

Charity Reorganisation – Summary of Application

Type of Scheme

Jane Campbell Fraser Trust, (SC017290) has applied to the Office of the Scottish Charity Regulator (OSCR) for approval of a reorganisation scheme for a transfer of the property of the charity (after satisfaction of liabilities) to another charity under section 42(3)(b) of the Charities and Trustee Investment (Scotland) Act 2005 (the 2005 Act).

Background to Reorganisation

There are three surviving documents relating to the Jane Campbell Fraser Trust: the original will (signed 16 December 1954), a further trust deed (dated 22 June 1955) and a copy of the Regulations of Administration. The Regulations do not appear to be dated but suggest that they succeeded the 1955 trust deed. The Will appears to establish two separate Trusts with two different sets of trustees

- Page 1 of the Will establishes the first Trust and the 1955 deed records the acceptance of office of trustee by Rev. Hadden Montgomery Gilmour the Minister of Logierait and George Scott in order to carry out certain purposes established in the Will.
- The 1955 deed provides once the trustees have carried out the instructions in terms of the maintenance of the cemetery and family graves any interest/monies left over at the end of every 3 years is “can be divided between Pitlochry and Aberfeldy Nursing Homes.” The 1955 Deed only deals with the first Trust established by the Will.
- Page 2 of the Will is mostly illegible however the following, which establishes the second Trust, can be reasonably deciphered:-

“old people requiring a home at [X] Auchterarder, Perthshire in preference; eventide homes preferably Church of Scotland. This money to augment what they are able to pay out of their own means. I specially mention [X], if accommodation can be obtained there. These people can be nominated by the Ministers of Logierait or [X], in Perthshire or North Leith Edinburgh. [X] retired teachers, nurses, or Parish [X] to be considered first, and especially this [...] 5 Knowes(?) Terrace, Craigie, Perth retired lecturers Moray House Training College, Edinburgh should she require help, and people who have no way of earning a living, women to be considered first...”

The trustees have been unable to locate any readable copies elsewhere, including at the National Records of Scotland.

- The Regulations of Administration provide that payments are to be made to *'maintain or to contribute towards the maintenance of the said beneficiaries (being persons who are unable through lack of means to provide a home of their own) in any old people's or Eventide Home or in any other institution provided such benefits are in supplement of and not in substitution for any benefit received from public funds whether local or central'*

The Regulations then set out very specific rules in relation to the people or classes of people that would qualify to be a beneficiary.

The Trustees highlight that there are inconsistencies between the 1955 Trust Deed and the Regulations of Administration in terms of areas of benefit and means of identifying beneficiaries. Additionally, because the Will appears to have created two separate trusts, there is uncertainty about the settlor's intentions.

The Trust has also not provided public benefit for many years due to the restrictions on administering the funds and the inability to make amendments.

Reorganisation conditions

The trustees suggest that the following reorganisation condition is:

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 Trust has not provided public benefit for many years, this is in part due to the restrictions for administering the funds under the Regulations of Administration, which are further hampered by a loss of connections in the stated area of benefit. In addition to these restrictions, there are no powers within the Regulations, nor the 1955 Trust Deed that allow for an amendment to the purposes or any administrative powers that would allow for the trustees to make amendments or wind up.

In addition to the restrictions on administering the funds and the inability to make amendments, the trust only allows for spend of income following deductions for expenses relating to the administration of the trust, currently the

Investment Management fees. The trustee confirms that the income, which is only derived from investments and following these deductions, has not been sufficient to make effective payments in furtherance of the trust's purposes.

Reorganisation outcomes

The trustees suggest that the following reorganisation outcome is met:

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 trust intends to transfer its remaining property to Foundation Scotland (SC022910) for onward distribution to provide for older people's services in Scotland. The trustees believe that this outcome will ensure that the remaining property of the trust can be applied to better effect for charitable purposes consistently with the spirit of the trusts intended purposes having regard to changes in the social and economic conditions since the trust's formation.

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 **03/06/2025**.

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
22/04/2025