

THE CHURCH OF SCOTLAND LAW DEPARTMENT
INFORMATION FOR PRESBYTERY CLERKS

CONGREGATIONS – CHANGE OF NAME
PROCEDURE FOR CHANGE OF NAME ON A UNION OF CONGREGATIONS
‘FORMULA’ FOR THE LEGAL NAME OF A CHURCH OF SCOTLAND CONGREGATION

The Charities & Trustee Investment (Scotland) Act 2005 came into force on 24th April 2006.

The Act results in new regulation and monitoring requirements for all charities which operate in Scotland and this includes Church bodies and Congregations. The prior consent of the Office of the Scottish Charity Regulator (OSCR) is required before a Congregation, or any other Scottish Charity, can change its name. In terms of the Act, notification must be given to OSCR of the proposal to change the charity’s name not less than 42 days prior to the change taking place. OSCR has 28 days in which it can direct a charity not to change its name. If no response is received within the 28 days, it is deemed OSCR has given its consent.

In terms of the Act, a name is objectionable if it:

1. Is the same or too like the name of another charity;
2. Misleads the public as to the true nature of the purposes of the body or the activities which it carries on or intends to carry on in pursuit of those purposes;
3. Is likely to give the impression that the body is connected in some way to the Scottish Administration of Her Majesty’s Government in the U.K. or any Local Authority or with any other person when it is not so connected; or
4. Is offensive.

UNIONS

The effect of this legislation on future unions of Congregations of the Church of Scotland is that it will not be possible for united congregations to use the new ‘legal name’ for the congregation until a minimum of 42 days have elapsed from notice being given to OSCR of the proposed new name for the united Congregation.

Congregations and Presbyteries should continue to approve a Basis of Union in the usual manner. However, it will be necessary to:

- **send a copy of the Basis of Union to the Church of Scotland Law Department:**
 - **the Basis must state the new legal name of the congregation (which must comply with the formula agreed by the General Assembly) and the Scottish Charity Number the united Congregation wishes to retain;**
 - **indicate which form of constitution is to be adopted and authorise the Delegation of Assembly to issue a constitution to the congregation.**
- **provide the Law Department with details of the OSCR contact for the united congregation, i.e. name and address and, if possible, telephone number and email address. This can be a temporary contact which can be changed later.**

There must be a period of at least 49 days (7 weeks) between the date of receipt of all the required information by the Law Department and the date it is proposed that the Congregations unite.

The Law Department will seek OSCR’s approval of the proposed name of the united Congregation.

It will be the responsibility of the Law Department to communicate OSCR's consent or otherwise to Presbytery. It will then be the responsibility of Presbytery to communicate the decision to the uniting Congregations.

Once the union has taken place, the Law Department will also advise OSCR of the "amalgamation" and will arrange for the updating of the Charity Register.

THE NAME OF A CONGREGATION OF THE CHURCH OF SCOTLAND

The General Assembly's Legal Questions Committee devised a scheme, in consultation with OSCR, under which the formal names of congregations used for legal purposes are recorded in a standard form prior to the new Regulations on Charity References in Documents coming into force on 1st April 2008 (see separate Law Department circular on Charity References in Documents). Initially there was a voluntary scheme but in May 2008 the General Assembly passed the following deliverance: "Instruct Presbyteries and congregations to comply with the scheme for the naming of congregations ...".

The formula for the names of congregations of the Church of Scotland is that every congregation's name should comprise: (1) a geographical name, i.e. a city, town or village; (2) an additional name identifying the congregation if there is more than one congregation at that geographical location, e.g. Holy Trinity or St Luke's and (3) the words 'Church of Scotland'. The word 'Parish' or 'Kirk' are optional and if preferred the words 'Church of Scotland' may appear in brackets.

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.

CHANGE OF NAME OUTWITH A UNION SITUATION

The above deals with a change of name whether there is a union of Congregations but there may be situations where an existing Congregation simply wishes to change its name. In such a case the proposed change of name would still have to be intimated to OSCR at least 42 days prior to the proposed new name coming into effect. In such a case, the Law Department of the Church of Scotland will undertake the necessary application on behalf of the Congregation on receipt of extract Minutes from the Kirk Session and Presbytery approving the proposed change of name.