



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

## 2023 asp 5

### *Connection to Scotland*

#### **18 Charities which it is not appropriate for OSCR to regulate**

- (1) The 2005 Act is modified as follows.
- (2) In section 3(3)(e)(i) (Scottish charity Register), after “30(1)” insert “, 30A(2)”.
- (3) In section 5 (determination of applications)—
  - (a) in subsection (2), after paragraph (a), insert—
    - “(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) after subsection (3) (inserted by [paragraph 4](#) of the schedule), insert—
    - “(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).”.

(4) After section 30, insert—

**“30A Removal from Register where charity no longer has connection to Scotland**

- (1) This section applies where, as a result of inquiries under section 28, OSCR considers that it would not be appropriate for it to continue to regulate a charity because the charity has no or negligible connection to Scotland.
  - (2) OSCR must direct the charity to take, within such period as may be specified in the direction, such steps (specified in the direction) as OSCR considers necessary for the purposes of establishing a connection to Scotland which is more than negligible.
  - (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, or
      - (ii) removing steps which the charity is required to take, or
    - (b) revoke the direction.
  - (4) OSCR must, if a charity fails to comply with a direction under subsection (2), remove the charity from the Register.
  - (5) For the purpose of subsection (1), in considering, in all the circumstances, what connection (if any) the charity has to Scotland, OSCR must have regard to the following factors—
    - (a) whether the charity has a principal office in Scotland,
    - (b) whether the charity occupies any land or premises in Scotland,
    - (c) whether the charity carries out activities in any office, shop or similar premises in Scotland,
    - (d) whether the charity is established under the law of Scotland,
    - (e) whether any of the charity trustees of the charity are resident in Scotland,
    - (f) any other relevant factor.
  - (6) 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 (1).”.
- (5) In section 33(1)(a) (reports on inquiries), after sub-paragraph (i) insert—  
“*(ia)* gives a direction under section 30A.”.
- (6) In section 71 (decisions), after paragraph (ia), insert—  
“*(ib)* give a direction under section 30A(2),  
*(ic)* remove a charity from the Register under section 30A(4).”.
- (7) In section 73(2) (effect of decisions), in the opening words, after “*(ia)*,”, insert “*(ib)*,  
*(ic)*,”.
- (8) In section 103(5) (orders, regulations and rules)—  
(a) before paragraph (a), insert—

- “(za) regulations under section 5(5),”
- (b) after paragraph (b), insert—
  - “(ba) regulations under section 30A(6),”.