Charity Reorganisation - Summary of Application

Type of Scheme

James Mckune Mortification (SC011893) ("the charity") has applied to the Office of the Scottish Charity Regulator (OSCR) for approval of a reorganisation scheme for a variation of the constitution of the charity (whether or not in relation to its purposes) under section 42(3)(a) of the Charities and Trustee Investment (Scotland) Act 2005 (the 2005 Act).

The charity was established by the Trust Disposition and Settlement (TDS) of the late James McKune dated 13 April 1861. The TDS directs the Trustees to pay over sums on behalf of the schoolmasters for the time being of the Parochial school of Kirkbean and the Branch school at Loaningfoot and to annually pay such interest to his salary under the condition that each of the schoolmasters shall be bound to teach for free six boys from poor families and the residue of the trust be used for the benefit of old and infirm people in indigent circumstances natives of and resident in Kirkbean and that the trustees shall yearly select such persons and pay them a sum not more than £20 per year in such instalments as may be considered beneficial for the recipients.

The Trustees propose to amend the purposes to the following:

> *4.1. The prevention and relief of poverty within the Parish of Kirkbean (the "Area");*
>
> *4.2. The advancement of education particularly within the Area;*
>
> *4.3. The relief of individuals in need by reason of age, ill-health, disability, financial hardship or other disadvantage where they either (1) lived in the Area at birth and now currently reside here or (2) live in the Area and have done for at least 8 years or more in total (which, for the avoidance of doubt, does not need to be consecutive years); and*
>
> *4.4 The provision of assistance whether financial or otherwise to other charitable organisations operating in the Area whose purposes are in the opinion of the Trustees similar to those outlined in clauses 4.1, 4.2 and 4.3.*

The Trustees also wish to adopt a modern charitable Trust Deed to replace the current provisions set out in the TDS.

Reasons for reorganisation

The Trustees believe the Trust is no longer fit for purpose because it is a historic deed which is difficult to apply and contains no power to amend. The Trustees have also noted that the TDS does not contain various essential powers that the Trustees of a modern charitable Trust would expect to have. In addition, the Trustees wish to amend the charitable purposes to suit the changes in economic and social circumstances will continuing to honour the spirit of the current purposes as far as possible.

Reorganisation conditions

The trustees suggest that the following reorganisation conditions are met:

- Section 42(2) (a) (i) that some or all of the purposes of the charity have been fulfilled as far as possible or adequately provided for by other means.

The Trustees suggest the condition is met because the purpose of education for six poor boys in the Kirkbean area is now adequately provided by free education provision in Scotland.

- Section 42(2) (a) (iv) that some or all of the purposes of the charity 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.

The Trustees suggest the condition is met because the purposes are narrow and outdated. The Trustees also state that the grant cap of £20 limit their ability to use the charity's property effectively in the spirit of the Trust.

- Section 42(2) (d) that it is desirable to introduce a provision (other than a provision setting out a new purpose) to a charity's constitution.

The Trustees suggest the condition is met because the TDS is historic and it is desirable for updates to be made to give Trustees the essential powers which a modern charitable trust would expect to have, and which is aligned with current charity and trust law.

Reorganisation outcomes

The trustees suggest that the following reorganisation outcome is met:

- Section 39(1) (b) (i) that the proposed reorganisation scheme will enable the resources of the charity to be applied to better effect for charitable purposes consistently with the spirit of its constitution, having regard to changes in social and economic conditions since it was constituted.

The Trustees suggest the outcome is met because the social and economic circumstances that were in place at the time the charitable trust was put in place by the Settlor have changed considerably, with the result that the current purposes need to be updated and widened in order to allow the trust funds to be used appropriately.

The trustees suggest that the following reorganisation outcome is met:

- Section 39(1) (b) (ii) that the proposed reorganisation scheme will enable the charity to be administered more effectively.

The Trustees suggest that the outcome is met because putting an updated Trust Deed in place that has modern and flexible powers will enable the Trust to be administered more effectively.

How to make a representation in relation to the proposed reorganisation scheme

Any person may make a representation to OSCR either supporting or opposing this proposed reorganisation scheme. Should you wish to make a representation, you may do so by writing to OSCR providing the following information:

- Your name and address
- The name of the charity concerned
- The nature of the representation and reasons for it

These are the terms of Regulation 5 of the Charities Reorganisation (Scotland) Regulations 2007).

Representations should be sent to OSCR by post or email

Postal: OSCR
2nd Floor Quadrant House
Riverside Drive
Dundee
DD1 4NY

Email: info@oscr.org.uk

Representations can be made up to 14 days following the end of the publication period. The latest date for the receipt of representations is **11/09/2026.**

We cannot accept representations via social media channels.

Copies of any representations will be provided to the applicant charity for comment. If you do not wish the charity to be provided with your personal details, please indicate this in your representation.

Personal details will otherwise be disclosed to the applicant charity.

Please contact us by email or by telephone on 01382 220446 if you have any questions about the submission of a representation.

OSCR
31 July 2026