



Charities and Trustee Investment (Scotland) Act 2005

2005 asp 10

^{F1}PART 1

CHARITIES

CHAPTER 2

SCOTTISH CHARITY REGISTER

Removal from Register

19 Removal from Register: protection of assets

[^{F1}(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—

Changes to legislation: Charities and Trustee Investment (Scotland) Act 2005, Section 19 is up to date with all changes known to be in force on or before 14 June 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

- (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.]
- (2) Despite the removal of a body from the Register, the provisions of this Part set out in subsection (3) continue to apply to the body, but only so far as they relate to [F2]its protected charitable assets].
- (3) Those provisions are—
- (a) in Chapter 4—
 - sections 28 and 29,
 - section 31(1) to (3) and (5) to (9),
 - section 32,
 - section 33(2) to (5),
 - section 34(1) to (3), (5)(a) to (c) and (f) to (h), (7) and (10)(b), and
 - section 37, and
 - (b) in Chapter 6, sections 44 and 45.
- (4) The Court of Session may, on an application by OSCR, approve a scheme prepared by OSCR in accordance with regulations made by the Scottish Ministers for the transfer to a charity specified in the scheme of any [F3]protected charitable assets] which a body removed from the Register is required to apply in accordance with subsection (1).
- [F4(4A) OSCR must consult the Scottish Housing Regulator before making an application under subsection (4) in relation to a registered social landlord (within the meaning of the Housing (Scotland) Act 2010 (asp 17)).]
- (5) The court may approve such a scheme only if it is satisfied—
- (a) that it is necessary or desirable to act for the purpose of protecting the [F5]protected charitable assets] to which the scheme relates or securing a proper application of such [F5]protected charitable assets] for the [F6]charitable] purposes which were set out in the body's entry in the Register immediately before its removal, and
 - (b) that those purposes would be better achieved by transferring the [F7]protected charitable assets] to a charity.
- (6) The court may approve a scheme under subsection (5) subject to modifications.
- (7) A charity receiving [F8]protected charitable assets] in pursuance of a scheme approved under subsection (5) may apply [F9]the protected charitable assets] for its purposes as it thinks fit.
- (8) The Scottish Ministers may by order disapply subsections (1) to (7) in relation to any property specified in the order.
- (9) An order under subsection (8) may make provision in relation to particular items or types of property or in relation to property owned by particular persons.
- (10) It is not competent for such order to make provision in relation to property which is not owned by a charity on the day the order takes effect.

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Textual Amendments

- F1** S. 19(1)-(1D) substituted for s. 19(1) (1.4.2024) by Charities (Regulation and Administration) (Scotland) Act 2023 (asp 5), s. 21(2), **sch. para. 9(2)**; S.S.I. 2024/63, reg. 2(1), sch. Pt. 1
- F2** Words in s. 19(2) substituted (1.4.2024) by Charities (Regulation and Administration) (Scotland) Act 2023 (asp 5), s. 21(2), **sch. para. 9(3)**; S.S.I. 2024/63, reg. 2(1), sch. Pt. 1
- F3** Words in s. 19(4) substituted (1.4.2024) by Charities (Regulation and Administration) (Scotland) Act 2023 (asp 5), s. 21(2), **sch. para. 9(4)**; S.S.I. 2024/63, reg. 2(1), sch. Pt. 1
- F4** S. 19(4A) inserted (1.4.2012) by Housing (Scotland) Act 2010 (asp 17), s. 166(2), **Sch. 2 para. 13(2)**; S.S.I. 2012/39, art. 2, Sch. 1 (with Sch. 2) (as amended (1.4.2012) by S.S.I. 2012/91, art. 4)
- F5** Words in s. 19(5)(a) substituted (1.4.2024) by Charities (Regulation and Administration) (Scotland) Act 2023 (asp 5), s. 21(2), **sch. para. 9(5)(a)(i)**; S.S.I. 2024/63, reg. 2(1), sch. Pt. 1
- F6** Word in s. 19(5)(a) inserted (1.4.2024) by Charities (Regulation and Administration) (Scotland) Act 2023 (asp 5), s. 21(2), **sch. para. 9(5)(a)(ii)**; S.S.I. 2024/63, reg. 2(1), sch. Pt. 1
- F7** Words in s. 19(5)(b) substituted (1.4.2024) by Charities (Regulation and Administration) (Scotland) Act 2023 (asp 5), s. 21(2), **sch. para. 9(5)(b)**; S.S.I. 2024/63, reg. 2(1), sch. Pt. 1
- F8** Words in s. 19(7) substituted (1.4.2024) by Charities (Regulation and Administration) (Scotland) Act 2023 (asp 5), s. 21(2), **sch. para. 9(6)(a)**; S.S.I. 2024/63, reg. 2(1), sch. Pt. 1
- F9** Words in s. 19(7) substituted (1.4.2024) by Charities (Regulation and Administration) (Scotland) Act 2023 (asp 5), s. 21(2), **sch. para. 9(6)(b)**; S.S.I. 2024/63, reg. 2(1), sch. Pt. 1

Modifications etc. (not altering text)

- C1** S. 19(1)-(7) excluded (24.4.2006) by Protection of Charities Assets (Exemption) (Scotland) Order 2006 (S.S.I. 2006/220), arts. 1, 2

Commencement Information

- I1** S. 19 in force at 1.1.2006 for specified purposes by S.S.I. 2005/644, art. 2(1), **Sch. 1**
- I2** S. 19 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**

Changes to legislation:

Charities and Trustee Investment (Scotland) Act 2005, Section 19 is up to date with all changes known to be in force on or before 14 June 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.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 2(1A) inserted by [2023 asp 5 sch. para. 1\(2\)](#)
- s. 3(3)(aa) inserted by [2023 asp 5 s. 2\(2\)\(a\)](#)
- s. 17(1)(ba) inserted by [2023 asp 5 s. 3\(2\)](#)
- s. 44(1)(ca) inserted by [2023 asp 5 s. 10\(2\)\(a\)\(i\)](#)
- s. 44(4A) inserted by [2023 asp 5 s. 10\(2\)\(b\)](#)
- s. 45B and cross-heading inserted by [2023 asp 5 s. 10\(3\)](#)
- s. 66A and cross-heading inserted by [2023 asp 5 s. 3\(3\)](#)
- s. 69(2)(a)(ai) inserted by [2023 asp 5 s. 4\(2\)\(a\)\(i\)](#)
- s. 69(2)(b)(i) words in s. 69(2)(b) renumbered as s. 69(2)(b)(i) by [2023 asp 5 s. 5\(2\)\(a\)\(i\)](#)
- s. 69(2)(b)(i) words inserted by [2023 asp 5 s. 5\(2\)\(a\)\(ii\)](#)
- s. 69(2)(b)(ii) inserted by [2023 asp 5 s. 5\(2\)\(a\)\(iii\)](#)
- s. 69(2)(f)-(i) inserted by [2023 asp 5 s. 5\(2\)\(d\)](#)
- s. 69(2)(da)(db) inserted by [2023 asp 5 s. 5\(2\)\(c\)](#)
- s. 69(2A) inserted by [2023 asp 5 s. 5\(3\)\(b\)](#)
- s. 69(3A) inserted by [2023 asp 5 s. 5\(3\)\(c\)](#)
- s. 69(7) inserted by [2023 asp 5 s. 5\(3\)\(e\)](#)
- s. 69A inserted by [2023 asp 5 s. 4\(3\)](#)
- s. 69B inserted by [2023 asp 5 s. 6\(2\)](#)
- s. 70(4)-(6) inserted by [2023 asp 5 s. 5\(4\)\(b\)](#)
- s. 70ZA70ZB inserted by [2023 asp 5 s. 7\(3\)](#)
- s. 71(pc) inserted by [2023 asp 5 s. 7\(4\)](#)
- s. 103(5)(ca) inserted by [2023 asp 5 s. 5\(5\)](#)
- s. 103(5)(cb) inserted by [2023 asp 5 s. 4\(4\)](#)