

2024 No. 63 (C. 6)

CHARITIES

**The Charities (Regulation and Administration) (Scotland) Act
2023 (Commencement No. 1, Transitional and Saving
Provisions) Regulations 2024**

Made - - - - *21st February 2024*
Laid before the Scottish Parliament *23rd February 2024*
Coming into force - - *1st April 2024*

The Scottish Ministers make the following Regulations in exercise of the power conferred by section 21(2) and (3) of the Charities (Regulation and Administration) (Scotland) Act 2023(a) and all other powers enabling them to do so.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Charities (Regulation and Administration) (Scotland) Act 2023 (Commencement No. 1, Transitional and Saving Provisions) Regulations 2024 and come into force on 1 April 2024.

(2) In these Regulations—

“the Act” means the Charities (Regulation and Administration) (Scotland) Act 2023,

“the 2005 Act” means the Charities and Trustee Investment (Scotland) Act 2005(b),

“OSCR” has the meaning given in section 1 of the 2005 Act, and

“Scottish Charity Register” has the meaning given in section 3 of the 2005 Act.

Appointed days

2.—(1) Subject to regulations 7 and 8, 1 April 2024 is the day appointed for the coming into force of the provisions of the Act specified in column 1 of the table in Part 1 of the schedule (the subject matter of which is described in the corresponding entry in column 2 of that table).

(2) 1 October 2024 is the day appointed for the coming into force of the provisions of the Act specified in column 1 of the table in Part 2 of the schedule (the subject matter of which is described in the corresponding entry in column 2 of that table).

(3) Where a purpose is specified in column 3 of either table in either Part of the schedule, the corresponding provision in column 1 comes into force in accordance with paragraph (1) or (2) only for that purpose.

(a) 2023 asp 5.
(b) 2005 asp 10.

Transitional provision: acting trustees

3. Where a request for the appointment of an acting trustee under section 70A(2) of the 2005 Act was—

- (a) made to OSCR before 1 April 2024, but
- (b) has not been determined by that date,

the request is to be treated as if it were a request for the appointment of an interim trustee under section 70A(1) of the 2005 Act, as amended by section 8 of the Act(a).

Transitional provision: ability to issue positive directions

4. Section 30B of the 2005 Act applies in relation to any inquiry under section 28 of the 2005 Act that—

- (a) began before 1 April 2024, and
- (b) has not been concluded by that date(b).

Transitional provision: charities which it is not appropriate for OSCR to regulate

5. The amendments made to section 5 of the 2005 Act by section 18 of the Act apply in relation to any application for entry in the Scottish Charity Register under section 4 of the 2005 Act that—

- (a) was made to OSCR before 1 April 2024, and
- (b) has not been determined by that date.

Transitional provision: change of name: delaying decision or granting or refusing consent

6. The amendments made to section 11 of the 2005 Act by paragraph 5 of the schedule of the Act apply in relation to any notice given to OSCR by a charity under section 11(2) of the 2005 Act where—

- (a) such notice was given to OSCR before 1 April 2024,
- (b) the period of 28 days referred to in section 11(3) of the 2005 Act has not expired, and
- (c) OSCR has not directed the charity not to change its name under section 11(3) of the 2005 Act.

Savings

7. Despite the commencement of section 16 of the Act (notice and obtaining information), the amendments made by that section have no effect in relation to any notice issued by OSCR under section 29 of the 2005 Act where that notice is issued before 1 April 2024.

8. Despite the commencement of paragraph 10 of the schedule of the Act (provision of documents), the amendments made by that paragraph have no effect in relation to any request made to a charity under section 23(1) of the 2005 Act where that request is made before 1 April 2024.

SHIRLEY-ANNE SOMERVILLE
A member of the Scottish Government

St Andrew's House,
Edinburgh
21st February 2024

(a) Section 70A was inserted by section 126 of the Public Services Reform (Scotland) Act 2010 (asp 8).
(b) Section 30B is inserted by section 17 of the Act.

SCHEDULE

Regulation 2

PART 1

| <i>Column 1</i> <i>(provision of the Act)</i> | <i>Column 2</i> <i>(subject matter)</i> | <i>Column 3</i> <i>(purpose)</i> |
|--|--|--|
| Section 1 | Meaning of “the 2005 Act” | |
| Section 6(1) and (5) | Disqualification: senior management functions | For the purpose of the insertion made by section 9(2) of the Act |
| Section 8 | Appointment of interim trustees by OSCR | |
| Section 9 | Review of proposed appointment of interim trustee | |
| Section 12 | Removal of non-responsive charities for failure to submit accounts | |
| Section 13(1) and (2) | Recording of charity mergers and treatment of legacies | For the purpose of inserting section 64A(2) into the 2005 Act, required as a consequence of the commencement of paragraph 4 of the schedule of the Act |
| Section 14 | Endowments | |
| Section 15 | Inquiries about former charities etc. | |
| Section 16 | Notice and obtaining information | |
| Section 17 | Ability to issue positive directions | |
| Section 18 | Charities which it is not appropriate for OSCR to regulate | |
| Section 19 | Minor or technical amendments | For the purpose of bringing paragraphs 2 to 21 of the schedule into force |
| Schedule, paragraphs 2 to 21 | Further modification of the 2005 Act | |

PART 2

| <i>Column 1</i> <i>(provision of the Act)</i> | <i>Column 2</i> <i>(subject matter)</i> | <i>Column 3</i> <i>(purpose)</i> |
|--|---|--|
| Section 6(1) and (6) | Disqualification: senior management functions | For the purpose of the insertion made by section 7(5) of the Act |
| Section 7 | Record of persons removed from office | |
| Section 19 | Minor or technical amendments | For remaining purposes |

Schedule, paragraph 1

Annual reports by OSCR:
action taken to promote
awareness and understanding
of the 2005 Act

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations bring various provisions of the Charities (Regulation and Administration) (Scotland) Act 2023 (“the Act”) into force.

Regulation 2(1), read with regulation 2(3) and the table in Part 1 of the schedule, appoints 1 April 2024 for the coming into force of sections 1, 6(1) and (5) (for a limited purpose), 8, 9, 12, 13(1) and (2) (for limited purposes) 14 to 18, 19 (for a limited purpose) and paragraphs 2 to 21 of the schedule of the Act.

Regulation 2(2), read with regulation 2(3) and the table in Part 2 of the schedule, appoints 1 October 2024 for the coming into force of sections 6(1) and (6) (for a limited purpose), 7, 19 (for remaining purposes) and paragraph 1 of the schedule of the Act.

Regulations 3 to 6 make transitional arrangements in connection with four of the provisions commenced by regulation 2. Regulations 7 and 8 make savings provision.

Regulation 3 relates to the commencement of section 8 (appointment of interim trustees by OSCR) and provides that any application for an acting trustee under section 70A(2) of the Charities and Trustee Investment (Scotland) Act 2005 (“the 2005 Act”) which is made before 1 April 2024, but which has not been determined by OSCR by that date, is to be treated as if it were an application for an interim trustee under section 70A(1) of the 2005 Act, as amended by section 8 of the Act.

Regulation 4 relates to the commencement of section 17 (ability to issue positive directions). It provides that new section 30B of the 2005 Act (inserted by section 17) will apply in relation to any inquiry of OSCR’s that is ongoing at the time section 17 comes into force. This means that OSCR may, at the conclusion of such an inquiry, issue a positive direction to a charity in exercise of the new power in section 30B.

Regulation 5 relates to the commencement of section 18 (charities which it is not appropriate for OSCR to regulate). It provides that the amendments made to section 5 (determination of applications) of the 2005 Act will apply in relation to any application for entry in the Scottish Charity Register before 1 April 2024, and which has not been determined by that date. This means that OSCR will be required to consider, as part of its determination of such an application, the applicant’s connection to Scotland, and it must refuse the applicant entry to the Register if it determines that the applicant will have no, or negligible, connection to Scotland.

Regulation 6 relates to the commencement of paragraph 5 of the schedule of the Act which amends section 11 (change of name) of the 2005 Act. It provides that where a charity has given OSCR notice of a proposed change of name under section 11(2); the 28-day period referred to in section 11(3) has not elapsed; and OSCR has not given the charity a direction that it must not change its name, section 11 will apply as amended, meaning that OSCR will be able to either refuse consent to the name change or direct the charity not to change its name for up to 6 months while it undertakes inquiries.

Regulation 7 provides that the commencement of section 16 (notice and obtaining information) has no bearing on a notice that has been issued by OSCR under section 29 of the 2005 Act before 1 April 2024.

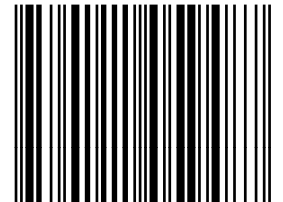
Regulation 8 provides that the commencement of paragraph 10 (provision of documents) of the schedule has no bearing on a request for a charity’s constitution or latest statement of account made before 1 April 2024.

The Bill for the Act received Royal Assent on 9 August 2023. By virtue of section 21(1), that section, together with sections 20 and 22, came into force on 10 August 2023.

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<http://www.legislation.gov.uk/id/ssi/2024/63>

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