

Status: Point in time view as at 01/04/2024.

Changes to legislation: There are currently no known outstanding effects for the Charities (Regulation and Administration) (Scotland) Act 2023, Paragraph 9. (See end of Document for details)

SCHEDULE FURTHER MODIFICATION OF THE 2005 ACT

Removal from Register: protection of assets

- 9 (1) Section 19 (removal from register: protection of assets) of the 2005 Act is modified as follows.
- (2) For subsection (1) substitute—
- “(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—
- (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.”.
- (3) In subsection (2), for “property and income referred to in subsection (1)” substitute “its protected charitable assets”.
- (4) In subsection (4), for “property or income” substitute “protected charitable assets”.
- (5) In subsection (5)—
- (a) in paragraph (a)—
 - (i) for “property or income”, in both places where it occurs, substitute “protected charitable assets”,
 - (ii) before “purposes” insert “charitable”,
 - (b) in paragraph (b), for “property and income” substitute “protected charitable assets”.

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(6) In subsection (7)—

- (a) for “property or income”, in the first place where it occurs, substitute “protected charitable assets”,
- (b) for “that property or income” substitute “the protected charitable assets”.

Commencement Information

- I1** Sch. para. 9 not in force at Royal Assent, see **s. 21(2)**
- I2** Sch. para. 9 in force at 1.4.2024 by S.S.I. 2024/63, reg. 2(1), **sch. Pt. 1**

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