



# Charities (Regulation and Administration) (Scotland) Act 2023

## 2023 asp 5

### *Inquiries*

PROSPECTIVE

#### **17 Ability to issue positive directions**

- (1) The 2005 Act is modified as follows.
- (2) In section 3(3)(e)(i) (Scottish Charity Register), after “30A(2)” (inserted by [section 18\(2\)](#)) insert “, 30B(2)”.
- (3) After section 30A (inserted by [section 18\(4\)](#)), insert—

#### **“30B Powers of OSCR following inquiries: direction to take specified steps**

- (1) This section applies where it appears to OSCR, as a result of inquiries under section 28—
  - (a) that there has been misconduct in the administration of—
    - (i) a charity, or
    - (ii) a body controlled by a charity, or
  - (b) that it is necessary or desirable to act for the purpose of protecting the property of a charity or securing a proper application of such property for its purposes.
- (2) OSCR may direct the charity or body to take, within such period as may be specified in the direction, such steps (specified in the direction) as OSCR considers to be expedient in the interests of the charity.
- (3) The power of OSCR to give a direction under subsection (2) includes the power to—
  - (a) vary the direction, but only by—
    - (i) extending the time period specified in the direction,

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

**Changes to legislation:** *There are currently no known outstanding effects for the Charities (Regulation and Administration) (Scotland) Act 2023, Section 17. (See end of Document for details)*

- (ii) removing steps which the charity or body is required to take,
  - (b) revoke the direction,
  - (c) give more than one direction under that subsection in respect of the same inquiries (in addition to any direction that may be given under section 31).
- (4) A direction under subsection (2)—
  - (a) may require steps to be taken whether or not they would otherwise be within the powers exercisable by the charity or body, but
  - (b) may not require any steps to be taken which are—
    - (i) prohibited by any enactment,
    - (ii) expressly prohibited by the constitution of the charity or (as the case may be) body, or
    - (iii) inconsistent with the charity’s purposes.
- (5) Anything done by a charity or body under the authority of a direction under subsection (2) is to be treated as properly done in the exercise of the powers exercisable by it.
- (6) Subsection (5) does not affect any contractual or other rights arising in connection with anything which has been done under the authority of such a direction.”.
- (4) The heading of section 31 becomes “Powers of OSCRC following inquiries: temporary suspension or restriction of conduct”.
- (5) In section 32(2) (suspensions and directions: procedure)—
  - (a) the words “a further suspension or direction may be made or given under section 31 but” become paragraph (a),
  - (b) in paragraph (a) (as formed), after “section 31” insert “(in addition to any direction that may be given under section 30B),”,
  - (c) the words from “the further suspension” to the end become paragraph (b),
  - (d) in paragraph (b) (as formed), after “direction” in the first place where it occurs, insert “under section 31”.
- (6) The heading of section 32 becomes “Suspensions and directions under section 31: procedure”.
- (7) In section 33(1)(a) (reports on inquiries), after sub-paragraph (ia) (inserted by [section 18\(5\)](#)) insert—
  - “(ib) gives a direction under section 30B,”.
- (8) In section 65(4) (designated religious charities), after “section 28(3),” insert—
  - “section 30B,”.
- (9) In section 71 (decisions), after paragraph (ic) (inserted by [section 18\(6\)](#)), insert—
  - “(id) give a direction under section 30B(2),”.
- (10) In section 72(2)(a) (notice of decisions), after “(g),” insert “(id),”.
- (11) In section 73(2) (effect of decisions), in the opening words, after “(ic),” (inserted by [section 18\(7\)](#)) insert “(id),”.

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**Commencement Information**

**II** S. 17 not in force at Royal Assent, see [s. 21\(2\)](#)

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**Changes to legislation:**

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