

Charity Reorganisation – Summary of Application

Type of Scheme

Gordon Lennox (Fochabers) Trust - SC002094 (the Trust) 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 Trust was established on 18 July 1977 by Lieutenant General Sir George Charles Gordon Lennox and Registered in the Books of Council and Session on 03 October 1977 *‘to benefit Milnes High School, Fochabers and the surrounding district, who, at the date of any award being made, do not exceed the age of eighteen years, for the advancement of musical talent and the development of character and special talents in ways not provided by the State’* and further *‘for the benefit of the Beneficiaries who have shown outstanding talent in either the academic, musical, technical or physical fields of education. Without prejudice to the generality of Clause Six hereof the Gordon Lennox (Fochabers) Trustees shall in implement of the foregoing purposes achieve local wishes by making disbursements in order to achieve the aforementioned purposes of the said Trust. One half of the income of the said Trust is to be devoted to the advancement of musical talent, by providing special instruction, purchasing instruments, and the payment of travelling expenses to any Institution for training; and for any other purpose charitable in law as the Gordon Lennox (Fochabers) Trustees may select. The other half of the income is to be devoted to the advancement of the academic, technical or physical education of the Beneficiaries in the same manner as provided for in the first paragraph of this Clause’.*

Clause ELEVEN of the Deed of Trust states that *‘Proper minutes shall be kept wherein all decisions shall be recorded and financial operations shall be brought out in the yearly accounts which shall be audited by a qualified accountant’.*

The Trustees propose to make the following variations to the Deed of Trust:

2.1 The words “which shall be audited by a qualified accountant” where the same appear in the last sentence of Clause ELEVEN of the Deed of Trust shall be delete and the following wording substituted therefor:

“examined by an independent examiner”.

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The Scottish Charity Regulator, Quadrant House, 9 Riverside Drive, Dundee DD1 4NY



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Reasons for reorganisation/Background to Reorganisation

It is very expensive and impossible to find an accountant who would be able to audit the accounts for a small charity with very limited assets and would impair its ability to support charitable objects.

Reorganisation condition

The trustees suggest that the following reorganisation condition is met:

- that a provision of the charity's constitution (other than a provision setting out the charity's purposes) can no longer be given effect to or is otherwise no longer desirable (Section 42(2)(c) of the 2005 Act)

The trustees suggest the condition is met because:

The requirement for an audit is not compatible with current practice for a charity of this size and the trustees have been unable to find accountants who are able to undertake this.

The requirement for audit puts an unnecessary administrative and financial burden on the limited resources of the charity and in current practice is inconsistent with the spirit of its constitution.

Reorganisation outcome

The trustees suggest that the following reorganisation outcome is met:

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

The trustees suggest the outcome is met because:

The charity will be administered more effectively and with less onerous and needlessly expensive audit requirements.

Further Information

Further information on this application for charity reorganisation may be made available, upon request. Please contact the Office of the Scottish Charity Regulator on 01382 220446 and ask to speak to a member of staff in the Charities Team for further details.

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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).

All representations should be sent to OSCR at the following address:

OSCR – Charity Reorganisations
2nd Floor Quadrant House
Riverside Drive
Dundee
DD1 4NY

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 December 2024.

A copy 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.

OSCR
05 November 2024

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