



Law Reform (Miscellaneous Provisions) (Scotland) Act 1990

1990 CHAPTER 40

PART I

CHARITIES

Interpretation

15 Interpretation of Part I, regulations and orders

(1) In this Part of this Act—

“annual income” in relation to a recognised body means the income of the body for the financial year to which its most recent statement of accounts relates;

“accounting reference period”, “accounting reference date” and “financial year” shall be construed in accordance with subsections (2) to (7) below;

“body” includes the sole trustee of any trust and, as regards any reference in this Part of this Act to the institution of proceedings in any court or to any order of a court in relation to an unincorporated body, shall be construed—

(a) in the case of a trust, as a reference to the trustees acting in their capacity as such;

(b) in any other case, as a reference to the persons concerned in the management or control of the body;

“court”, for the purposes of establishing jurisdiction to hear or determine any matter other than under sections 7 and 9 of this Act, means the Court of Session or the sheriff court;

“non-recognised body” shall be construed in accordance with section 2 of this Act;

“non-registered charity” has the meaning given by section 6 of this Act;

“recognised body” has the meaning given by section 1 of this Act; and

Status: This is the original version (as it was originally enacted).

“registered charity” has the meaning given by section 6 of this Act.

- (2) For the purposes of this Part of this Act, a recognised body’s first financial year begins with the first day of its first accounting reference period and ends with the last day of that period or such other date, not more than 7 days before or after the end of that period, as the persons concerned with the management or control of the body may determine.
- (3) Subject to subsection (4) below, subsequent financial years begin with the day immediately following the end of the body’s previous financial year and end with the last day of its next accounting reference period or such other date, not more than 7 days before or after the end of that period as the persons responsible for its management or control may determine.
- (4) A recognised body’s accounting reference periods are determined according to its accounting reference date.
- (5) A recognised body’s accounting reference date is the date upon which its accounting reference period ends in each calendar year and it shall be ascertained as follows—
 - (a) in the case of a body which is recognised at the commencement of this section and in respect of which accounts have been prepared up to a date not more than 12 months before such commencement, its accounting reference date shall be that date;
 - (b) in the case of a body which is recognised at the commencement of this section and in respect of which no such accounts have been prepared, its accounting reference date shall be 31 March or such other date as the Secretary of State may, by order, prescribe;
 - (c) in the case of a body which is not recognised at the commencement of this section and in respect of which accounts have been prepared up to a date not more than 12 months before its recognition, its accounting reference date shall be that date; and
 - (d) a body which is not recognised at the commencement of this section and in respect of which no accounts have been prepared up to a date not more than 12 months before such commencement, unless it determines that its accounting reference date shall be 31 March or such other date as the Secretary of State may, by order, prescribe, shall by notice given to the Lord Advocate specify its accounting reference date.
- (6) A recognised body’s first accounting reference period is—
 - (a) in the case of a body which is recognised at the commencement of this section and in respect of which any accounts have been prepared for a period up to a date not more than 12 months before such commencement, the period beginning with that date;
 - (b) in the case of a body which is recognised at such commencement and in respect of which no such accounts have been prepared, the period beginning with such commencement;
 - (c) in the case of any other body, the period of more than 6 months, but not more than 18 months, beginning with the date from which its recognition takes effect and ending with its accounting reference date.
- (7) Its subsequent accounting reference periods are successive periods of 12 months beginning immediately after the end of the previous accounting reference period and ending with its accounting reference date.

- (8) A recognised body may, on giving not less than one month's notice of its intention to do so to the Lord Advocate, unless the Lord Advocate notifies the body that he objects to the proposal, specify a new accounting reference date having effect in relation to the body's current accounting reference period and subsequent periods.
- (9) Nothing in this Part of this Act, except section 1, shall affect any educational endowment within the meaning of section 122(1) of the Education (Scotland) Act 1980.
- (10) The War Charities Act 1940 shall cease to have effect as regards Scotland; but nothing in this subsection shall affect any prosecution for an offence under that Act which has been instituted before the commencement of this section.
- (11) Any power in this Part of this Act of the Secretary of State to make regulations or orders shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.