

*Status: This version of this provision is prospective.*

**Changes to legislation:** Charities (Regulation and Administration) (Scotland) Act 2023, Paragraph 9 is up to date with all changes known to be in force on or before 20 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

PROSPECTIVE

## SCHEDULE FURTHER MODIFICATION OF THE 2005 ACT

### *Removal from Register: protection of assets*

- 9 (1) Section 19 (removal from register: protection of assets) of the 2005 Act is modified as follows.
- (2) For subsection (1) substitute—
- “(1) A body removed from the Register (under section 18 or otherwise) continues to be under a duty to apply its protected charitable assets—
- (a) in accordance with its charitable purposes as set out in its entry in the Register immediately before its removal (its “most recent purposes”), and
  - (b) to provide public benefit in Scotland or elsewhere.
- (1A) In this section, “protected charitable assets” means—
- (a) any property acquired, or any property representing property acquired, before the body was removed from the Register,
  - (b) any property representing income which accrued before the body was removed from the Register, and
  - (c) the income from any such property.
- (1B) The application of protected charitable assets in accordance with a body’s most recent purposes is not to be presumed to be for the public benefit.
- (1C) In determining whether a body is applying its protected charitable assets for public benefit, section 8(2) applies subject to the modifications in subsection (1D).
- (1D) The modifications are that—
- (a) in the opening words, the reference to determining whether a body provides or intends to provide public benefit is to be read as if it were a reference to determining whether a body is applying its protected charitable assets for public benefit,
  - (b) in the closing words of paragraph (a), the reference to the consequence of the body exercising its functions is to be read as if it were a reference to the consequence of the body applying its protected charitable assets.”.
- (3) In subsection (2), for “property and income referred to in subsection (1)” substitute “its protected charitable assets”.
- (4) In subsection (4), for “property or income” substitute “protected charitable assets”.
- (5) In subsection (5)—
- (a) in paragraph (a)—

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- (i) for “property or income”, in both places where it occurs, substitute “protected charitable assets”,
  - (ii) before “purposes” insert “charitable”,
  - (b) in paragraph (b), for “property and income” substitute “protected charitable assets”.
- (6) In subsection (7)—
- (a) for “property or income”, in the first place where it occurs, substitute “protected charitable assets”,
  - (b) for “that property or income” substitute “the protected charitable assets”.

#### **Commencement Information**

- II** Sch. para. 9 not in force at Royal Assent, see [s. 21\(2\)](#)

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**Changes and effects yet to be applied to :**

- sch. para. 9 coming into force by [S.S.I. 2024/63 reg. 2\(1\)sch. Pt. 1](#)