



# Charities and Trustee Investment (Scotland) Act 2005

2005 asp 10

## PART 1

### CHARITIES

#### CHAPTER 5

##### REORGANISATION OF CHARITIES

#### 42 Reorganisation: supplementary

- (1) This section applies for the interpretation of Chapter 5.
- (2) The “reorganisation conditions” are—
  - (a) that some or all of the purposes of the charity—
    - (i) have been fulfilled as far as possible or adequately provided for by other means,
    - (ii) can no longer be given effect to (whether or not in accordance with the directions or spirit of its constitution),
    - (iii) have ceased to be charitable purposes, or
    - (iv) have ceased in any other way to provide a suitable and effective method of using its property, having regard to the spirit of its constitution,
  - (b) that the purposes of the charity provide a use for only part of its property, and
  - (c) 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.
- (3) A “reorganisation scheme” is a scheme for—
  - (a) variation of the constitution of the charity (whether or not in relation to its purposes),

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*Status: This is the original version (as it was originally enacted).*

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- (b) transfer of the property of the charity (after satisfaction of any liabilities) to another charity (whether or not involving a change to the purposes of the other charity), or
  - (c) amalgamation of the charity with another charity.
- (4) Nothing in section 40 affects the power of the Court of Session to approve a cy près scheme in relation to a charity.
- (5) Sections 39 and 40 do not apply to any charity constituted under a Royal charter or warrant or under any enactment.
- (6) But, despite subsection (5), those sections do apply to an endowment if its governing body is a charity.
- (7) In subsection (6), “endowment” and “governing body” have the same meaning as in Part 6 (reorganisation of endowments) of the Education (Scotland) Act 1980 (c. 44).