

## **Final Business and Regulatory Impact Assessment**

### **Title**

The Charities References in Documents (Scotland) Amendment Regulations 2011

### **Purpose and Intended Effect**

### **Objective**

These regulations amend the Charities References in Documents (Scotland) Regulations 2007, as amended (the 2007 Regulations). In order to show transparency and reassure the public, the 2007 Regulations state that any charity registered in Scotland must display information regarding its charitable status on the specified documents. The objective of this amendment is to add the “home web page on a website operated by or on behalf of the charity” to that list of documents.

### **Background**

Section 15 of The Charities and Trustee Investment (Scotland) Act 2005 allows Scottish Ministers, by regulation, to require registered charities to state they are a charity and other information on their documents.

Regulation 2 of the Charities References in Documents (Scotland) Regulations 2007 (as amended) specifies the information which is required to be shown.

Regulation 4 of the Charities References in Documents (Scotland) Regulations 2007 (as amended) specifies the documents which are required to show this information.

For enhanced transparency, as websites are often the first point of contact an individual has with a charity, we believe that the home page of a charity’s website should now also be covered by the 2007 Regulations. Adding this information would provide reassurance that it is the website of a charity registered in Scotland.

### **Rationale for Government Intervention**

Upon its introduction the Charities and Trustee Investment (Scotland) Act 2005 was widely welcomed by the third sector after several high profile scandals damaged public confidence in charities. However, the need to foster public confidence in charities needs to be balanced against not placing unduly restrictive requirements on them. The sector believes this amendment would increase public confidence at little or no cost to the charities.

In order to improve the effectiveness of the 2005 Act, the Office of the Scottish Charity Regulator (OSCR) recommended web pages should be included in the list of documents on which charities have to make reference to their status. An amendment was made to section 15 of the 2005 Act by means of section 120 of the Public Services Reform (Scotland) Act 2010, stating: “For the purposes of this section, a reference to a document issued or signed on behalf of the charity includes a reference to a web page on a website operated by or on behalf of the charity”.

These regulations specify the web pages on which a charity must display certain information. By requiring charities state clearly that they are a registered charity, this will make it more difficult for those organisations which masquerade as charities to solicit donations from member of this public, fitting with the Government's national outcome "we live our lives safe from crime, disorder and danger".

## **Consultation**

### **Within Government**

These amendments came about as a result of recommendations made by OSCAR in its 2007-08 Annual Report and subsequent discussion regarding the regulation.

### **Public Consultation**

A public consultation was held between April and July 2009 on proposed minor changes to the 2005 Act and proposed changes to the charity accounting requirements. With regards to this change, the consultation asked:

*"Do you agree that requiring charities to state their name, charitable status and charity number on their websites will increase transparency and can this be done without imposing significant costs on charities?"*

47 respondents commented on the question. 45 were in favour of charities being required to state their name, charitable status and charity number on their websites. One respondent did not offer a view on whether they supported this suggestion, but indicated that if this change was made it was important that there was clarity about which web pages were captured by the requirements. This point was also made by a number of the respondents in favour of the change, who suggested that it may be appropriate to limit the requirement to certain pages, including the home page. One respondent was against placing this requirement on charities, arguing that charities should be encouraged but not required to include this information.

There was agreement that this requirement could be introduced without imposing significant costs on charities as many charities already provide this information on their website. Sufficient lead in time was recommended to allow charities to make any necessary changes as part of a general review or update of their website.

As a result of the consultation responses, the Scottish Government decided to amend the 2005 Act to allow web pages to be specified in regulations. This amendment was made through the Public Services Reform (Scotland) Act 2010.

## **Business (Including Charities)**

47 businesses responded to the public consultation. Face to face discussion groups were also held in Edinburgh, Glasgow and Aberdeen where discussions took place with 46 businesses on matters relating to the creation of a new corporate form to be made available to Scottish charities. As part of the meetings the businesses were asked if the requirement to state the required information on web pages would prove problematic and costly for charities. Of the 47 consultation responses and the 46 who attended our discussion groups, there was a broad belief that this change would not prove to be problematic or costly for charities and that it would enhance transparency.

## **Options**

### **Option 1 – Do nothing**

This option would mean there would be no requirement for charities to include information regarding their charitable status on their home web pages.

### **Option 2 – Introduce regulations setting out which web pages are included**

This would require charities to display information regarding their charitable status on the home web pages of their websites.

## **Sectors and Groups Affected**

The amendment introduced by these regulations will affect charities that have a website. However, the changes will only result in action being required by those charities whose home web pages currently do not display the information required by the Charities References in Documents (Scotland) Regulations 2007 (as amended). Currently many charity websites contain this information as a matter of good practice. The amendment will also impact on OSCR who will have responsibility for monitoring compliance.

In addition, the amendment introduced by these regulations will enable the public to more readily identify registered charities. As a result any member of the public accessing a registered charity's website will be able to ascertain that they are on the website of a charity that is registered in Scotland. This extra transparency should act as further reassurance to the public in light of previous high profile fraud cases.

## **Costs and Benefits**

### **Option 1 – Do nothing**

#### **Costs**

There will be no additional costs if the regulations are not made.

#### **Benefits**

The charities that do not currently display the information required under the 2007 regulations on the home web pages of their website would not have to do so.

### **Option 2 – Introduce regulations setting out which webpages are included**

#### **Costs**

The cost implications to charities would be negligible. Many charities have this information displayed as a matter of best practice. For those who don't, the cost of adding this information is likely to be minimal and in most cases would be carried out as part of the web site updating that would happen as a matter of course. The regulations will have a period of approximately 6 months from when they are laid before the Scottish Parliament to the date they come in to force, giving sufficient time for charities to become compliant.

As these regulations amend the existing 2007 regulations, there are unlikely to be any additional costs on OSCR.

#### **Benefits**

The increased public confidence may have a positive effect on the public's willingness to donate, especially via websites, safe in the knowledge that the donations were going to a charity registered in Scotland.

### **Scottish Firms Impact Test**

As a result of our earlier consultation and face to face discussions it did not seem proportionate, given the minimal impact, to have further face to face discussions with the same businesses/charities. 101 businesses and charities were given the opportunity to comment on the proposals with almost unanimous support being voiced.

## **Competition Assessment**

The proposals place no formal restrictions on entry to markets. We applied the competition filter and the answers were as follows:

1. the proposals do not directly limit the number or range of suppliers;
2. the proposals do not indirectly limit the number or range of suppliers;
3. the proposals do not limit the ability of suppliers to compete; and
4. the proposals do not reduce suppliers' incentives to compete vigorously.

Therefore, no full competition assessment was necessary.

## **Test Run of Business Forms**

These regulations do not introduce any new business forms.

## **Legal Aid Impact Test**

No new criminal penalties are introduced by these regulations therefore we do not anticipate that there will be an impact on the Legal Aid Fund.

## **Enforcement, Sanctions and Monitoring**

OSCR will monitor compliance with this amendment, made by these regulations, as they already do for the 2007 regulations. As an independent body, it will be for OSCR to determine how to enforce, monitor and deal with non compliance issues.

## **Implementation and Delivery Plan**

These regulations will not come into force for approximately 6 months after they are laid allowing a period for all existing charities to ensure their websites are compliant. Bodies who are awarded charitable status after the regulations come into force will have 6 months to comply with the regulations.

## **Post-Implementation Review**

OSCR is responsible for reviewing the implementation of the 2005 Act and for reviewing its effectiveness. OSCR may also make recommendations to Scottish Ministers in respect of its functions in its Annual Report, which is laid before Parliament each autumn. The Scottish Government has previously committed to reviewing the 2005 Act with 10 years on it being brought into force.

## Summary and Recommendation

### Option 1 – Do nothing.

No costs and no new benefits.

### Option 2 – Introduce regulations setting out which webpages are covered.

This is a minor administrative amendment that will have minimal cost to the vast majority of charities and will aid transparency for the public.

## Recommendation

**Option 2 is recommended.** It will further enhance public confidence at negligible cost to the charities.

## Declaration and Publication

I have read the impact assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

**Signed:**

**Rosanna Cunningham**  
**Minister for Community Safety and Legal Affairs**

**Date:**

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