

SCHEDULE

Article 5

PART 1

MODIFICATIONS OF PUBLIC GENERAL ACTS

House of Commons Disqualification Act 1975 (c. 24)

1. In the definition of “charity” in section 189(1) of the Consumer Credit Act 1974 (definitions)(1)–

- (a) for “and as respects Scotland and” substitute “as respects”; and
- (b) at the end insert “and as respects Scotland a body entered in the Scottish Charity Register”.

House of Commons Disqualification Act 1975 (c. 24)

2. In Part 2 of Schedule 1 to the House of Commons Disqualification Act 1975 (bodies of which all members are disqualified)(2), insert at the appropriate place the following entry–

“The Scottish Charity Regulator”.

Companies Act 1985 (c. 6)

3. In paragraph 5(4) of Schedule 7 to the Companies Act 1985 (charitable donations)(3), for the words from ““charitable” is to be construed” to the end substitute “a purpose is charitable if it is listed in section 7(2) of the Charities and Trustee Investment (Scotland) Act 2005”.

Companies Act 1989 (c. 40)

4. In section 112(1)(b) of the Companies Act 1989 (charitable companies (Scotland)), for the words from “established” to the end substitute “entered in the Scottish Charity Register”.

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

5. Section 1 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (information as to recognised charities)(4) is repealed.

Charities Act 1993 (c. 10)

6.—(1) The Charities Act 1993 is amended as follows.

(2) In section 72(1)(e) (persons disqualified for being trustees of a charity)(5), after “charities” insert “or section 34(5)(e) of the Charities and Trustee Investment (Scotland) Act 2005 (powers of the Court of Session)”.

(3) In section 80 (supervision by Commissioners of certain Scottish charities)–

(1) There are amendments to section 189(1) which are not relevant to this Order.
(2) There are amendments to Part 2 of Schedule 1 which are not relevant to this Order.
(3) Paragraph 5 was substituted by the Political Parties, Elections and Referendums Act 2000 (c. 41), section 140.
(4) Section 1 was amended by paragraph 7(a) of Schedule 4 to the Act.
(5) There are amendments to section 72(1)(e) which are not relevant to this Order.

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- (a) in each of subsections (3) and (4)(b)(6), for “Lord Advocate” substitute “Scottish Charity Regulator”; and
- (b) in subsection (6), for the words from “has” to the end substitute “means a body entered in the Scottish Charity Register”.

Financial Services and Markets Act 2000 (c. 8)

7. For paragraph 7(2)(b) of Schedule 11A to the Financial Services and Markets Act 2000 (transferable securities)(7), substitute—

- “(b) a body entered in the Scottish Charity Register;”.

Companies (Audit, Investigations and Community Enterprise) Act 2004 (c. 27)

8.—(1) The Companies (Audit, Investigations and Community Enterprise) Act 2004 is amended as follows.

(2) In section 26(3)(b) (community interest companies), for the words from “given such” to the end substitute “entered in the Scottish Charity Register”.

(3) In section 40 (existing companies: Scottish charities)—

(a) in subsection (7), for the words from “that does” to the end substitute—

“it shall continue to be under a duty to apply—

- (a) any property previously acquired, or any property representing property previously acquired,
- (b) any property representing income which has previously accrued, and
- (c) the income from any such property,

in accordance with its purposes as set out in its entry in the Scottish Charity Register immediately before it became a community interest company.”.

(b) in subsection (8), the word “or” and paragraph (b) are repealed; and

(c) subsection (9) is repealed.

(4) In section 54(8) (becoming a charity or a Scottish charity), for the words from “Commissioners of” to the end substitute “Scottish Charity Regulator that, if the special resolutions take effect and the company ceases to be a community interest company, the company will be entered in the Scottish Charity Register”.

(5) In section 63(1) (interpretation), for the definition of “Scottish charity” substitute—

““Scottish charity” means a body entered in the Scottish Charity Register.”.

PART 2

MODIFICATIONS OF SUBORDINATE LEGISLATION

Housing Benefit (Information from Landlords and Agents) Regulations 1997 (S.I. 1997/2436)

9. In regulation 4 of the Housing Benefit (Information from Landlords and Agents) Regulations 1997 (relevant information)—

(6) References to “Lord Advocate” are to be read as references to “the Secretary of State” by virtue of S.I. 1999/678.

(7) Schedule 11A was inserted by S.I. 2005/1433, Schedule 2.

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(a) in paragraph (2)(d) omit the words “or is a recognised body”; and

(b) in paragraph (6)–

(i) for the definition of “charity” substitute–

““charity” means, in England and Wales, a charity which is registered under section 3 of the Charities Act 1993 and is not an exempt charity within the meaning of that Act, and in Scotland, a body entered in the Scottish Charity Register;” and

(ii) omit the definition of “recognised body”.

Transfer of Functions (Lord Advocate and Secretary of State) Order 1999 (S.I. 1999/678)

10. In the Schedule to the Transfer of Functions (Lord Advocate and Secretary of State) Order 1999 (functions transferred to the Secretary of State)(**8**) omit “Charities Act 1993 (c. 10), section 80;”.

Financial Services and Markets Act 2000 (Exemption) Order 2001 (S.I. 2001/1201)

11. In article 2 of the Financial Services and Markets Act 2000 (Exemption) Order 2001 (interpretation), in paragraph (a) of the definition of “charity” for the words from “recognised” to the end of that paragraph substitute “body entered in the Scottish Charity Register”.

Community Interest Company Regulations 2005 (S.I. 2005/1788)

12. In each of Schedules 1, 2 and 3 to the Community Interest Company Regulations 2005 (provisions prescribed for memorandum or articles), for paragraph 1(4)(e) substitute–

“(e) “Scottish charity” means a body entered in the Scottish Charity Register;”.

(**8**) There are amendments to the Schedule which are not relevant to this Order.