



Charities and Trustee Investment (Scotland) Act 2005

2005 asp 10

^{F1}PART 1 S

CHARITIES

CHAPTER 2 S

SCOTTISH CHARITY REGISTER

Applications

5 Determination of applications S

- (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
 - ^{F1}(aa) it considers that it would not be appropriate for it to regulate the applicant because the applicant has or will have no or negligible connection to Scotland,]
 - (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.
- ^{F2}(3) Despite subsection (2)(a), where—
 - (a) an applicant's name falls within section 10 only because it is the same as, or too like, the name of a charity, and
 - (b) the application for entry in the Register is being made as part of a proposed charity merger (within the meaning of section 64A(2)) involving that charity, OSCR is entitled, but not required, to refuse to enter the applicant on the grounds of the applicant's name.]

Changes to legislation: Charities and Trustee Investment (Scotland) Act 2005, Section 5 is up to date with all changes known to be in force on or before 27 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

- [^{F3}(4) For the purpose of subsection (2)(aa), in considering, in all the circumstances, what connection (if any) the applicant has or will have to Scotland, OSCR must have regard to the following factors—
- (a) whether the applicant has (or intends to have) a principal office in Scotland,
 - (b) whether the applicant occupies (or intends to occupy) any land or premises in Scotland,
 - (c) whether the applicant carries out (or intends to carry out) activities in any office, shop or similar premises in Scotland,
 - (d) whether the applicant is established under the law of Scotland,
 - (e) whether any of the persons who are (or are to be) concerned in the management or control of the applicant are resident in Scotland,
 - (f) any other relevant factor.
- (5) The Scottish Ministers may by regulations modify this section to make provision about the factors which are or are not relevant for the purpose of subsection (2)(aa).]

Textual Amendments

- F1** S. 5(2)(aa) inserted (1.4.2024) by Charities (Regulation and Administration) (Scotland) Act 2023 (asp 5), **ss. 18(3)(a)**, 21(2); S.S.I. 2024/63, reg. 2(1), sch. Pt. 1 (with reg. 5)
- F2** S. 5(3) inserted (1.4.2024) by Charities (Regulation and Administration) (Scotland) Act 2023 (asp 5), s. 21(2), **sch. para. 4(2)**; S.S.I. 2024/63, reg. 2(1), sch. Pt. 1
- F3** S. 5(4)(5) inserted (1.4.2024) by Charities (Regulation and Administration) (Scotland) Act 2023 (asp 5), **ss. 18(3)(b)**, 21(2); S.S.I. 2024/63, reg. 2(1), sch. Pt. 1 (with reg. 5)

Commencement Information

- I1** S. 5 in force at 24.4.2006 by S.S.I. 2006/189, art. 2(2), **Sch. Pt. 2**

Changes to legislation:

Charities and Trustee Investment (Scotland) Act 2005, Section 5 is up to date with all changes known to be in force on or before 27 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\(4\)](#)