

# **PUBLIC SERVICES REFORM (SCOTLAND) ACT 2010**

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## **EXPLANATORY NOTES**

### **THE ACT**

#### **Part 9 - Charities**

##### ***Section 126 - Appointment of charity trustees***

340. New section 70A makes provision for OSCR to appoint charity trustees. Section 70A(1) sets out the conditions which must apply for OSCR to be able to act, i.e. that a charity has an insufficient number of charity trustees to be able to appoint a charity trustee under its constitution and that charity's constitution does not provide a mechanism to appoint a charity trustee in those circumstances. Section 70A(2) sets out who may request that OSCR act, while subsection (3) makes clear that OSCR may only make as many appointments as is necessary to enable the charity to appoint further charity trustees itself. Subsection (4) makes clear that the appointment of a charity trustee in this manner is for a time limited period of no more than 12 months and that the appointed charity trustee has the same functions as a charity trustee appointed under the charity's constitution. This includes the charity trustee duties set out in section 66 of the 2005 Act.
341. Subsection (5) allows the appointed charity trustee's term of appointment to be extended by one period of up to 3 months where OSCR, the charity trustees and the acting charity trustee agree. This is to allow further time for any necessary amendments to be made to the constitution to prevent the situation occurring in the future, in the event that the changes have not been completed within the initial 12 month period.
342. Subsection (6) allows the acting charity trustee to be appointed as a charity trustee under the charity's constitution at any time during the period in which they are an acting charity trustee. Subsection (7) prevents an acting charity trustee voting on their own appointment as a charity trustee in order to avoid any conflict of interest, while subsection (8) makes clear that a person's appointment as an acting charity trustee ends if they are appointed as a charity trustee under the charity's constitution.