andrew's House,
Edinburgh
Date

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Scottish Charitable Incorporated Organisations (Removal from Register and Dissolution) Regulations 2011 ("the 2011 Regulations"). Regulation 8 of the 2011 Regulations currently makes provision about the steps that must be taken in relation to removal from the Scottish Charity Register and dissolution of any Scottish Charitable Incorporated Organisation ("SCIO") which no longer meets the charity test under section 7 of the Charities and Trustee Investment (Scotland) Act 2005 ("the 2005 Act"), including where a SCIO has failed to comply with a direction from the Office of the Scottish Charity Regulator ("OSCR") as regards meeting the charity test.

These Regulations amend regulation 8 to also provide for the steps that may be taken in relation to removal from the Register and dissolution of any SCIO which has failed to comply with a direction from OSCR to change its name under section 12 of the 2005 Act. Regulation 2(2) of the 2011 Regulations is also amended to disapply section 12(5) of the 2005 Act in relation to a SCIO.

These Regulations apply to any directions by OSCR under section 12 made on or after 6th January 2014.

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