

Charity Reorganisation – Summary of Application

Type of Scheme

Smailholm Village Hall Committee (SCO29318) ('the charity') has applied to the Office of the Scottish Charity Regulator (OSCR) for approval of a reorganisation scheme for a variation of the constitution of the charity (whether or not in relation to its purposes) under section 42(3)(a) of the Charities and Trustee Investment (Scotland) Act 2005 (the 2005 Act).

The Village Hall Committee who are also the trustees of the Smailholm Village Hall govern under a Deed of Trust which was established on 21 May 1973. The objects of the charity outlined in the trust deed is to provide for the purposes of physical and mental training and recreation, and social, moral and intellectual development through the medium of reading and recreation rooms, library, lectures, classes, recreation or otherwise as may be found expedient of the inhabitants of the Village of Smailholm and surrounding district in the County of Roxburgh without distinction of sex or of political religious or other opinions subject to the provisions of these presents.

The trustees propose to make the following changes to the constitution. They wish to introduce powers that will allow them to: –

- a) Amend the Deed of Trust
- b) Transfer assets to another charity with similar purposes
- c) Wind up the trust

Reasons for reorganisation

The charity's governing document pre-dates modern charity legislation. It does not reflect current best practice or modern charity law. At present, the trustees can only amend the deed of trust if government legislation is passed necessitating such amendment. Neither can the trustees transfer the assets of the charity to a company limited by guarantee or a SCIO. This limits the options of the trustees. This may make it difficult to attract new trustees, and the trust deed requires there to be at least three trustees appointed at general meetings.

Reorganisation conditions

The trustees suggest that the following reorganisation condition is met:

Section 42 (2) (d) of the 2005 Act in that it is desirable to introduce a provision (other than a provision setting out a new purpose) to a charity's constitution

The trustees suggest the condition is met because they wish to update the governing document and grant additional power. This can only be achieved by introducing new provisions in the charity's constitution

Reorganisation outcomes

The trustees suggest that the following reorganisation outcome is met:

Section 39 (1) (b) (ii) of the 2005 Act in that the proposed reorganisation scheme will enable the charity to be administered more effectively.

The trustees suggest the outcome is met because they believe it will give the current trustees options for the future, options the trustees of many other charities already have in place under a modern governance structure. They will be able to update and modernise the governing document without having to make a further application to OSCR. They will also be able to transfer assets in a more flexible way, to continue the trust's charitable activities, should that be considered the best option.

A successor charity could be a SCIO with a fit-for purpose constitution and modern governance arrangements in place. A SCIO would also help insulate the trustees from personal liability. It is not to say the trustees will exercise all of these new powers, but it is considered prudent to open up their options so they can do what they consider appropriate in the future.

How to make a representation in relation to the proposed reorganisation scheme

Any person may make a representation to OSCR either supporting or opposing this proposed reorganisation scheme. Should you wish to make a representation, you may do so by writing to OSCR providing the following information:

- Your name and address
- The name of the charity concerned
- The nature of the representation and reasons for it

These are the terms of Regulation 5 of the Charities Reorganisation (Scotland) Regulations 2007).

Representations should be sent to OSCR by post or email

Postal: OSCR
2nd Floor Quadrant House
Riverside Drive
Dundee
DD1 4NY

Email: info@oscr.org.uk

Representations can be made up to 14 days following the end of the publication period. The latest date for the receipt of representations is 17 January 2025.

We cannot accept representations via social media channels.

Copies of any representations will be provided to the applicant charity for comment. If you do not wish the charity to be provided with your personal details, please indicate this in your representation.

Personal details will otherwise be disclosed to the applicant charity.

Please contact us by email or by telephone on 01382 220446 if you have any questions about the submission of a representation.

OSCR
13/12/2024