

2006 No. 189 (C. 18)

CHARITIES

**The Charities and Trustee Investment (Scotland) Act 2005
(Commencement No. 3, Transitional and Savings Provision)
Order 2006**

Made - - - -

31st March 2006

The Scottish Ministers, in exercise of the powers conferred by sections 103(2) and 107(2) of the Charities and Trustee Investment (Scotland) Act 2005(a), and of all other powers enabling them in that behalf, hereby make the following Order:

Citation and interpretation

1.—(1) This Order may be cited as the Charities and Trustee Investment (Scotland) Act 2005 (Commencement No. 3, Transitional and Savings Provision) Order 2006.

(2) In this Order, “the Act” means the Charities and Trustee Investment (Scotland) Act 2005.

Commencement of provisions

2.—(1) The provisions of the Act specified in Part 1 of the Schedule to this Order, so far as not already in force, shall come into force on 1st April 2006.

(2) The provisions of the Act specified in Part 2 of the Schedule to this Order, so far as not already in force, shall come into force on 24th April 2006.

Transitional and savings provision

3.—(1) Notwithstanding the repeal of sections 3, 4, 5 and 15(1) to (8) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990(b) by the coming into force of paragraph 7(b) of Schedule 4 to the Act on 1st April 2006, those provisions of the 1990 Act and the following Regulations and Orders—

- (a) the Charities Accounts (Scotland) Regulations 1992(c);
- (b) the Charities (Exemptions from Accounting Requirements) (Scotland) Regulations 1993(d);
- (c) the Charities (Exemptions from Accounting Requirements) (Scotland) Amendment Regulations 1995(e);

(a) 2005 asp 10.

(b) 1990 c.40.

(c) S.I. 1992/2165.

(d) S.I. 1993/1624 as amended by S.I. 1995/645 and S.S.I. 2000/49.

(e) S.I. 1995/645.

- (d) the Charities (Exemption from Accounting Requirements) (Scotland) Amendment Regulations 2000(a);
- (e) the Charities (Designated Religious Bodies) (Scotland) Order 1993(b);
- (f) the Charities (Designated Religious Bodies) (Scotland) Order 2005(c),

shall continue to apply to a charity in relation to accounts for a financial year beginning before 1st April 2006.

(2) The following provisions of the Act shall not apply to a designated religious body until 1st October 2007–

- (a) subsections (1) to (6) of section 16 (in so far as those subsections relate to any action set out in subsection (2)(b) to (d) of that section);
- (b) section 28(3);
- (c) section 31(4) and (6);
- (d) section 34(5)(c) to (e);
- (e) section 69.

(3) Paragraphs (1) and (2) do not apply to a designated religious body which has been designated as a designated religious charity under section 65 of the Act.

(4) In this article, “designated religious body” means a body designated as such in either the Charities (Designated Religious Bodies) (Scotland) Order 1993 or the Charities (Designated Religious Bodies) (Scotland) Order 2005, and those Orders and section 3 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 shall continue to apply for the purposes of paragraphs (2) and (3) of this article notwithstanding the repeal of that section.

MALCOLM CHISHOLM
A member of the Scottish Executive

St Andrew’s House,
Edinburgh
31st March 2006

(a) S.S.I. 2000/49.
(b) S.I. 1993/2774.
(c) S.S.I. 2005/306.

SCHEDULE

Article 2

PART 1

PROVISIONS OF THE ACT WHICH COME INTO FORCE ON 1st APRIL 2006

<i>Section</i>	<i>Subject matter</i>
Section 1(5), except sub-section (5)(a)	Office of the Scottish Charity Regulator
Section 3	Scottish Charity Register
Section 13	References to charitable status
Section 14	Exception for certain bodies not in Register
Section 16	Changes which require OSCR's consent
Section 17	Notification of other changes
Section 22	Power of OSCR to obtain information from charities
Section 28	Inquiries about charities etc.
Section 29	Power of OSCR to obtain information for inquiries
Section 31	Powers of OSCR following inquiries
Section 32	Suspensions and directions: procedure
Section 33	Reports on inquiries
Section 34	Powers of Court of Session
Section 35	Transfer schemes
Section 36	Powers in relation to English and Welsh charities
Section 37	Expenses
Section 38	Delegation of functions
Section 43	Endowments
Section 44	Accounts
Section 45	Failure to provide statement of account
Section 46	Duty of auditors etc. to report matters to OSCR
Section 47	Dormant accounts of charities
Section 48	Dormant accounts of charities: procedure and interpretation
Section 65	Designated religious charities
Section 66	Charity trustees: general duties
Section 67	Remuneration for services
Section 68	Remuneration: supplementary
Section 69	Disqualification from being charity trustee
Section 70	Disqualification: supplementary
Section 71	Decisions
Section 72	Notice of decisions
Section 73	Effect of decisions
Section 74	Review of decisions
Section 76	Appeals to Scottish Charity Appeals Panel
Section 77	Reconsideration of decision remitted to OSCR
Section 78	Appeals to Court of Session
Section 99	Population of Register etc.

<i>Section</i>	<i>Subject matter</i>
Section 104	Minor and consequential amendments and repeals
Section 105	Meaning of “control” etc.
Paragraphs 1, 2, 3, 4, 5(a), 6, 7, 10, 12 to 19 of Schedule 4	Minor and consequential amendments and repeals

PART 2

PROVISIONS OF THE ACT WHICH COME INTO FORCE ON 24th APRIL 2006

<i>Section</i>	<i>Subject matter</i>
Section 1(5)(a)	Office of the Scottish Charity Regulator
Section 2	Annual reports
Section 4	Application for entry in Register
Section 5	Determination of applications
Section 6	Applications: further procedure
Section 7	The charity test
Section 8	Public benefit
Section 10	Objectionable names
Section 11	Change of name
Section 12	Power to OSCR to require charity to change name
Section 15	References in documents
Section 18	Removal from Register
Section 19	Removal from Register: protection of assets
Section 20	Co-operation
Section 21	Public access to Register
Section 23	Entitlement to information about charities
Section 24	Disclosure of information by and to OSCR
Section 25	Removal of restrictions on disclosure of certain information
Section 26	False or misleading information etc
Section 27	Disclosure of information: entitlement under other enactments etc.
Section 30	Removal from Register of charity which no longer meets charity test
Section 80	Representation and solicitation
Section 81	Prohibition on professional fundraising without formal agreement
Section 82	Prevention of unauthorised fundraising
Section 83	Regulations about fundraising
Section 100	Notices, applications etc.
Section 101	Offences by bodies corporate etc.
Paragraph 9 of Schedule 4	Minor and consequential amendments and repeals

EXPLANATORY NOTE

(This note is not part of the Order)

This Order is the third commencement order under the Charities and Trustee Investment (Scotland) Act 2005 (“the Act”).

Article 2 and the Schedule to this Order brings into force on 1st April and 24th April 2006 all the provisions of the Act that are not already in force with the exception of sections 39 to 42 which relate to the reorganisation of charities, sections 49 to 64 of the Act which relate to Scottish Charitable Incorporated Organisations, sections 84 to 92 which relate to public benevolent collections and section 96 (power of a charity to participate in certain financial schemes). All of schedule 4 is commenced by this Order with the exception of paragraphs 5(b) and (c), 8 and 11.

Article 3 makes transitional and savings provisions in relation to the accounts of charities and designated religious bodies. It also provides that certain provisions of the Act are not to apply to designated religious bodies until 31st October 2007 or until those bodies become designated religious charities in terms of section 65 of the Act. Article 3(3) provides the transitional and savings provision shall cease to have effect if a designated religious body is designated as a religious charity in terms of section 65 of the Act.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the Act have been brought into force by commencement order made before the date of this Order:–

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.S.I. No.</i>
Section 1(1) to (4) and (6) to (10).	24th February 2006	2006/74
Section 3 (only for the purpose of enabling regulations to be made).	1st January 2006	2005/644
Section 6 (only for the purpose of enabling regulations to be made).	1st January 2006	2005/644
Section 7 (only for the purpose of enabling orders to be made).	1st January 2006	2005/644
Section 9.	24th February 2006	2006/74
Section 15 (only for the purpose of enabling regulations to be made).	1st January 2006	2005/644
Section 19 (only for the purpose of enabling orders and regulations to be made).	1st January 2006	2005/644
Section 23 (only for the purpose of enabling orders to be made).	1st January 2006	2005/644
Section 25 (only for the purpose of enabling orders to be made).	1st January 2006	2005/644
Section 35 (only for the purpose of enabling regulations to be made).	1st January 2006	2005/644
Section 39 (only for the purpose of enabling regulations to be made).	1st January 2006	2005/644
Section 44 (only for the purpose of enabling regulations to be made).	1st January 2006	2005/644
Section 48 (only for the purpose of enabling regulations to be made).	1st January 2006	2005/644
Section 75.	24th February 2006	2006/74

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.S.I. No.</i>
Section 79.	1st January 2006	2005/644
Section 83 (only for the purpose of enabling regulations to be made).	1st January 2006	2005/644
Section 86 (only for the purpose of enabling regulations to be made).	1st January 2006	2005/644
Section 90 (only for the purpose of enabling regulations to be made).	1st January 2006	2005/644
Section 91 (only for the purpose of enabling regulations to be made).	1st January 2006	2005/644
Section 93.	1st January 2006	2005/644
Section 94.	1st January 2006	2005/644
Section 95.	1st January 2006	2005/644
Section 97.	1st January 2006	2005/644
Section 98.	1st April 2006	2005/644
Section 99(3) and (4).	24th February 2006	2006/74
Section 106.	1st January 2006	2005/644
Schedule 1 (only for the purpose of enabling orders to be made).	1st January 2006	2005/644
Schedule 1, in so far as not already in force.	24th February 2006	2006/74
Schedule 2 (only for the purpose of enabling orders and rules to be made).	1st January 2006	2005/644
Schedule 2, in so far as not already in force.	24th February 2006	2006/74
Schedule 3.	1st January 2006	2005/644

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