**THE REGISTER OF PERSONS HOLDING A CONTROLLED INTEREST IN LAND (“RoCI”)**

**WHAT DOES IT MEAN FOR MEMBER CHURCHES OF THE BAPTIST UNION OF SCOTLAND?**

**(Updated to January 2024)**

**WHAT IS RoCI?**

**RoCI** or, if you prefer trendy acronyms, “**Rocky**”, is not a revival of the series of films about a boxer who gets knocked down, but gets up again. However, as you will read below, RoCI packs a powerful punch and ignoring it can have painful consequences, **especially for unincorporated churches**. Nevertheless, taking the initiative in the early rounds will put RoCI back in its corner, and after that the occasional mild skirmish should keep RoCI at bay.

RoCI is the **Register of Persons Holding a Controlled Interest in Land,** established under the Land Reform (Scotland) Act 2016 (Register of Persons Holding a Controlled Interest in Land) Regulations 2021 (Scottish Statutory Instrument 2021 No 85), as updated by two sets of similarly named Amendment Regulations (SSI 2021 No 495 and SSI 2023 No 104).

*NB:*

* *This article is the briefest of summaries of selected parts of the Regulations which may be of most interest to churches in membership of The Baptist Union of Scotland (“BUS”), and does not pretend to be in any way comprehensive. The Regulations must be referred to for fuller detail.*
* *Before delving further into this article, you may find it helpful to read the article elsewhere on this website entitled “****Who are the Church’s Trustees?****”* [*https://scottishbaptist.com/resourcesandguidance/legal/*](https://scottishbaptist.com/resourcesandguidance/legal/)*. Please take particular note of the distinction between the “General Purpose Trustees” and the “Title Trustees” of the church.*

**WHEN DOES RoCI ENTER THE RING?**

* RoCI is already here. It opened on **1st April 2022** (“**the Commencement Date**”), and registrations can be, have been and are being made.
* However, we are currently living in days of grace. RoCI will not be enforced, and substantial fines levied for non or erroneous registration, until a future date (“**the Enforcement Date**”).
* **The Enforcement Date is 1st April 2024.** It was originally 1st April 2023, but was extended by the Scottish Parliament to allow more time for compliance. Some churches (not BUS) were seeking further extension, but it now seems clear that there is no possibility of this being granted.
* It is therefore essential that churches take the necessary action to comply well in advance of the Enforcement Date. This is not something that can be left to the last minute or even to the last month. **The time for action is NOW!!**
* Potential fines for non-compliance could be as much as £5000. You might speculate that churches will not be the first targets for enforcement action or sanctions, and there will be a measure of leniency applied towards charities. **Do not rely on such idle speculation!** The other side of the argument is that two years’ grace has already been extended and why should churches be granted any special consideration?

**WHY IS RoCI HERE?**

This is all part of the Scottish Government’s drive for greater transparency, not only in the ownership of heritable property (land and/or buildings), but as to who controls, manages and takes the decisions in relation to heritable property. The Land Register of Scotland (for registered titles) and the General Register of Sasines (for recorded, but unregistered, titles) tell us in whose name(s) title was registered or recorded (perhaps decades or centuries ago), but do not reveal who now holds the controlling power over that property.

The beneficial purpose of enabling communities to engage with faceless trusts that own vast tracts of land or key buildings within their locality can be acknowledged. However, perhaps rather unfortunately, churches can be ensnared by the possibly unintended consequences of the wide framing of the Regulations.

**CAN RoCI BE AVOIDED?**

Yes!

* RoCI takes on only a limited range of opponents. Incorporated churches, that is:
	+ Scottish Charitable Incorporated Organisations (“**SCIOs**”); or
	+ Charitable Companies limited by Guarantee (”**CLGs**”)

are regarded as already being subject to a sufficient transparency regime and therefore do not have to effect any registration under RoCI in relation to their properties. As SCIO is by far the more common incorporated charitable structure of choice for Baptist churches, I will refer from now on to SCIOs, but the same principles apply to CLGs.

* RoCI’s swinging haymaker will not land until the Enforcement Date. Therefore if your church is currently constituted as an Unincorporated Voluntary Association (“UVA”), then if:
	+ the church is restructured as a SCIO; **and** (this is a very important **and**)
	+ the heritable properties of the UVA have been conveyed to the SCIO;

**prior to the Enforcement Date** then there will be no need to effect any registration under RoCI.

*If your church has already restructured as a SCIO* ***and*** *its properties have been conveyed by the trustees of the UVA to the SCIO, you can stop reading here.* ***If your church’s title deeds are still in the name of a UVA (even if you are in the process of restructuring as a SCIO, and even if the SCIO has been approved by OSCR and is on the Scottish Charity Register)****, then keep reading……*

Before going any further, I should state very clearly that my purpose in writing this article is not to create more work for solicitors or to encourage churches to incur legal expenses when their preference would always be to direct financial resources towards more apparently useful aspects of the ministry and mission of the church. However, having:

* engaged with these Regulations for the past couple of years;
* undertaken personal consultations with the relevant staff at the Registers of Scotland;
* participated in the pre-Commencement Date testing of the new registration system, and in regular post-Commencement Date testing and feedback sessions regarding various attempts by techno-geeks and others at the Registers to make the system more efficient and user friendly, and less time-consuming; and
* successfully made the multiple submissions needed in relation to the properties of a range of different Baptist churches to comply with the requirements of RoCI;

I have been forced to the inevitable conclusion that unless a church leadership group has a strong understanding of title deeds and trusteeship in general, and a particular knowledge of the title deeds of their own church’s heritable properties, then, rather than trying to take on RoCI themselves, the limited time and resource of the leadership group would probably be more efficiently deployed in instructing suitably qualified solicitors to conduct, or at least guide them on, the RoCI road to registration.

Therefore you could stop reading here and simply instruct the church’s solicitors to attend to this. However, reading further may help in understanding what information your solicitors may require and why, and thus minimise the time and consequent cost involved in the process.

Please believe me. I have tried to make this explanation as short and simple as possible! However, because:

* the Regulations have not been written with Baptist church title deeds in mind; and
* although some common threads emerge, Baptist church title deeds produced by different solicitors in different eras with different levels of competence and understanding of how Baptist churches operate, end up being so different from each other with so many different combinations of possibilities;

it is not feasible to produce clear and comprehensive guidance that will meet every situation, and even the limited amount I do say will be hedged with some complex and technical concepts. Please bear with me……

**WHAT IS ROCI RECORDING?**

**It is vital to grasp that RoCI is not a register of churches and/or properties. RoCI is a register of persons.**

RoCI is a record kept by the Registers of Scotland of persons who:

* are owners or tenants of a heritable property (“tenants” relates to recorded or registered leases of over 20 years. As that will sometimes, but rarely, apply to church properties, I will from now on refer to owners only, but the same principles would apply to relevant tenancies); and
* in respect of that property, there is an “**Associate**” (see below).

In relation to UVAs:

* The owners (known as “**Recorded Persons**”) hold title to the property as trustees on behalf of the members of a UVA.
* The Associates are responsible for the general control and management of the UVA, but do not have a recorded or registered title to the property.

Please refer back to my website article on “**Who are the Church’s Trustees?**” <https://scottishbaptist.com/resourcesandguidance/legal/>.

* Recorded Persons are the approximate equivalent of **Title Trustees** as explained there.
* Associates are the approximate equivalent of **General Purpose Trustees** as explained there.

But of course it could not be as simple as that. We have to draw a distinction between:

* The original Title Trustees in whose names title was taken whenever the property was acquired (maybe decades or centuries ago) and whose names therefore still appear in the General Register of Sasines or in the Land Register of Scotland. Let us call them the **Original Title Trustees.**
* The current successors in their respective offices of the Original Title Trustees. Let us call them the **Current Title Trustees.**

If the Original Title Trustees are still the Current Title Trustees, and are the same people as the General Purpose Trustees, then there are no Associates, as those responsible for the general control and management of the UVA do have a recorded or registered title to the property, and thus there is no need to register under RoCI.

In virtually every case, except for some limited instances of very recently acquired properties, there will be a divergence between the Original Title Trustees and the General Purpose Trustees. Therefore the General Purpose Trustees will be Associates and that will trigger the requirement to register under RoCI. With me so far??

**WHO HAS TO REGISTER UNDER RoCI?**

Responsibility rests with each of the **Recorded Persons**, who will be:

* The Original Title Trustees in so far as still alive **and** continuing in office as trustees; or
* If there are no original Trustees alive **and** continuing in office, the Current Title Trustees.

**The Title Trustees can only be ascertained by reference to the title deeds themselves**. Do not trust anything in your UVA Constitution which says that title to heritable properties will be taken in the names of certain office-bearers as trustees for the church. I normally find that the title has been taken in a totally different way. Joined up thinking does not seem to be a characteristic displayed in the past when it came to taking title to church properties. Unravelling this has probably taken up more years of my life than I would care to remember!

Each of the Recorded Persons is responsible for registering all the information relating to a particular property, which will inevitably lead to a lot of duplication.

**WHAT INFORMATION DOES THE RECORDED PERSON HAVE TO REGISTER?**

* Recorded Person’s name and address
* Sufficient information to identify the heritable property:
	+ If it is registered in the Land Register of Scotland, the Title Number will be enough.
	+ If it is still in the General Register of Sasines (ie recorded, but not yet registered), a full address and post code will usually suffice. An area map will come up on screen and you will be asked to verify that this is indeed the correct location (a detailed title boundary plan is not required).
	+ Capacity in which the property is owned-in this case as trustee of the UVA.
* In respect of each Associate:
	+ Name and address.
	+ Date of birth (this information is not published on RoCI and is simply for internal verification that the Associate is a real human being, and to differentiate people with similar names).
	+ The month (if known) when the Associate’s link with the Recorded Person was formed. This would usually be the later of:
		- the month of acquisition of the property; and
		- the month on which the Associate was first appointed as a General Purpose Trustee.
	+ Any **unique reference number** allocated to that Associate (this should be in place if the Associate’s details have been registered before-most likely by one of the other Recorded Persons).

As regards who are the Associates whose details require to be given:

* You could not go wrong if you listed all the General Purpose Trustees, as these are the people responsible for the general control and management of the administration of the UVA. However, for once the Regulations come to the assistance of a UVA church by saying that for the particular purposes of RoCI “**a person is responsible for the general control and management of the administration of a body if they hold an office or other official position in that regard (such as chair, treasurer or secretary, however that may be described)**”. Thus, although it may seem rather inconsistent with the egalitarian nature of the church leadership group, you can with a clear conscience save yourself some work by just giving details of the following:
	+ **Treasurer** (or equivalent)
	+ **Secretary** (or equivalent)
	+ **Chair** (possibly the current Minister/Pastor), but if such an office does not really exist, do not trouble to make one up-the Treasurer and Secretary (or equivalents) would be enough.
* If there are no Original Title Trustees still alive and continuing in office as trustees, then you must include as Associates all the Current Title Trustees, in so far as not already included as Associates. Therefore for example if your Current Title Trustees include all the Deacons, you would also have to list all the Deacons as Associates and you could not get by with just the Treasurer, Secretary and Chair (or equivalents).

**WHERE DOES THE RECORDED PERSON GO TO REGISTER?**

* If solicitors are carrying out the registration on the church’s behalf, then they will already have their own online account with the Registers of Scotland. They will be business users, and the way the system operates this will give them certain enhanced facilities, especially in relation to “cloning” or copying across information, not available to “one-off” church users who do not have an online business account.
* If the church is doing the registration itself, the Recorded Person can go to <https://rci.ros.gov.uk/> and create a public account which can then be logged into. Remember that each Recorded Person will need their own separate account.
* Thereafter it is simply a matter of filling in the information requested on screen:
	+ You are best to have all the information to hand before you start. Although it is possible to save a draft entry and return to complete it later, I would recommend avoiding this if at all possible. You will have to click through all the previously submitted information again and you may have to re-enter addresses. Also if other relevant information has been entered on the system by you or someone else in the interim (for example if a new Associate Number has been created), that can lead to complications and duplications.
	+ For a new registration you will go to “*create an entry*”.
	+ You begin with the Recorded Person and then the property, before doing separate entries for each Associate.
	+ The system is relatively intuitive and should take you smoothly from page to page.
* Each Recorded Person will have to laboriously submit relatively similar information.
* Once the Recorded Person has made their submission, they will be given their own **unique reference number**.
* Please note that Recorded Person reference numbers commencing with “RP” and Associate reference numbers commencing with “A” are quite separate and distinct. Most church trustees in respect of whom registration is required will end up having both an RP and an A number, although in certain limited situations a trustee may have only one such number, whether RP or A.

**WHAT ABOUT CHANGES TO INFORMATION IN ROCI?**

If there are alterations to information already in RoCI, such as:

* changes of address and other details of Recorded Persons or Associates
* addition or removal of Recorded Persons or Associates
* property being conveyed away, which might (for example) be as a result of:
	+ sale; or
	+ transfer to a SCIO;

then the appropriate Recorded Person or Persons should register the information in RoCI **within 60 days**. Associates must provide Recorded Persons with the information necessary to update RoCI. If solicitors have carried out the initial registration, the church may feel that it would prefer to attend to such updating itself. For that you will log in as before and go to “*manage an entry*”. However, this will not be as straightforward as you might think it should be, as for example all the appropriate Associates will have to be re-attached to any new Recorded Person. Legal advice should be sought if there is any doubt.

You may wish to have a discussion with your solicitors as to who is responsible for updating RoCI. Providing the solicitors with the information they need and letting them do the actual registration may be the simplest approach. Interacting with RoCI is much easier for the regular business user.

For a new property being acquired, again there may be a discussion between solicitors and church as to who attends to any required ROCI registration. If Original Title Trustees and Associates are the same, there may not be a need to register initially, but that day will surely come.

**WHERE CAN THE CHURCH LOOK FOR ASSISTANCE?**

* Due to the complexity of the Regulations, and how these apply differently to different churches, BUS staff will not be able to provide churches with advice on RoCI registration (apart from pointing you to this article).
* Churches should consider seeking advice from their usual solicitors (especially if they hold the title deeds to the church properties) or from other solicitors of their own choice. It would be useful to ensure that the solicitors instructed have a reasonable understanding of RoCI and its specific application to Baptist church title deeds. I have been informed by several churches that their usual solicitors have said that they do not have the requisite understanding of RoCI’s application to their title deeds, and that the church should seek such advice elsewhere.
* Without wishing in any way to interfere with existing church/solicitor relationships, my own company Diakoneo Legal Services Limited (“DLS”) would be happy to advise on matters relating to RoCI, if so requested.

**HOW MUCH WILL LEGAL ADVICE COST?**

* Impossible to predict in any given case, **as everything will depend on whether title and other information is available and clear in its terms**, so that Recorded Persons and Associates can be readily identified.
* If the necessary information is clear and available, then fees should be relatively modest. The main cost would be in the initial registrations in relation to any particular property. Thereafter charges for updating should be fairly low.
* If title and other research is necessary to establish the required information, then fees will increase correspondingly, but that would be a one-off cost and generally it is good and helpful for the church leadership group to know as much as possible about the contents of the title deeds to the church’s properties.
* DLS would be willing to provide an initial Zoom consultation free of charge and then give an estimate of fees once the scope of the work required has been ascertained, and it may that some other solicitors might offer something similar.
* The Registers of Scotland will not make any charge for registering in RoCI (but they will not do it for you!).

**WHAT SHOULD THE CHURCH LEADERSHIP GROUP DO NOW?**

* This must be given consideration by all UVAs, whether or not you intend to undertake, or are in the process of undertaking, SCIO restructuring.
* If you do not intend to undertake SCIO restructuring, you will require to ensure that ROCI registration is completed well before the Enforcement Date of 1st April 2024. I would recommend starting on this immediately, in case action is required to locate the church’s title deeds to its property or properties before it is possible to ascertain the particular RoCI requirements.
* If you are already well forward on the SCIO restructuring journey (ie the SCIO already exists and all that remains is for the assets and liabilities of the UVA to be transferred to the SCIO), you might still be able to complete the process and convey title to the SCIO in time before the Enforcement Date. However, speedy action in that respect may well be necessary.
* If you are at an earlier stage in the SCIO restructuring process, there will not be time to complete the transfer of title prior to the Enforcement Date. In that case RoCI registration will be required, but the registrations can be removed when the transfer of the property is complete. Removal of the registrations is relatively straightforward and at least you are spared the constant need to update in future, which is the main continuing burden of RoCI.
* If you have not yet considered or started on the pathway to SCIO restructuring, you might like to give this some consideration. In that case, please have a look at the article <https://scottishbaptist.com/resourcesandguidance/restructuring-to-a-scio/>. You will not be able to avoid the need to make the initial RoCI registrations, but once the transfer is complete, you will be able to remove the registrations and be free from any future compliance obligations.

**SOME ILLUSTRATIVE EXAMPLES**

I cannot promise you the entertainment value of a Rumble in the Jungle, but a look back at some previous bouts may help to explain the implications of RoCI as it might apply to a particular Baptist church.

We will consider the mythical UVA Wharf Baptist Church (“WBC”), which owns 3 properties. Any apparent resemblance to any existing church is purely incidental. Remembering your school multiplication tables may be useful:

* **WBC Church Premises purchased in 1875**. Title taken in the names of the then Pastor, Secretary and Treasurer of the church and the then President, Treasurer and Secretary of BUS. Perhaps not too surprisingly all of the Original Title Trustees are deceased. Therefore their present successors in office are the Current Title Trustees, and are both Recorded Persons and Associates. They will be:
	+ Current Pastor(s) of WBC (if any)
	+ Current Secretary or equivalent successor trustee office (Administrator or whatever) of WBC
	+ Current Treasurer or equivalent successor trustee office (Finance Lead or whatever) of WBC
	+ Current General Director of BUS
	+ Current Finance Director of BUS
	+ Current Convenor of BUS

If we assume that there is one person in each office, that is 6 Recorded Persons with 6 Associates to be attached to each Recorded Person. 6 x 6 = 36 registration actions. Keeping your guard up and maintaining concentration can be the biggest challenge!

* **WBC Manse purchased in 1975**. Title taken in the names of the then 12 Deacons of WBC. One of these is still alive, but is no longer in office as Deacon. There are now 8 Deacons in office. They are the present successors in office and therefore the Current Title Trustees, and both the Recorded Persons and the Associates. So I have 8 Recorded Persons with 8 Associates for each. Just like the Beatles, I’ll be finished when I’m 64.
* **WBC Community Hub purchased in 2000**. Title taken in the names of the then 10 Deacons of WBC. One of these (John Baptiste) is still hanging on as part of the 8 strong Diaconate. So just one Recorded Person, and what is more we can take advantage of the dispensation so that the Associates do not have to be all the Deacons, but only the Pastor (ie Chairperson equivalent), Secretary and Treasurer. A mere 3 registration actions. However, as you are leaving the ring in triumph, there comes the sting in the tail. John Baptiste resigns from the Diaconate. There are no original Recorded Persons left. The present successors in office to the Original Title Trustees, ie the 7 remaining Deacons are now your Current Title Trustees, and both the Recorded Persons and the Associates. 49 registration actions to be undertaken!

Maybe you now believe me when I say that RoCI is not straightforward.

**THE FINAL BELL**

Nothing in this article should be regarded as legal advice to any particular church. Each church is responsible for making its own registration(s) in RoCI, and should take whatever legal or other advice is required for that purpose. Apologies if reading these 9 pages has been like going 15 rounds with Rocky Balboa. I do not make the law. I only endeavour to explain it. If you have not yet been knocked out or thrown in the towel, and if in the words of Elton John, you are still standing, well done! You can take a rest now.

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