



Law Reform (Miscellaneous Provisions) (Scotland) Act 1990

1990 CHAPTER 40

PART I

CHARITIES

Recognition of charities

1 Information as to recognised charities

- (1) No obligation as to secrecy or other restriction upon the disclosure of information imposed by statute or otherwise shall prevent the Commissioners of Inland Revenue (in this section referred to as “the Commissioners”) from disclosing—
 - (a) to the Lord Advocate, information as regards any recognised body such as is mentioned in subsection (2) below,
 - (b) to any person who requests it, the name of any recognised body and the address last used by the Commissioners for any communication with the body and the year when such communication occurred.
- (2) A recognised body referred to in subsection (1)(a) above is a body—
 - (a) which appears to the Commissioners to be or to have been carrying on activities which are not charitable or to be or to have been applying any of its funds for purposes which are not charitable;
 - (b) which is certified by the Lord Advocate as being a body in respect of which information has been provided to the Scottish charities nominee by a relevant institution in pursuance of section 12 of this Act.
- (3) Where any information is made available to any person as mentioned in subsection (1)(b) above, the Commissioners shall include in such information any matter noted by them in respect of the body in pursuance of a requirement made by the Lord Advocate under this Part of this Act.

Status: This is the original version (as it was originally enacted).

- (4) A recognised body shall provide to any person who requests it, on payment of such reasonable charge in respect of copying and postage as the body may stipulate, a copy of its explanatory document.
- (5) Where any recognised body, within one month of its being requested to do so by any person, fails to provide to that person a copy of its explanatory document as mentioned in subsection (4) above, the Lord Advocate, on a complaint being made to him by such person, may direct that the fact of such failure shall be noted for the purposes of subsection (3) above.
- (6) Where there has been a failure such as is mentioned in subsection (5) above, the court may, on an application being made by the Lord Advocate, interdict the body and any person concerned in its management or control from engaging in any activity specified in the application until the Lord Advocate intimates to the court that he is satisfied that the explanatory document has been provided.
- (7) In this Part of this Act “recognised body” means any body to which the Commissioners have given intimation, which has not subsequently been withdrawn, that relief will be due under section 505 of the Income and Corporation Taxes Act 1988 in respect of income of the body which is applicable and applied to charitable purposes only, being a body—
- (a) which is established under the law of Scotland; or
 - (b) which is managed or controlled wholly or mainly in or from Scotland,
- and a recognised body shall be entitled to describe itself as “a Scottish charity”.
- (8) For the purposes of any proceedings under or by virtue of this Part of this Act, a certificate purporting to be signed by a person authorised to do so by the Commissioners and certifying that a body is a recognised body shall be sufficient evidence of that fact and of the authority of that person.
- (9) In this section “explanatory document” means—
- (a) the trust deed of a body or other document constituting the body; or
 - (b) such other document as the Lord Advocate may approve,
- being a document which describes the nature of the body and of its charitable purposes.

2 Non-recognised bodies

- (1) A non-recognised body shall not be entitled to represent itself or hold itself out as a charity.
- (2) For the purposes of this Part of this Act, any body which is not—
- (a) a recognised body; or
 - (b) a body which is—
 - (i) registered as a charity in England and Wales under section 4 of the Charities Act 1960; or
 - (ii) a charity which is not required to register by virtue of subsection (4) of that section,
- is a non-recognised body.
- (3) Where a non-recognised body represents itself or holds itself out as a charity, the court may, on an application made by the Lord Advocate, interdict the body from so

representing itself or holding itself out until it becomes a body such as is mentioned in paragraph (a) or (b) of subsection (2) above.

3 Designated religious bodies

- (1) The Secretary of State may from time to time, by order, designate for the purposes of this section such recognised bodies as appear to him—
 - (a) to have as their principal purpose the promotion of a religious objective;
 - (b) to have as their principal activity the regular holding of acts of public worship; and
 - (c) to be bodies which satisfy each of the conditions mentioned in subsection (2) below.
- (2) The conditions referred to in subsection (1)(c) above are—
 - (a) subject to subsection (4) below, that the body has been established in Scotland for not less than 10 years;
 - (b) that the body can demonstrate to the satisfaction of the Secretary of State that it has a membership of not less than 3,000 persons resident in Scotland who are 16 years of age or more; and
 - (c) that the internal organisation of the body is such that one or more authorities in Scotland exercise supervisory and disciplinary functions in respect of the component elements of the body and, in particular, that there are imposed on such component elements requirements as to the keeping of accounting records and the auditing of accounts which appear to the Secretary of State to correspond to those required by sections 4 and 5 of this Act.
- (3) Where a body is, for the time being, designated under subsection (1) above the following provisions of this Part of this Act shall not apply to the body nor to any component or structural element of the body which is, itself, a recognised body—
 - section 1(6);
 - section 4;
 - section 5, other than subsections (6) to (8) and subsection (12);
 - section 6(2) and (6);
 - section 7; and
 - section 8.
- (4) The Secretary of State may determine that the condition mentioned in subsection (2) (a) above shall not be required to be satisfied in the case of a body—
 - (a) which has been created by the amalgamation of two or more bodies each of which, immediately before the amalgamation, either was designated under this section or appears to the Secretary of State to have been eligible for such designation; or
 - (b) which has been constituted by persons who have removed themselves from membership of a body which, immediately before such removal, was so designated or appears to the Secretary of State to have been eligible for such designation.