



# Charities and Trustee Investment (Scotland) Act 2005

2005 asp 10

## <sup>F1</sup>PART 1

### CHARITIES

#### CHAPTER 3

##### CO-OPERATION AND INFORMATION

###### *Co-operation*

### 20 Co-operation

- (1) OSCR must, so far as consistent with the proper exercise of its functions, seek to secure co-operation between it and other relevant regulators.
- (2) A “relevant regulator” is a public body or office-holder with functions (whether exercisable in the United Kingdom or elsewhere) which are—
  - (a) similar to those of OSCR, or
  - (b) conferred by any enactment and designed to allow the body or office-holder to regulate persons for other purposes.
- (3) OSCR and any person authorised by virtue of section 38(1) or (2) to exercise functions under this Act must, so far as consistent with the proper exercise of their respective functions, co-operate with each other for the purpose of enabling or assisting the person to exercise those functions under this Act.
- (4) Co-operation does not include the sharing of information which OSCR or any person with whom it is co-operating is prevented by law from disclosing.

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#### Commencement Information

**I1** S. 20 in force at 24.4.2006 by [S.S.I. 2006/189](#), art. 2(2), [Sch. Pt. 2](#)

### *Information about charities*

#### **21 Public access to Register**

- (1) OSCR must make the Register available for public inspection—
  - (a) at all reasonable times at its principal office,
  - (b) at such other places as it thinks fit, and
  - (c) otherwise as it thinks fit.
- (2) It is for OSCR to determine the form and manner in which the Register is made available; but in doing so OSCR must ensure that the information in the Register is made reasonably obtainable.
- (3) OSCR must publicise the arrangements which it makes in pursuance of subsection (1).
- (4) OSCR may charge such fee (not exceeding the cost of supply) as it thinks fit for providing information under any arrangements it makes under subsection (1)(b) and (c).

#### Commencement Information

**I2** S. 21 in force at 24.4.2006 by [S.S.I. 2006/189](#), art. 2(2), [Sch. Pt. 2](#)

#### **22 Power of OSCR to obtain information from charities**

- (1) OSCR may by notice require any charity to provide to it—
  - (a) any document, or a copy of or extract from any document,
  - (b) documents of any type, or copies of or extracts from such documents,
  - (c) other information or explanation,
 which OSCR requires in relation to the charity's entry in the Register.
- (2) The notice must specify—
  - (a) the documents, type of documents, copies, extracts, information or explanation which the charity is to provide to OSCR, and
  - (b) the date (which must be at least 14 days after the date on which the notice is given) by which the charity must do so.
- (3) Subsection (1) does not authorise OSCR to require the disclosure of anything which a charity would be entitled to refuse to disclose on grounds of confidentiality in proceedings in the Court of Session.

#### Commencement Information

**I3** S. 22 in force at 1.4.2006 by [S.S.I. 2006/189](#), art. 2(1), [Sch. Pt. 1](#)

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## 23 Entitlement to information about charities

- (1) A person who requests a charity to provide a copy of its—
- (a) constitution,
  - (b) latest statement of account prepared under section 44,
- is, if the request is reasonable, entitled to be given that copy constitution or copy statement of account (if any) by the charity <sup>F1</sup>....
- [<sup>F2</sup>(1A) Where a person is entitled to a copy document under subsection (1), the person is entitled to be given it—
- (a) within 28 days of the date on which the request is received by the charity, and
  - (b) in such form as the person may reasonably request.]
- (2) A charity may charge such fee as it thinks fit for complying with such a request; but such a fee must not exceed the cost of supplying the document requested or, if less, any maximum fee which the Scottish Ministers may by order prescribe.
- (3) The Scottish Ministers may by order exempt from the duty set out in subsection (1) any charities which meet such criteria as may be specified in the order.

### Textual Amendments

- F1** Words in s. 23(1) repealed (1.4.2024) by Charities (Regulation and Administration) (Scotland) Act 2023 (asp 5), s. 21(2), **sch. para. 10(2)**; S.S.I. 2024/63, reg. 2(1), sch. Pt. 1 (with reg. 8)
- F2** S. 23(1A) inserted (1.4.2024) by Charities (Regulation and Administration) (Scotland) Act 2023 (asp 5), s. 21(2), **sch. para. 10(3)**; S.S.I. 2024/63, reg. 2(1), sch. Pt. 1 (with reg. 8)

### Commencement Information

- I4** S. 23 in force at 1.1.2006 for specified purposes by S.S.I. 2005/644, art. 2(1), **Sch. 1**
- I5** S. 23 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**

## Sharing information

## 24 [<sup>F3</sup>Disclosure of information by and to OSCR: public bodies or office-holders]

- (1) OSCR may disclose any information to any public body or office-holder (in Scotland, in any other part of the United Kingdom or in a country or territory outside the United Kingdom)—
- (a) for any purpose connected with the exercise of OSCR's functions, or
  - (b) for the purpose of enabling or assisting the public body or office-holder to exercise any functions.
- (2) Any person to whom this subsection applies may disclose any information to OSCR for the purpose of enabling or assisting OSCR to exercise any functions.
- (3) Subsection (2) applies to—
- (a) any office-holder in the Scottish Administration,
  - (b) the Scottish Parliamentary Corporate Body,
  - (c) any local authority,
  - (d) any constable, and

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- (e) any other Scottish public authority with mixed functions or no reserved functions.
- (4) A power to disclose information under subsection (1) or (2) is, unless section 25 otherwise provides, subject to any obligation as to secrecy or other restriction on disclosure of the information however imposed.

#### Textual Amendments

**F3** S. 24 heading substituted (1.4.2024) by Charities (Regulation and Administration) (Scotland) Act 2023 (asp 5), s. 21(2), **sch. para. 11(2)**; S.S.I. 2024/63, reg. 2(1), sch. Pt. 1

#### Commencement Information

**I6** S. 24 in force at 24.4.2006 by S.S.I. 2006/189, art. 2(2), **Sch. Pt. 2**

### [<sup>F4</sup>24A Disclosure of information by and to OSCR: designated religious charities

- (1) OSCR may disclose any information to a designated religious charity—
  - (a) for any purpose connected with the exercise of OSCR’s functions, or
  - (b) for the purpose of enabling or assisting the charity in relation to the exercise of any supervisory or disciplinary functions in respect of the component parts of the charity.
- (2) A designated religious charity may disclose any information to OSCR for the purpose of enabling or assisting OSCR to exercise any functions.]

#### Textual Amendments

**F4** S. 24A inserted (1.4.2024) by Charities (Regulation and Administration) (Scotland) Act 2023 (asp 5), s. 21(2), **sch. para. 11(3)**; S.S.I. 2024/63, reg. 2(1), sch. Pt. 1

### 25 Removal of restrictions on disclosure of certain information

- (1) No obligation as to secrecy or other restriction on disclosure of information however imposed prevents—
  - (a) OSCR from disclosing any information to a designated body for—
    - (i) any purpose connected with the exercise of OSCR’s functions,
    - (ii) the purpose of enabling or assisting that body to exercise any functions,
  - (b) a designated body from disclosing any information to OSCR for the purpose of enabling or assisting OSCR to exercise any functions,
- [<sup>F5</sup>(ba) OSCR from disclosing any information to a designated religious charity for—
  - (i) any purpose connected with the exercise of OSCR’s functions,
  - (ii) the purpose of enabling or assisting that charity in relation to the exercise of any supervisory or disciplinary functions in respect of the component parts of the charity,
- (bb) a designated religious charity from disclosing any information to OSCR for the purpose of enabling or assisting OSCR to exercise any functions,]

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- (c) a charity trustee of a charity from disclosing any information about that charity to OSCR for the purpose of enabling or assisting OSCR to exercise any functions,
  - (d) any person from disclosing any information to OSCR about any matter in respect of which the person is required or authorised by section 46 to make a report to OSCR, or
  - (e) a relevant financial institution from disclosing any information to OSCR for the purpose of enabling or assisting OSCR to exercise any functions under section 47.
- (2) The Scottish Ministers may, by order, designate—
- (a) for the purposes of paragraph (a) of subsection (1), any public body or office-holder in Scotland, in any other part of the United Kingdom or in a country or territory outside the United Kingdom,
  - (b) for the purposes of paragraph (b) of that subsection, any Scottish public authority with mixed functions or no reserved functions,
- and references in that subsection to a “designated body” are to be construed accordingly.
- [<sup>F6</sup>(3) Nothing in this section authorises the making of a disclosure that contravenes the data protection legislation (but in determining whether a disclosure would do so, the provision made in this Act enabling or requiring the disclosure of information as mentioned in paragraphs (a) to (e) of subsection (1) is to be taken into account).
- (4) In this section, “the data protection legislation” has the meaning given by section 3(9) of the Data Protection Act 2018.]

#### Textual Amendments

- F5** S. 25(1)(ba)(bb) inserted (1.4.2024) by Charities (Regulation and Administration) (Scotland) Act 2023 (asp 5), s. 21(2), **sch. para. 11(4)(a)**; S.S.I. 2024/63, reg. 2(1), sch. Pt. 1
- F6** S. 25(3)(4) inserted (1.4.2024) by Charities (Regulation and Administration) (Scotland) Act 2023 (asp 5), s. 21(2), **sch. para. 11(4)(b)**; S.S.I. 2024/63, reg. 2(1), sch. Pt. 1

#### Commencement Information

- I7** S. 25 in force at 1.1.2006 for specified purposes by S.S.I. 2005/644, art. 2(1), **Sch. 1**
- I8** S. 25 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**

### Supplemental

## 26 False or misleading information etc.

- (1) It is an offence for a person to provide any information or explanation to OSCR or any other person if—
- (a) the person providing the information or explanation knows it to be, or is reckless as to whether it is, false or misleading in a material respect, and
  - (b) the information or explanation is provided—
    - (i) in purported compliance with a requirement by or under this Act, or
    - (ii) in other circumstances in which the person providing it knows, or could reasonably be expected to know, that it would be used by

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OSCR, or provided to OSCR for use, in connection with the exercise of its functions.

- (2) It is an offence for a person deliberately to alter, suppress, conceal or destroy any document (or any part of a document) which the person is, or which that person knows any other person is, required by or under this Act to provide to OSCR.
- (3) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale or imprisonment for a period not exceeding 6 months, or to both.

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**Commencement Information**

**19** S. 26 in force at 24.4.2006 by [S.S.I. 2006/189](#), art. 2(2), [Sch. Pt. 2](#)

**27 Disclosure of information: entitlement under other enactments etc.**

Sections 21 to 25 are without prejudice to any entitlement to receive or disclose information under any enactment or otherwise.

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**Commencement Information**

**110** S. 27 in force at 24.4.2006 by [S.S.I. 2006/189](#), art. 2(2), [Sch. Pt. 2](#)

**Changes to legislation:**

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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\(4\)](#)