



# Charities and Trustee Investment (Scotland) Act 2005

2005 asp 10

## PART 1

### CHARITIES

#### CHAPTER 4

##### SUPERVISION OF CHARITIES ETC.

##### *Supplemental*

### **38 Delegation of functions**

- (1) It is for the Scottish Ministers to exercise OSCR's functions under sections 28 to 35 (other than section 30), and any of its general functions relating to those provisions, in so far as they are exercisable in relation to—
  - (a) charities which are registered social landlords,
  - (b) bodies controlled by any such charity (or by two or more such charities, when taken together), and
  - (c) persons acting for or on behalf of any such charity or body.
- (2) OSCR may authorise any Scottish public authority with mixed functions or no reserved functions to exercise any of the functions referred to in subsection (1) in so far as they are exercisable in relation to—
  - (a) such charities or bodies, or types of charity or body, as OSCR may specify in the authorisation, and
  - (b) persons acting for or on behalf of those charities or bodies.
- (3) Such an authorisation may be made only if the authorised person has other regulatory functions conferred on it by an enactment in relation to the charities or types of charity in respect of which the authorisation is made.
- (4) OSCR must send a copy of such an authorisation to each charity to which it relates.

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*Status: This is the original version (as it was originally enacted).*

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- (5) OSCR must, before making such an authorisation, consult such persons (including the person it proposes to authorise) as it thinks fit.
- (6) OSCR may, at any time, withdraw an authorisation under subsection (2) (and subsections (4) and (5) apply in relation to such a withdrawal as they apply in relation to an authorisation).
- (7) Subsection (1) does not prevent OSCR from authorising, under subsection (2), the Scottish Ministers to exercise functions in relation to a person other than a registered social landlord.
- (8) It is not competent for OSCR to exercise any of its functions which are, by virtue of subsection (1) or (2), delegated to another public body or office-holder (unless it considers it necessary or expedient to do so in relation to its functions under section 30).
- (9) Sections 24 to 26 apply in relation to a public body or office-holder to whom OSCR's functions are delegated by virtue of subsection (1) or (2) as they apply to OSCR, but subject to the following modifications—
  - (a) references in those sections to OSCR and to OSCR's functions are to be read as references to the public body or office-holder and to the functions delegated to it, and
  - (b) the reference in section 25(1)(d) to section 46 is to be read as a reference to subsection (10).
- (10) Where any of OSCR's functions are delegated to another public body or office-holder by virtue of subsection (1) or (2), a person to whom section 46 applies—
  - (a) must report to the body or office-holder on any matter which the person would, but for that delegation, be required by section 46(2) to report on to OSCR,
  - (b) may report to the body or office-holder on any matter which the person would, but for that delegation, be authorised by subsection 46(3) to report on to OSCR.
- (11) A duty or power which arises under subsection (10) is not affected if the person in relation to whom it arises subsequently stops acting in the capacity mentioned in section 46(1).
- (12) In this section “registered social landlord” means a body registered in the register maintained under section 57(1) of the Housing (Scotland) Act 2001 (asp 10).