



# Charities and Trustee Investment (Scotland) Act 2005

2005 asp 10

## PART 1

### CHARITIES

#### CHAPTER 6

##### CHARITY ACCOUNTS

###### *Duty to report matters to OSCR*

#### **46 Duty of auditors etc. to report matters to OSCR**

- (1) This section applies to—
- (a) any person appointed to carry out an independent examination or audit of a charity's statement of account (including, in the case of a charity which is a company, any person appointed as auditor under Chapter 5 of Part 11 of the Companies Act 1985 (c. 6)), and
  - (b) any person appointed for the purposes of section 249A(2) of that Act to prepare a report on the accounts of a charity which is a company, who is acting in the appointed capacity.
- (2) A person to whom this section applies who becomes aware of any matter—
- (a) which relates to the activities or affairs of—
    - (i) the charity, or
    - (ii) any institution or body corporate connected to that charity, and
  - (b) which the person has reasonable cause to believe is likely to be of material significance for the purposes of the exercise by OSCR of its functions under section 28, 30 or 31,
- must immediately report on the matter to OSCR.
- (3) A person to whom this section applies who becomes aware of any matter—

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*Status: This is the original version (as it was originally enacted).*

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- (a) which does not appear to the person to be one which the person is required to report under subsection (2), but
  - (b) which the person has reasonable cause to believe is likely to be relevant for the purposes of the exercise by OSCR of any of its functions,may report on the matter to OSCR.
- (4) A duty or power which arises under subsection (2) or (3) is not affected if the person in relation to whom it arises subsequently stops acting in the capacity mentioned in subsection (1).
- (5) An institution or body corporate is connected to a charity if—
  - (a) it is an institution which is controlled (whether directly or through one or more nominees) by, or, as the case may be
  - (b) it is a body corporate in which a substantial interest is held by, the charity or any one or more of the charity trustees acting in that capacity.
- (6) Section 105 sets out when a person is to be treated as controlling an institution or as having a substantial interest in a body corporate.