



# 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,<sup>F1</sup>...
  - (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,<sup>F2</sup> and
  - (d) that it is desirable to introduce a provision (other than a provision setting out a new purpose) to a charity's constitution.]
- (3) A “reorganisation scheme” is a scheme for—

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- (a) variation of the constitution of the charity (whether or not in relation to its purposes),
  - (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).

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#### Textual Amendments

- F1** Word in s. 42(2) repealed (1.8.2010) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), **ss. 124(3)(a)**, 134(7); S.S.I. 2010/221, art. 3(2), Sch.
- F2** S. 42(2)(d) inserted (1.8.2010) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), **ss. 124(3)(b)**, 134(7); S.S.I. 2010/221, art. 3(2), Sch.
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#### Commencement Information

- I1** S. 42 in force at 31.5.2007 by [S.S.I. 2007/117](#), **art. 2(2)**

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