

There are a number of requirements in terms of church law, charity law and finance regulations which must be completed prior to a union of congregations within the Church of Scotland.

## ECCLESIASTICAL CONSENTS

Once an approved Mission Plan<sup>1</sup> has been announced and recorded at Presbytery, Presbytery may proceed to implement the plan. Where a union of congregations is specified by the plan, the following steps must be taken to progress to union: -

1. A draft Basis of Union is prepared by the Kirk Sessions of the uniting congregations and Presbytery.
2. Presbytery send a copy of the draft Basis of Union to:
  - the law department ([lawdept@churchofscotland.org.uk](mailto:lawdept@churchofscotland.org.uk));
  - Presbytery Planning ([Presbyteryplanning@churchofscotland.org.uk](mailto:Presbyteryplanning@churchofscotland.org.uk));
  - the Principal Clerk ([PCOffice@churchofscotland.org.uk](mailto:PCOffice@churchofscotland.org.uk)).
3. If necessary, the Basis of Union should be modified to incorporate any changes suggested by the law department and the Principal Clerk.
4. The Basis of Union must be approved by: -
  - the uniting Kirk Sessions;
  - the uniting congregations (by way of a congregational vote);
  - Presbytery.
5. Once Presbytery have approved the Basis of Union, a signed extract minute of the decision should be sent to Madelaine Sproule ([msproule@churchofscotland.org.uk](mailto:msproule@churchofscotland.org.uk)) in the Church of Scotland law department and to the Stewardship and Finance Department ([sfadmin@churchofscotland.org.uk](mailto:sfadmin@churchofscotland.org.uk)) with a copy of the approved Basis of Union.
6. Where there is a union, all elders from the constituent Kirk Sessions normally continue on into the new Kirk Session. However, where this would create an unmanageable number of elders, some provision for inviting elders to consider whether they wish to continue, or to take a sabbatical, or to move to serving for a fixed term, should be considered. All constituent congregations should be proportionately represented in the new Kirk Session.

It is the established practice of the Church that:

- as the united Kirk Session is not a new Kirk Session but a continuation, the elders have the right to continue in office; and
- it is for the Kirk Session itself, not the Presbytery, to decide on its membership.

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<sup>1</sup> Section 2.2 of the Presbytery Mission Plan Act 2021 specifies the process which should be followed for preparing and approving the Mission Plan.

The following section of deliverance was agreed by the General Assembly of 2022:

*Urge Kirk Sessions and Presbyteries when planning the union of congregations to consider the numerical size and composition of the united Kirk Session and also whether use might be made of fixed term appointments, bearing in mind the efficient operation of that court.*

Act X 1932 (section 6) states that fixed term appointments should be agreed in advance of the appointment of the person as an elder, so does not strictly apply to existing elders. However, this should not prevent sensible agreements being reached as to the composition of the Session of a new charge. It is anticipated that practical conversations will take place locally to decide who should serve on the Session in the new context in order to enable the Session to function as efficiently as possible. The opportunity should be taken to encourage inactive elders to resign from the Kirk Session, reminding such elders that otherwise they remain corporately responsible for Session decisions and offering them the opportunity to remain noted on a separate list maintained by the Session Clerk as elders who are not members of the Session.

## **CHARITY LAW REQUIREMENTS**

A union of congregations will usually result in a name change for the newly united congregation. In terms of the Charities and Trustees Investment (Scotland) Act 2005, OSCR is required to consent to the names of all charities entered on the Charity Register in Scotland. The statutory time period for consent to be granted in terms of the 2005 Act is 28 days. The law department will apply to OSCR on behalf of the congregations uniting to change the name of the charity whose details are being retained on the register. Following the union, the law department will notify OSCR to remove the charity number(s) for the charity which is being removed from the register. The Basis of Union will specify which charity number is being retained. Presbytery must ensure that all unions and name changes are notified to the law department 35 days in advance of the union. Failure to do so will result in the united congregation being unable to use the new name for the united congregation until such time as the application has been submitted to OSCR and OSCR consent has been received.

In 2008, the General Assembly passed a deliverance instructing Presbyteries and congregations to comply with a scheme devised by the Legal Questions Committee for the naming of congregations to ensure compliance with the rules set out in the 2005 Act. A separate guidance note can be found [here](#).

The name must include: -

- a geographical reference (city/town/village)
- an additional name to identify the congregation within that location
- the words “Church of Scotland”.

Please also note that the use of the ampersand symbol “&” instead of the word “and” is considered poor practice nowadays due to the fact that an ampersand is not accessible to screen readers. The use of ampersands in the name should therefore be avoided.

Presbytery must also provide the law department with the name and contact details for the congregation’s OSCR contact at this time. For reasons of good governance, we advise that the OSCR contact should not be the congregational treasurer.

## FINANCIAL IMPLICATIONS

### Introduction

A union involves two or more congregations which may (or may not) be linked and may (or may not) form a new linkage from the union date. For simplicity this document will consider a union of two congregations.

### Annual Accounts

The Basis of Union sets out which of the congregations is legally deemed to be ceasing and which is continuing. When a union takes place, one of the charities is removed from the charities register (the ceasing congregation) and the other continues under a new name incorporating both charities retaining one of the charity numbers (continuing congregation). The Annual Accounts during the year in which the union takes effect should be prepared as follows:

**The ceasing congregation:** accounts to be prepared for the period from the beginning of the year (usually 1<sup>st</sup> January) to the date of the union. The annual return and accounts should **not** be filed with OSCR as the charity will be removed from the register by OSCR when notified by the Law Department of the Church of Scotland. Please note it is not necessary for church treasurers to contact OSCR to do this. **A copy of the accounts should be sent to the Stewardship and Finance Department only.**

It is usual for the accounting records of the ceasing congregation to remain in place for a period beyond the date of union; these form part of the union accounting records (**refer to bank accounts section below**).

**The continuing (united) congregation:** accounts to be prepared for the year to (usually) 31<sup>st</sup> December. The accounts include the activity of the congregation with the retained charity number for its whole year plus the ceasing charity for the period from the date of union until the accounting records are closed and balances transferred (as referred to above).

The accounts should show the funds being received from the ceasing charity as income; this income amount should be disclosed separately as 'the transfer of union balance'. This is the acquisition method and has been agreed with OSCR. If you wish to use the merger method of accounting please contact [lhompson@churchofscotland.org.uk](mailto:lhompson@churchofscotland.org.uk) to discuss. If Receipts and Payment Accounts have been prepared and the union balance increases income above £250,000 then SORP accounts should be prepared. An audit must take place if the income in the financial year is £500,000 or more.

The comparative year figures are those of the retained charity number; **no consolidation is required to include the ceasing charity**. The accounts should be independently examined.

The independently examined accounts should be sent to the Stewardship and Finance Department by 31<sup>st</sup> March following the year end. A copy should also be sent to Presbytery for the attestation process. When the attestation process is complete, Presbytery will contact the congregation to confirm that the accounts and annual return can be filed with OSCR or to advise of any changes to be made before that process can take place.

Template accounts are available under the finance resources section of the website:

<https://www.churchofscotland.org.uk/resources/finance-resources>

## **Bank Accounts**

The simplest way to deal with bank accounts is to keep the accounts of both congregations open for a short period after the date of the union. This allows standing orders, gift aid claims and other direct receipts and payments to be received and paid, and for the administrative change requirements to take place. During this time, there will be changes in office bearers and so **careful consideration should be given to the controls surrounding access to bank accounts.**

Arrangements should be made with the bank to change the name of the retained bank accounts to that of the united congregation and also to change account signatories where necessary. When the details have been changed and all administration completed, remaining balances on the closing accounts should be transferred to the retained bank account. **All ceasing bank accounts should then be closed.**

## **Accounting Records**

The accounting records of the ceasing congregation should be retained by the united congregation for six years.

## **Gift Aid**

HMRC should be contacted to advise changes resulting from the union. The form that requires to be completed is the ChA1 as you need to register as a new charity. This can be accessed using the link below and completed on-line.

<https://www.gov.uk/charity-recognition-hmrc?step-by-step>

The details required for submission and what to provide, are set out below:

1. Bank account details and financial accounts – a bank statement with the name change and most recent version of the retained charity number accounts
2. Officials' details, including dates of birth and National Insurance numbers
3. Registration number if you've registered your charity with a regulator – OSCR charity number
4. Charitable objectives (sometimes called purposes) – Please add: The advancement of religion
5. Governing document (sometimes called a rulebook) - this explains how your charity is run – This is the unitary constitution which your minister or interim moderator should have a copy of. If you do not have this a copy can be requested from the law department at [LawDept@churchofscotland.org.uk](mailto:LawDept@churchofscotland.org.uk)
6. Government Gateway user ID and password - you can create an account when you register your charity's details

New declarations for Gift Aid should be prepared in the name of the united congregation. It is not necessary to update existing declaration forms.

## **Congregational Reference Number**

The united congregation will be issued with a new congregation reference number, by the church offices.

## **Giving to Grow**

The Giving to Grow contribution statements will be revised by the Stewardship and Finance Department to reflect the changed circumstances. The Income Bases of the congregations uniting are added to produce the revised amount for the united congregation.

The revised contributions are calculated as follows:

**The congregations uniting:** for the period from beginning of the year (1<sup>st</sup> January) to the date of union.

**The united congregation:** for the period from the date of union to 31<sup>st</sup> December.

In summary, when a union of two congregations takes place, the Stewardship and Finance Department will issue three revised statements. These will be prepared to ensure that the united congregation will not pay more in the year of union under the adjusted form compared to the previous form. Where an adjustment results in a significant reduction in Charge income, the General Treasurer may on application apply a further decrease to the Contribution.

The administration of this process will extend beyond the payment period of current standing orders which should remain in place until the revised statements are issued. Details of the revised standing order amount will be included with the revised Giving to Grow statements.

## **Office-Bearers**

Details of the office bearers of the new congregation should be sent to the Stewardship and Finance Department ([sfadmin@churchofscotland.org.uk](mailto:sfadmin@churchofscotland.org.uk)). Data Protection procedures will be followed before contact details are added to the records held within the National Offices. **It is particularly important that the Treasurer contact is sent as soon as practically possible.**

## **Units Held with Investors Trust**

At the date of union, units held with the Investors Trust for the heritage congregations are transferred to the united congregation under its new congregation number. A certificate of investment for the united congregation will be e-mailed to the Treasurer.

## **Consolidated Fabric Fund**

At the date of union, any balances held in the Consolidated Fabric Fund for the heritage congregations are transferred to the united congregation under its new congregation number.

## **Additional Information**

Additional information on the financial implications of a union can be obtained from the Stewardship and Finance Department at: [sfadmin@churchofscotland.org.uk](mailto:sfadmin@churchofscotland.org.uk).

For resources to support effective stewardship within the context of a union, please email the Stewardship team at [stewardship@churchofscotland.org.uk](mailto:stewardship@churchofscotland.org.uk).