

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations set out a machinery for the dissolution of Scottish Charitable Incorporated Organisations (“SCIOs”). Applications by a SCIO must be made to the Office of the Scottish Charity Regulator (“OSCR”) who must publish a statutory notice of proposed dissolution or dissolution on its website. Applications may be made by a solvent SCIO (regulation 3), or by an insolvent SCIO (regulation 4). In the case of insolvent SCIOs the ground of dissolution is that the SCIO is insolvent having outstanding debts of at least £1500. The process commences in the case of insolvent SCIOs with OSCR being satisfied that the application complies with statutory requirements as regards documentation. If these are met, OSCR refers the application to the Accountant in Bankruptcy (AiB), who awards sequestration of the SCIO’s estate if the AiB finds it insolvent. The AiB then sequestrates the estate of the SCIO as a body corporate as on a debtor application. The AiB, after finalising sequestration, refers the application back to OSCR and OSCR removes the SCIO from the Scottish Charity Register and the SCIO is then dissolved. A qualified creditor or qualified creditors, a temporary administrator and a member State liquidator appointed in main proceedings as defined in section 73(1) of the Bankruptcy (Scotland) Act 1985 are entitled to sequestrate a SCIO by petitioning the court for sequestration (regulation 7). This must first be intimated to OSCR and the SCIO. If sequestration is awarded this process also leads to the dissolution of the SCIO (regulation 7).

A SCIO failing to meet the charity test may be ordered by OSCR to meet the test or alternatively OSCR may order the SCIO to apply for dissolution. If this order is not obeyed OSCR can take the matter to the Court of Session (regulation 8), which can order the application for dissolution to proceed or make any other order it considers appropriate in the circumstances.