
SCOTTISH STATUTORY INSTRUMENTS

2011 No. 20 (C. 4)

CHARITIES

**The Charities and Trustee Investment (Scotland)
Act 2005 (Commencement No. 5) Order 2011**

Made - - - - 18th January 2011

The Scottish Ministers make the following Order in exercise of the powers conferred by section 103(2) and 107(2) of the Charities and Trustee Investment (Scotland) Act 2005⁽¹⁾, and all other powers enabling them to do so.

Citation and interpretation

1.—(1) This Order may be cited as the Charities and Trustee Investment (Scotland) Act 2005 (Commencement No. 5) Order 2011.

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

Commencement of provisions

2.—(1) Section 64 (regulations relating to SCIOs) of the Act comes into force on 21st January 2011.

(2) The following provisions of the Act come into force on 21st January 2011 for the purpose of enabling regulations to be made and for all other purposes on 1st April 2011:—

- (a) section 50 (constitution and powers); and
- (b) section 52 (name and status).

(3) The following provisions of the Act come into force on 1st April 2011:—

- (a) section 49 (Scottish charitable incorporated organisations);
- (b) section 51 (general duty of members of SCIO);
- (c) section 53 (offences etc.);
- (d) section 54 (application for creation of SCIO);
- (e) section 55 (entry in Register);
- (f) section 62 (third parties); and
- (g) section 63 (amendment of constitution).

- (4) The following provisions of the Act come into force on 1st January 2012:—
- (a) section 56 (conversion of charity which is a company or registered friendly society: applications);
 - (b) section 57 (determination of application for conversion);
 - (c) section 58 (conversion: supplementary);
 - (d) section 59 (amalgamation of SCIOs);
 - (e) section 60 (amalgamation: supplementary); and
 - (f) section 61 (transfer of SCIO's undertaking).

St Andrew's House,
Edinburgh
18th January 2011

FERGUS EWING
Authorised to sign by the Scottish Ministers

EXPLANATORY NOTE

(This note is not part of the Order)

This Order is the fifth commencement order under the Charities and Trustee Investment (Scotland) Act 2005 (“the Act”).

This Order brings into force all the provisions of the Act which relate to Scottish charitable incorporated organisations. Those provisions are found in Chapter 7, which establishes a new incorporated legal form that charities may choose to adopt. Known as the Scottish charitable incorporated organisation (SCIO), this new form enables a charity to become a corporate body while continuing to be regulated by the Office of the Scottish Charity Regulator (OSCR).

Section 64 of the Act comes into force on 21st January 2011. This section allows the Scottish Ministers to make regulations setting out further provision in relation to SCIOs.

Sections 50 and 52 of the Act come into force on 21st January 2011 for the purpose of enabling regulations to be made. Section 50 allows the Scottish Ministers to make regulations specifying other matters (beyond those in that section) which a SCIO’s constitution must contain. Section 52 allows the Scottish Ministers to specify in regulations the documents on which a SCIO’s name must appear. Sections 50 and 52 come into force for all other purposes on 1st April 2011.

Sections 49, 51, 53 to 55, 62 and 63 come into force on 1st April 2011.

Section 49 sets out the basic requirements for a charity to become a SCIO. Section 51 places on the members of a SCIO the general duty set out at section 66(1)(a), (3) and (4) of the Act. Section 53 creates an offence of issuing or authorising the issue of certain documents, as well as signing or authorising the signature of those same documents. Sections 54 and 55 set out the procedure for applying to create a SCIO, and be registered as such, as well as the effect of such registration. Section 62 makes provision for third parties dealing with a SCIO and is intended to provide a level of protection to those third parties. Section 63 allows a SCIO to amend its constitution by way of resolution in accordance with that section.

Sections 56 to 61 of the Act come into force on 1st January 2012. Sections 56 to 58 make provision in relation to conversion from other forms into SCIO form. Sections 59 and 60 set out the procedure for the amalgamation of two or more SCIOs into one new SCIO. Section 61 allows a SCIO to transfer its property, rights and liabilities to another SCIO, if OSCR confirms this.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the Act have been brought into force by Commencement Order made before the date of this Order:—

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.S.I. No.</i>
Section 1(1) to (4) and (6) to (10)	24th February 2006	2006/74
Section 1(5), except subsection (5)(a)	1st April 2006	2006/189
Section 1(5)(a)	24th April 2006	2006/189
Section 2	24th April 2006	2006/189

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<i>Provision</i>	<i>Date of Commencement</i>	<i>S.S.I. No.</i>
Section 3 (only for the purpose of enabling regulations to be made)	1st January 2006	2005/644
Section 3	1st April 2006	2006/189
Section 4	24th April 2006	2006/189
Section 5	24th April 2006	2006/189
Section 6 (only for the purpose of enabling regulations to be made)	1st January 2006	2005/644
Section 6	24th April 2006	2006/189
Section 7 (only for the purpose of enabling orders to be made)	1st January 2006	2005/644
Section 7	24th April 2006	2006/189
Section 8	24th April 2006	2006/189
Section 9	24th April 2006	2006/74
Section 10	24th April 2006	2006/189
Section 11	24th April 2006	2006/189
Section 12	24th April 2006	2006/189
Section 13	1st April 2006	2006/189
Section 14	1st April 2006	2006/189
Section 15 (only for the purpose of enabling regulations to be made)	1st January 2006	2005/644
Section 15	24th April 2006	2006/189
Section 16	1st April 2006	2006/189
Section 17	1st April 2006	2006/189
Section 18	24th April 2006	2006/189
Section 19 (only for the purpose of enabling orders and regulations to be made)	1st January 2006	2005/644
Section 19	24th April 2006	2006/189
Section 20	24th April 2006	2006/189
Section 21	1st April 2006	2006/189
Section 22	24th April 2006	2006/189
Section 23 (only for the purpose of enabling orders to be made)	1st January 2006	2005/644
Section 23	24th April 2006	2006/189
Section 24	24th April 2006	2006/189
Section 25 (only for the purpose of enabling orders to be made)	1st January 2006	2005/644
Section 25	24th April 2006	2006/189

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.S.I. No.</i>
Section 26	24th April 2006	2006/189
Section 27	24th April 2006	2006/189
Section 28	1st April 2006	2006/189
Section 29	1st April 2006	2006/189
Section 30	24th April 2006	2006/189
Section 31	1st April 2006	2006/189
Section 32	1st April 2006	2006/189
Section 33	1st April 2006	2006/189
Section 34	1st April 2006	2006/189
Section 35 (only for the purpose of enabling regulations to be made)	1st January 2006	2005/644
Section 35	1st April 2006	2006/189
Section 36	1st April 2006	2006/189
Section 37	1st April 2006	2006/189
Section 38	1st April 2006	2006/189
Section 39 (only for the purpose of enabling regulations to be made)	1st January 2006	2005/644
Section 39	31st May 2007	2007/117
Section 40	31st May 2007	2007/117
Section 41	31st May 2007	2007/117
Section 42	31st May 2007	2007/117
Section 43	1st April 2006	2006/189
Section 44 (only for the purpose of enabling regulations to be made)	1st January 2006	2005/644
Section 44	1st April 2006	2006/189
Section 45	1st April 2006	2006/189
Section 46	1st April 2006	2006/189
Section 47	1st April 2006	2006/189
Section 48 (only for the purpose of enabling regulations to be made)	1st January 2006	2005/644
Section 48	1st April 2006	2006/189
Section 65	1st April 2006	2006/189
Section 66	1st April 2006	2006/189
Section 67	1st April 2006	2006/189
Section 68	1st April 2006	2006/189
Section 69	1st April 2006	2006/189

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<i>Provision</i>	<i>Date of Commencement</i>	<i>S.S.I. No.</i>
Section 70	1st April 2006	2006/189
Section 71	1st April 2006	2006/189
Section 72	1st April 2006	2006/189
Section 73	1st April 2006	2006/189
Section 74	1st April 2006	2006/189
Section 75	24th February 2006	2006/74
Section 76	1st April 2006	2006/189
Section 77	1st April 2006	2006/189
Section 78	1st April 2006	2006/189
Section 79	1st January 2006	2005/644
Section 80	24th April 2006	2006/189
Section 81	24th April 2006	2006/189
Section 82	24th April 2006	2006/189
Section 83 (only for the purpose of enabling regulations to be made)	1st January 2006	2005/644
Section 83	24th April 2006	2006/189
Section 86 (only for the purpose of enabling regulations to be made)	1st January 2006	2005/644
Section 90 (only for the purpose of enabling regulations to be made)	1st January 2006	2005/644
Section 91 (only for the purpose of enabling regulations to be made)	1st January 2006	2005/644
Section 93	1st January 2006	2005/644
Section 94	1st January 2006	2005/644
Section 95	1st January 2006	2005/644
Section 96	27th February 2007	2007/117
Section 97	1st January 2006	2005/644
Section 98	1st April 2006	2005/644
Section 99(3) and (4)	24th February 2006	2006/74
Section 99	1st April 2006	2006/189
Section 100	24th April 2006	2006/189
Section 101	24th April 2006	2006/189
Section 104	1st April 2006	2006/189
Section 105	1st April 2006	2006/189
Section 106	1st January 2006	2005/644

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<i>Provision</i>	<i>Date of Commencement</i>	<i>S.S.I. No.</i>
Schedule 1 (only for the purposes of enabling orders to be made)	1st January 2006	2005/644
Schedule 1	24th February 2006	2006/74
Schedule 2 (only for the purposes of enabling orders and rules to be made)	1st January 2006	2005/644
Schedule 2	24th February 2006	2006/74
Schedule 3	1st January 2006	2005/644
Paragraphs 1, 2, 3, 4, 5(a), 6, 7, 10, 12 to 19 of Schedule 4	1st April 2006	2006/189
Paragraph 9 of Schedule 4	24th April 2006	2006/189