
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2011 No.

**The Scottish Charitable Incorporated Organisations
(Removal from Register and Dissolution) Regulations 2011**

SCIOs no longer meeting charity test or failing to comply with direction

8.—(1) Where it appears to OSCR, as a result of inquiries under section 28 of the 2005 Act or otherwise, that a SCIO no longer meets the charity test OSCR must direct the SCIO—

- (a) to take, within such period as may be specified in the direction, such steps as OSCR considers necessary for the purposes of meeting the charity test, including applying to OSCR for approval under section 39 of the 2005 Act for a reorganisation scheme in relation to the SCIO's constitution; or
- (b) to make, within such period as may be specified in the direction, an application to OSCR under regulation 3 or regulation 4 of these Regulations to be removed from the Register and dissolved,

(and, subject to paragraph (5), section 30 of the 2005 Act does not accordingly apply to a SCIO).

(2) Where it appears to OSCR that a SCIO has failed to comply with a direction under paragraph (1)(a), OSCR must direct the SCIO, within such period as may be specified in the direction, to make an application to OSCR under regulation 3 or regulation 4 of these Regulations to be removed from the Register and dissolved.

(3) If within the period specified in a direction under paragraphs (1)(b) or (2), a SCIO has failed to comply with the direction, OSCR must make an application for an order under paragraph (4) to the Court of Session under this regulation.

(4) On an application by OSCR under paragraph (3), the Court of Session may—

- (a) inquire into the matter and, after hearing any witness who may be produced against or on behalf of the SCIO, and after hearing any statement as to why the order of OSCR has not been complied with, deal with the SCIO and its charity trustees in any way the court thinks fit;
- (b) make any other order it thinks appropriate in the circumstances including but not limited to ordering the SCIO to comply with the direction under paragraphs (1)(a) or (b) or (2), making any of the orders listed in section 34(5) of the 2005 Act and exercising any of its other powers under that Act.

(5) The power of OSCR to direct under paragraphs (1) or (2) shall—

- (a) include a power to vary or revoke the direction; and
- (b) be subject to reviews and appeals under Chapter 10 of Part 1 of the 2005 Act, as if it were a direction under section 30(1)(a) of the 2005 Act(1).

(1) Sections 30, 71 and 73 of the 2005 Act were amended by the Public Services Reform (Scotland) Act 2010 (asp 8), section 121.