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## ***SCOTTISH CHARITABLE INCORPORATED ORGANISATIONS (SCIOs) – Implementation confirmed from 1 April 2011***

**Gareth G Morgan – The Kubernesis Partnership LLP**

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### **SCIO Implementation Confirmed**

We are delighted to report that at long last *Charitable Incorporated Organisations* (CIOs) will definitely be available for registration - at least in one part of the UK.

The final Commencement Order for SCIOs (Scottish CIOs) has been made by the Scottish Ministers, confirming 1 April 2011 as the date when all the relevant sections of the Charities and Trustee Investment (Scotland) Act 2005 come into effect (the Order is SSI 2011/20).

So, from 1 April, it will be possible to apply to OSCR (Office of the Scottish Charity Regulator) to form a new charity as a SCIO. If it meets the requirements of charity law in Scotland, and if the constitution etc are in order, it will be registered and a new charity will be created – a corporate body with limited liability. But the SCIO will be registered ONLY with OSCR. (It is not be a company, it will not be registered at Companies House, and company law does not apply.)

At the same time, the final regulations for SCIOs have also been made: The Scottish Charitable Incorporated Organisations Regulations 2011 (SSI 2011/44) are a model of clarity and simplicity. They only run to four pages, and just cover those areas essential to the organisation of SCIOs which were not in the 2005 Act (e.g. rules on keeping a register of members).

We were involved in the consultations on an earlier draft of these regulations and are delighted to see many of our comments have been taken on board.

A further set of Regulations covering insolvency and dissolution of SCIOs needs formal approval by the Scottish Parliament, so it is currently tabled as Draft SSI, but like the other regulations it is drafted to take effect from 1 April 2011.

We are fully geared up to help and support charities which may wish to set up as SCIOs, so do get in touch right away if you are keen to be amongst the first SCIOs to register.

## Who are SCIOs For?

We believe SCIOs offer a superb clear and simple structure for charities which want the benefits of corporate status and limited liability but without all the complexities of company law. We anticipate that charities in the income range £50K to £500K will find it most useful as you start to have significant liabilities to staff and funders (especially charities which do work under contract) – yet at this level you probably don't want to have to cope with the double requirements of charity law and company law.

The SCIO is also great for all kinds of charities which need to hold buildings – this includes churches, community centres and many other organisations.

The SCIO structure is not limited to charities whose work is primarily in Scotland. *We believe the SCIO is a great structure for charities operating UK wide* so long as (a) you are able to give an address in Scotland as a "principal office" where official correspondence will go and (b) you are happy to comply with the requirements of Scottish charity law which are slightly tighter than England and Wales. (However most UK-wide charities *already* have to register with OSCR if they have significant activities in Scotland, and are thus subject to Scottish charity law already, so these requirements may well apply even if the charity were set up in England or Wales.)

Setting up a UK-wide charity as an SCIO also has the advantage that you *do not* end up with two charity regulators - there is no requirement for Scottish charities to register with the Charity Commission for England & Wales (CCEW). (You may eventually have to register in Northern Ireland but it will be much simpler than dual regulation by CCEW and OSCR.)

## What about existing charities wishing to convert

Charitable companies wishing to convert to SCIOs will have to wait until 1 January 2012, but this is a fixed date in the regulations, so plans can be made. The process will be very simple – it is *not* necessary to wind up to old charity in this case.

However, for unincorporated charities wishing to become SCIOs, the process can begin right away. Do get in touch if you would like further help.

## How can I find out more?

For those who want to know more, our intensive one-day course on CIOs is in York on Wed 8 June 2011, and it will now cover SCIOs in full detail. Places are filling up, so don't delay if you want to book – see [www.kubernesis.co.uk/seminars/k304](http://www.kubernesis.co.uk/seminars/k304) - you can now book and pay online! (Remember York is not far from Scotland: from Edinburgh it is only 2h30 on the east coast line.)

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