

## SCHEDULE 1

*(introduced by section 1)*

### THE SCOTTISH CHARITY REGULATOR

#### *Membership*

- 1 (1) The Scottish Charity Regulator (in this schedule referred to as “the Regulator”) is to consist of such number of members (but not fewer than 4) as the Scottish Ministers think fit.
- (2) It is for the Scottish Ministers to appoint those members from amongst those persons appearing to them to have knowledge and skills relevant to the functions of OSCR.
- (3) An individual is disqualified from appointment as, and from being, a member of the Regulator if the individual is—
  - (a) a member of the Scottish Parliament,
  - (b) a member of the House of Commons,
  - (c) a member of the European Parliament,
  - (d) an office-holder in the Scottish Administration,
  - (e) an individual of such other description as may be prescribed by order by the Scottish Ministers.

#### *Tenure and removal from office*

- 2 (1) Each member of the Regulator—
  - (a) is to be appointed for such period as is specified in the appointment,
  - (b) may, by notice to the Scottish Ministers, resign as a member,
  - (c) in other respects, holds and vacates office on such terms and conditions (including remuneration and allowances) as the Scottish Ministers may determine,
  - (d) after ceasing to hold office, may be reappointed as a member.
- (2) The Scottish Ministers may remove a member from office if satisfied—
  - (a) that the member’s estate has been sequestrated or the member has been adjudged bankrupt, has made an arrangement with creditors or has granted a trust deed for creditors or a composition contract,
  - (b) that the member—
    - (i) has been absent from meetings of the Regulator for a period longer than 6 consecutive months without the permission of the Regulator, or
    - (ii) is unable to discharge the member’s functions as a member or is unsuitable to continue as a member, or
  - (c) that it is necessary or expedient to do so in connection with the management of the affairs of the Regulator.

#### *Chairing*

- 3 (1) The Scottish Ministers must appoint—
  - (a) one of the members of the Regulator to chair the Regulator, and
  - (b) another of those members to act as deputy to that member.

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*Status: This is the original version (as it was originally enacted).*

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- (2) A member appointed to chair the Regulator or to act as deputy to that member holds and vacates office as such in accordance with the terms of the appointment to that office.
- (3) A member so appointed may, by notice to the Scottish Ministers, resign from office as such.
- (4) A member so appointed vacates office as such on ceasing to be a member of the Regulator.
- (5) Where a member—
  - (a) is appointed to chair the Regulator or to act as deputy to that member, or
  - (b) ceases to hold office as such,the Scottish Ministers may vary the terms of the member’s appointment as a member of the Regulator so as to alter the date on which office as a member is to be vacated.

#### *Chief executive and other staff*

- 4 (1) The Regulator —
  - (a) must appoint a chief executive, and
  - (b) may appoint such other employees as it considers appropriate.
- (2) The terms and conditions of the chief executive and any other employees, and the number of any other employees, require the approval of the Scottish Ministers.

#### *Proceedings*

- 5 The quorum of the Regulator and the arrangements for its meetings are for the Regulator to determine.

#### *Delegation of powers*

- 6 (1) Anything authorised or required under any enactment to be done by the Regulator, whether or not as the holder of the Office of the Scottish Charity Regulator, may be done by any member or employee of the Regulator who is authorised (whether generally or specifically) for the purpose by it.
- (2) Nothing in sub-paragraph (1) prevents the Regulator from doing anything that any of its members or employees has been authorised or required to do.

#### *Validity of proceedings and acts*

- 7 The validity of any proceedings or acts of the Regulator is not affected by any—
  - (a) vacancy in its membership, or
  - (b) defect in the appointment of a member.

## SCHEDULE 2

(introduced by section 75)

### SCOTTISH CHARITY APPEALS PANEL

#### *Panel members*

- 1
- (1) The Scottish Ministers must appoint such number of persons as they think fit to be eligible (for such period, not exceeding 5 years, as the Scottish Ministers may specify) to serve as members of a Panel constituted under section 75(1).
  - (2) At least one of the persons so appointed must be, and have been for at least 5 years—
    - (a) a solicitor holding a practising certificate issued in accordance with Part 2 of the Solicitors (Scotland) Act 1980 (c. 46), or
    - (b) an advocate.
  - (3) An individual is disqualified from being so appointed, and from being appointed as or being a Panel member, if the individual is—
    - (a) a Lord of Appeal in Ordinary or holds any of the judicial offices specified in Part 1 of schedule 1 to the House of Commons Disqualification Act 1975 (c. 24),
    - (b) a member of the Scottish Parliament,
    - (c) an office-holder in the Scottish Administration,
    - (d) an individual of such other description as may be prescribed by order by the Scottish Ministers.
  - (4) Each Panel is to consist of 3 of the persons appointed under paragraph 1(1) (one of whom is to be appointed by the Scottish Ministers to chair the Panel).
  - (5) A person appointed to chair a Panel must fall within paragraph 1(2).

#### *Tenure and removal from office*

- 2
- (1) Each person appointed under paragraph 1(1)—
    - (a) is to be appointed for such period as is specified in the appointment,
    - (b) if appointed to serve as a Panel member, holds and vacates office on such terms and conditions (including remuneration and allowances) as the Scottish Ministers may determine,
    - (c) may, by notice to the Scottish Ministers, resign from being eligible to be, or from being, a Panel member,
    - (d) after ceasing to be eligible to serve as a Panel member, may be reappointed as a person eligible to serve as a Panel member.
  - (2) A person appointed under paragraph 1(1) ceases to be eligible to serve as, and may not be, a Panel member if the Scottish Ministers are satisfied that the person is unable to discharge the functions of a Panel member or is unsuitable to serve, or to continue to serve, as a Panel member.

#### *Staff, property and services*

- 3
- The Scottish Ministers may provide the Panel, or ensure that it is provided, with such property, staff and services as they consider necessary or expedient in connection with the exercise of its functions.

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*Rules of procedure*

- 4 (1) The Scottish Ministers may make rules as to the practice and procedure of the Panel.
- (2) Such rules may, in particular, include provision for or in connection with—
- (a) the form and manner in which appeals to the Panel are to be made,
  - (b) the time within which such appeals are to be made,
  - (c) the lodging of documents before the Panel,
  - (d) the notification of matters specified in the rules to OSCR and any appellant,
  - (e) the periods within which proceedings must be held and decided on,
  - (f) the notification of the Panel’s decisions to OSCR and appellants,
  - (g) the time within which a decision of the Panel may be appealed to the Court of Session,
  - (h) the payment of expenses.

SCHEDULE 3

*(introduced by section 95)*

POWERS OF TRUSTEES: CONSEQUENTIAL AMENDMENTS

*Judicial Factors Act 1849 (c. 51)*

- 1 In section 5 (judicial factor’s duty to lodge in bank money held by factor etc.) of the Judicial Factors Act 1849, subsection (4) is repealed.

*Trusts (Scotland) Act 1921 (c. 58)*

- 2 In the Trusts (Scotland) Act 1921, sections 12 and 14 are repealed.

*Trusts (Scotland) Act 1961 (c. 57)*

- 3 In section 2(1) (validity of certain transactions by trustees etc.) of the Trusts (Scotland) Act 1961—
- (a) for “(ee)” substitute “(eb)”,
  - (b) in the proviso, after “transaction” where it first occurs insert “(other than a transaction such as is specified in paragraph (ea) of that subsection)”.

*Trustee Investments Act 1961 (c. 62)*

- 4 (1) The Trustee Investments Act 1961 is amended as follows.
- (2) Sections 1, 2, 5, 6, 12, 13 and 15 are repealed except in so far as they are applied by or under any other enactment.
- (3) Section 3 and Schedules 2 and 3 are repealed, except in so far as they relate to a trustee having a power of investment conferred under an enactment—
- (a) which was passed before the passing of the Trustee Investments Act 1961, and
  - (b) which is not amended by this schedule.
- (4) Section 8 and paragraph 1(2) of Schedule 4 are repealed.

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*National Health Service (Scotland) Act 1978 (c. 29)*

- 5 In Schedule 7 (the Research Trust) to the National Health Service (Scotland) Act 1978, paragraph 4 is repealed.

*Education (Scotland) Act 1980 (c. 44)*

- 6 In section 105 (schemes for reorganisation of educational endowments) of the Education (Scotland) Act 1980, subsection (4D) is repealed.

*Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73)*

- 7 Section 54 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 is repealed.

*Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40)*

- 8 In Schedule 8 (amendments of enactments) to the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990, in paragraph 21, sub-paragraph (1)(b) and the preceding “and” are repealed.

*Charities Act 1993 (c. 10)*

- 9 In the Charities Act 1993, the following provisions are repealed—  
sections 70 and 71,  
in section 86(2), the word “70” in paragraph (a), and paragraph (b),  
section 100(5).

SCHEDULE 4

(introduced by section 104)

MINOR AND CONSEQUENTIAL AMENDMENTS AND REPEALS

PART 1

ACTS

*Recreational Charities Act 1958 (c. 17)*

- 1 In section 6(2) of the Recreational Charities Act 1958, the words from “or”, where second occurring, to “1962” are repealed.

*Local Government (Financial Provisions etc.) (Scotland) Act 1962 (c. 9)*

- 2 (1) In section 4 (reduction and remission of rates payable by charitable and other organisations) of the Local Government (Financial Provisions etc.) (Scotland) Act 1962, for paragraph (a) of subsection (10) substitute—  
“(a) “charity” means a body entered in the Scottish Charity Register.”.
- (2) Paragraph 5 of Schedule 2 to that Act of 1962 is repealed.

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*Sex Discrimination Act 1975 (c. 65)*

- 3 (1) In section 79(1) of the Sex Discrimination Act 1975—
- (a) for “Part VI” substitute “section 104”,
  - (b) in paragraph (a), for “that Part” substitute “Part VI”,
  - (c) after paragraph (a), insert—
    - “(aa) in the case of an endowment the governing body of which is entered in the Scottish Charity Register, a scheme approved for that endowment under section 39 or 40 of the Charities and Trustee Investment (Scotland) Act 2005 (asp 10)”,
  - (d) in paragraph (b)—
    - (i) for “that Act” substitute “the Education (Scotland) Act 1980”,
    - (ii) after “endowment”, where second occurring, insert “(or which would, but for the disapplication of that section by section 122(4) of that Act, be so dealt with)”.
- (2) At the end of section 79(5) of that Act insert “or, in the case of an endowment the governing body of which is entered in the Scottish Charity Register, a scheme approved for that endowment under section 39 or 40 of the Charities and Trustee Investment (Scotland) Act 2005 (asp 10)”.

*Education (Scotland) Act 1980 (c. 44)*

- 4 In section 122(1) of the Education (Scotland) Act 1980, for the definition of “charitable purposes” substitute—
- ““charitable purposes” has the same meaning as in the Charities and Trustee Investment (Scotland) Act 2005 (asp 10);”.

*Civic Government (Scotland) Act 1982 (c. 45)*

- 5 In the Civic Government (Scotland) Act 1982—
- (a) in section 24(3), for paragraph (c) substitute—
    - “(c) the business of a charity (that is to say, a body which is entered in the Scottish Charity Register);”,
  - (b) in section 39(3)(f), for the words from “charitable” to the end of that paragraph substitute “benevolent collection (within the meaning of section 84 of the Charities and Trustee Investment (Scotland) Act 2005 (asp 10)).”,
  - (c) section 119 (regulation of charitable collections) is repealed.

*Companies Act 1985 (c. 6)*

- 6 In section 380 of the Companies Act 1985, after subsection (4) insert—
- “(4ZA) This section does not, despite paragraphs (a) to (c) of subsection (4), apply to any resolution of a company which is—
- (a) registered as a company in Scotland, and
  - (b) entered in the Scottish Charity Register,
- where that resolution is of either of the types mentioned in section 56(5) of the Charities and Trustee Investment (Scotland) Act 2005 (asp 10).”

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*Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40)*

- 7 In the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990—
- (a) in section 1—
    - (i) subsections (4) to (6), and
    - (ii) the words which follow paragraph (b) in subsection (7),are repealed,
  - (b) sections 2 to 8, 12 to 14 and 15(1) to (8) are repealed,
  - (c) in section 9(1)(d)(ii), for “become a recognised body” substitute “be entered in the Scottish Charity Register”,
  - (d) in section 10—
    - (i) in subsection (1)(d)(ii), for “become a recognised body” substitute “be entered in the Scottish Charity Register”,
    - (ii) subsections (6), (9)(b) and (11)(b) are repealed,
  - (e) in section 15(9)—
    - (i) after “affect” insert “—  
(a)”,
    - (ii) at the end insert “; or  
(b) any body entered in the Scottish Charity Register.”

*Charities Act 1992 (c. 41)*

- 8 In Schedule 6 to the Charities Act 1992, paragraph 10 is repealed.

*Further and Higher Education (Scotland) Act 1992 (c. 37)*

- 9 In section 19(3) of the Further and Higher Education (Scotland) Act 1992, for “within the meaning of the Income Tax Acts” substitute “(within the meaning of the Charities and Trustee Investment (Scotland) Act 2005 (asp 10))”.

*Tribunals and Inquiries Act 1992 (c. 53)*

- 10 In Part 2 of Schedule 1 to the Tribunals and Inquiries Act 1992, after paragraph 47 insert—

*“Charities*

- 47A Any Scottish Charity Appeals Panel constituted in accordance with section 75(1) of the Charities and Trustee Investment (Scotland) Act 2005 (asp 10).”

*Local Government etc. (Scotland) Act 1994 (c. 39)*

- 11 In Schedule 13 to the Local Government etc. (Scotland) Act 1994, paragraph 129(16) is repealed.

*Ethical Standards in Public Life etc. (Scotland) Act 2000 (asp 7)*

- 12 In schedule 3 to the Ethical Standards in Public Life etc. (Scotland) Act 2000, before the entry relating to “Scottish Children’s Reporter Administration” insert—

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“The Scottish Charity Regulator”.

*Land Reform (Scotland) Act 2003 (asp 2)*

- 13 In the Land Reform (Scotland) Act 2003—
- (a) in section 34(8), for the words from “which” to the end of that subsection substitute “entered in the Scottish Charity Register”,
  - (b) in section 71(8), for the words from “which” to the end of that subsection substitute “entered in the Scottish Charity Register”.

*Public Appointments and Public Bodies etc. (Scotland) Act 2003 (asp 4)*

- 14 In schedule 2 to the Public Appointments and Public Bodies etc. (Scotland) Act 2003, before the entry relating to the “Scottish Children’s Reporter Administration” insert—
- “Scottish Charity Regulator”.

*Protection of Children (Scotland) Act 2003 (asp 5)*

- 15 In paragraph 12 of schedule 2 to the Protection of Children (Scotland) Act 2003, for the definition of “charity” substitute—
- ““charity” means a body entered in the Scottish Charity Register;”.

## PART 2

### SUBORDINATE LEGISLATION

*Arable Area Payments Regulations 1996 (S.I. 1996/3142)*

- 16 In regulation 9(3)(h) of the Arable Area Payments Regulations 1996, for the words from “a”, where it second occurs, to the end of the paragraph substitute “, in relation to Scotland, a body entered in the Scottish Charity Register”.

*Water and Sewerage Charges (Exemption) (Scotland) Regulations 2002 (S.S.I 2002/167)*

- 17 In regulation 2(1) of the Water and Sewerage Charges (Exemption) (Scotland) Regulations 2002, in paragraph (i) of the definition of “net annual income”, for the words from “Scottish” to “1990” substitute “body entered in the Scottish Charity Register”.

*National Health Service (General Medical Services Contracts) (Scotland) Regulations 2004 (S.S.I. 2004/115)*

- 18 In the National Health Service (General Medical Services Contracts) (Scotland) Regulations 2004, for “section 7 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990”, where those words occur in—
- (a) regulation 5(2)(k)(i), and
  - (b) paragraph 101(2)(m)(i) of schedule 5,



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substitute “section 34 of the Charities and Trustee Investment (Scotland) Act 2005 (asp 10)”.

*National Health Service (Primary Medical Services Section 17C Agreements) (Scotland) Regulations 2004 (S.S.I. 2004/116)*

- 19 In the National Health Service (Primary Medical Services Section 17C Agreements) (Scotland) Regulations 2004, for “section 7 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990”, where those words occur in—
- (a) regulation 3(2)(k)(i),
  - (b) paragraph 66(3)(1)(i) of schedule 1,
- substitute “section 34 of the Charities and Trustee Investment (Scotland) Act 2005 (asp 10)”.