



# Charities and Trustee Investment (Scotland) Act 2005

2005 asp 10

## PART 1

### CHARITIES

#### CHAPTER 7

##### SCOTTISH CHARITABLE INCORPORATED ORGANISATIONS

###### *Nature and constitution*

#### **49 Scottish charitable incorporated organisations**

- (1) A charity may be constituted as a Scottish charitable incorporated organisation (a “SCIO”).
- (2) A SCIO is a body corporate having—
  - (a) a constitution,
  - (b) a principal office in Scotland,
  - (c) 2 or more members.
- (3) Its membership may, but need not, consist of or include some or all of its charity trustees.
- (4) The members are not liable to contribute to the assets of the SCIO if it is wound up.

#### **50 Constitution and powers**

- (1) A SCIO’s constitution must state its name and its purposes.
- (2) A SCIO’s constitution must make provision—
  - (a) about who is eligible for membership, and how a person becomes a member, and

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*Status: This is the original version (as it was originally enacted).*

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- (b) for the appointment of 3 or more persons (“charity trustees”) who are to be charged with the general control of the SCIO’s administration, and about any conditions of eligibility for becoming a charity trustee.
- (3) A SCIO’s constitution must also provide for such other matters, and comply with such requirements, as are specified in regulations made by the Scottish Ministers.
- (4) A SCIO must use and apply its property in furtherance of its purposes and in accordance with its constitution.
- (5) Subject to anything in its constitution, a SCIO has power to do anything which is calculated to further its purposes or is conducive or incidental to doing so.
- (6) For the purposes of managing the affairs of a SCIO, its charity trustees may exercise all the SCIO’s powers.

## **51 General duty of members of SCIO**

Subsections (1)(a), (3) and (4) of section 66 apply to the members of a SCIO who are not charity trustees as they apply to its charity trustees.

## **52 Name and status**

- (1) The name of a SCIO must appear in legible characters on—
  - (a) such documents issued by or on behalf of the SCIO,
  - (b) such documents signed by or on behalf of the SCIO,
 as may be specified in regulations made by the Scottish Ministers.
- (2) Subsection (3) applies where the name of a SCIO does not include—
  - (a) “Scottish charitable incorporated organisation”, or
  - (b) “SCIO” (with or without a full stop after each letter),
 whether or not capital letters are used.
- (3) Where this subsection applies, the fact that a SCIO is a SCIO must be stated in legible characters in all the documents referred to in subsection (1).
- (4) Section 15 does not apply in relation to a SCIO.

## **53 Offences etc.**

- (1) A charity trustee of a SCIO or a person on the SCIO’s behalf who—
  - (a) issues, or authorises the issue of, any document referred to in subsection (1) (a) of section 52, or
  - (b) signs, or authorises the signature on behalf of the SCIO of, any document referred to in subsection (1)(b) of that section,
 which does not comply with subsections (1) and (3) of that section is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (2) OSCR may direct—
  - (a) any body which is not a SCIO and which is representing itself as being a SCIO,
  - (b) any person who is representing that any such body is a SCIO,

to stop doing so by such date as OSCR may direct.

- (3) The Court of Session may, on an application by OSCR, interdict—
  - (a) any body which is not a SCIO from representing itself as a SCIO,
  - (b) a person who is representing that such a body is a SCIO from doing so.
- (4) OSCR may not apply for such an interdict against a body or person unless the body or person has failed to comply with a direction under subsection (2).