



Charities and Trustee Investment (Scotland) Act 2005

2005 asp 10

The Bill for this Act of the Scottish Parliament was passed by the Parliament on 9th June 2005 and received Royal Assent on 14th July 2005

An Act of the Scottish Parliament to make provision about charities and other benevolent bodies; to make provision about fundraising in connection with charities and other benevolent bodies; to amend the law in relation to the investment powers of trustees; and for connected purposes.

Modifications etc. (not altering text)

- C1 [Act excluded \(1.4.2006\) by The Scottish Charity Register \(Transitional\) Order 2006 \(S.S.I. 2006/188\), arts. 1\(1\), 3](#)

^{F1}PART 1

CHARITIES

Textual Amendments

- F1 [Pt. 1 Ch. 5A](#) inserted (1.10.2010 for specified purposes, 1.11.2012 in so far as not already in force) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), ss. [125\(1\)](#), [134\(7\)](#); S.S.I. 2010/321, art. 3, Sch.; S.S.I. 2012/218, art. 2

CHAPTER 1

OFFICE OF THE SCOTTISH CHARITY REGULATOR

1 Office of the Scottish Charity Regulator

- (1) There is to be an office to be known as the Office of the Scottish Charity Regulator.

Status: This version of this Act contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Charities and Trustee Investment (Scotland) Act 2005. (See end of Document for details)

- (2) There is established a body corporate, to be known as the Scottish Charity Regulator, which is to be the holder of that office.
- (3) That office-holder is referred to in this Act as “OSCR”.
- (4) OSCR has the functions conferred on it by or under this Act and any other enactment.
- (5) OSCR's general functions are—
 - (a) to determine whether bodies are charities,
 - (b) to keep a public register of charities,
 - (c) to encourage, facilitate and monitor compliance by charities with the provisions of this Act,
 - (d) to identify and investigate apparent misconduct in the administration of charities and to take remedial or protective action in relation to such misconduct, and
 - (e) to give information or advice, or to make proposals, to the Scottish Ministers on matters relating to OSCR's functions.
- (6) OSCR may do anything (whether in Scotland or elsewhere) which is calculated to facilitate, or is conducive or incidental to, the performance of its functions.
- (7) Subsection (6) does not enable OSCR to do anything in contravention of any express prohibition, restriction or limitation on its powers which is contained in any enactment (including this Act).
- (8) OSCR must perform its functions in a manner that encourages equal opportunities and in particular the observance of the equal opportunity requirements.
- (9) In performing its functions OSCR must, so far as relevant, have regard to—
 - (a) the principles under which regulatory activities should be proportionate, accountable, consistent, transparent and targeted only at cases in which action is needed, and
 - (b) any other principle appearing to OSCR to represent best regulatory practice.
- (10) Schedule 1 makes further provision about the Scottish Charity Regulator.

Commencement Information

- I1** S. 1(1)-(4) s. 1(6)-(10) in force at 24.2.2006 by [S.S.I. 2006/74](#), [art. 2\(a\)](#)
- I2** S. 1(5)(a) in force at 24.4.2006 by [S.S.I. 2006/189](#), [art. 2\(2\)](#), [Sch. Pt. 2](#)
- I3** S. 1(5)(b)-(e) in force at 1.4.2006 by [S.S.I. 2006/189](#), [art. 2\(1\)](#), [Sch. Pt. 1](#)

2 Annual reports

- (1) As soon as practicable after the end of each financial year, OSCR must—
 - (a) prepare and publish a general report on the exercise of its functions during that year,
 - (b) send a copy of the report to the Scottish Ministers, and
 - (c) lay a copy of the report before the Scottish Parliament.

Status: This version of this Act contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Charities and Trustee Investment (Scotland) Act 2005. (See end of Document for details)

- (2) A general report may include, in particular, any general recommendations which OSCR may have arising from the exercise of its functions during that year and any previous financial year.
- (3) It is for OSCR to determine the form and content of a general report and by what means it is to be published.

Commencement Information

I4 S. 2 in force at 24.4.2006 by [S.S.I. 2006/189](#), art. 2(2), [Sch. Pt. 2](#)

CHAPTER 2

SCOTTISH CHARITY REGISTER

The Register

3 Scottish Charity Register

- (1) OSCR must keep a register of charities to be known as the “Scottish Charity Register” (and referred to in this Act as “the Register”).
- (2) The Register is to be kept in such manner as OSCR thinks fit.
- (3) The Register must contain a separate entry for each charity entered in it setting out—
 - (a) the name of the charity,
 - (b) the principal office of the charity or, where it does not have such an office, the name and address of one of its charity trustees,
 - (c) the purposes of the charity,
 - (d) where the charity is a designated religious charity or a designated national collector, that fact,
 - (e) where—
 - (i) a direction is given under section 11(3), 12(2) or (3), 16(6), 28(3), 30(1) or 31(5) to (9), or
 - (ii) a notice is given under section 31(4),
 in relation to the charity, the fact that the direction or notice has been given and the date on which it was given,
 - (f) any other information in relation to the charity which the Scottish Ministers by regulations require to be set out in the Register, and
 - (g) any other information in relation to the charity which OSCR considers appropriate.
- (4) OSCR must, despite subsection (3)(b), exclude the information specified in that provision from a charity's entry in the Register if, on the application of the charity (whether together with its application for entry in the Register or separately), OSCR is satisfied that including that information is likely to jeopardise the safety or security of any person or premises.

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Changes to legislation: There are currently no known outstanding effects for the
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- (5) OSCR must, if it is satisfied that a direction or notice of a type described in subsection (3)(e) has been complied with or no longer has effect, remove reference to the direction or notice from the charity's entry.
- (6) OSCR must—
- (a) from time to time, review each entry in the Register, and
 - (b) if it considers any information set out in a charity's entry to be inaccurate—
 - (i) amend the entry accordingly, and
 - (ii) notify the charity of the amendment made.

Modifications etc. (not altering text)

- C2** S. 3(3) disappplied (temp. until 23.8.2007) (1.4.2006) by [The Scottish Charity Register \(Transitional\) Order 2006 \(S.S.I. 2006/188\)](#), arts. 1(1), 2
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Commencement Information

- I5** S. 3 in force at 1.1.2006 for specified purposes by [S.S.I. 2005/644](#), art. 2(1), [Sch. 1](#)
- I6** S. 3 in force at 1.4.2006 in so far as not already in force by [S.S.I. 2006/189](#), art. 2(1), [Sch. Pt. 1](#)
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Applications

4 Application for entry in Register

An application for entry in the Register must—

- (a) state the name of the body making the application (the “applicant”),
- (b) state the principal office of the applicant or, where it does not have such an office, the name and address of one of the persons who, if the applicant is entered in the Register, will be its charity trustees,
- (c) be accompanied by—
 - (i) a statement of the applicant's purposes,
 - (ii) a copy of the applicant's constitution, and
 - (iii) the applicant's most recent statement of account (if any), and
- (d) contain such other information, and be accompanied by such other documents, as may be—
 - (i) required by regulations under section 6(1), or
 - (ii) otherwise requested by OSCR.

Commencement Information

- I7** S. 4 in force at 24.4.2006 by [S.S.I. 2006/189](#), art. 2(2), [Sch. Pt. 2](#)
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5 Determination of applications

- (1) OSCR may enter an applicant in the Register only if it considers that the applicant meets the charity test.
- (2) OSCR must refuse to enter an applicant if—
 - (a) it considers that the applicant's name falls within section 10, or

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- (b) the application must, by virtue of regulations under section 6(1), be refused, but must not otherwise refuse to enter an applicant which it considers meets the charity test.

Commencement Information

I8 S. 5 in force at 24.4.2006 by [S.S.I. 2006/189](#), art. 2(2), [Sch. Pt. 2](#)

6 Applications: further procedure

- (1) The Scottish Ministers may by regulations make such further provision in relation to the procedure for applying and determining applications for entry in the Register (including applications under section 54(1), 56(1) and 59(1)) as they think fit.
- (2) Such regulations may in particular make provision about—
 - (a) information and documents which must be specified in or accompany an application,
 - (b) the form and manner in which applications must be made,
 - (c) the period within which OSCR must make a decision on an application, and
 - (d) circumstances in which OSCR must refuse to enter a body in the Register.

Commencement Information

I9 S. 6 in force at 1.1.2006 for specified purposes by [S.S.I. 2005/644](#), art. 2(1), [Sch. 1](#)

I10 S. 6 in force at 24.4.2006 in so far as not already in force by [S.S.I. 2006/189](#), art. 2(2), [Sch. Pt. 2](#)

The charity test

7 The charity test

- (1) A body meets the charity test if—
 - (a) its purposes consist only of one or more of the charitable purposes, and
 - (b) it provides (or, in the case of an applicant, provides or intends to provide) public benefit in Scotland or elsewhere.
- (2) The charitable purposes are—
 - (a) the prevention or relief of poverty,
 - (b) the advancement of education,
 - (c) the advancement of religion,
 - (d) the advancement of health,
 - (e) the saving of lives,
 - (f) the advancement of citizenship or community development,
 - (g) the advancement of the arts, heritage, culture or science,
 - (h) the advancement of public participation in sport,
 - (i) the provision of recreational facilities, or the organisation of recreational activities, with the object of improving the conditions of life for the persons for whom the facilities or activities are primarily intended,
 - (j) the advancement of human rights, conflict resolution or reconciliation,