



# Charities (Regulation and Administration) (Scotland) Act 2023

## 2023 asp 5

PROSPECTIVE

### *Appointment of interim charity trustees*

#### **8 Appointment of interim trustees by OSCR**

(1) Section 70A (appointment of charity trustees) of the 2005 Act is modified as follows.

(2) For subsections (1) and (2), substitute—

“(1) OSCR may, on the request of a charity, appoint a person as an interim charity trustee for the charity where—

- (a) the charity has an insufficient number of charity trustees to be able to appoint a charity trustee under its constitution, and
- (b) the charity’s constitution does not provide a mechanism for appointing a charity trustee in such circumstances.

(2) OSCR may, of its own accord or on the representation of any person, appoint a person as an interim charity trustee for a charity where OSCR is satisfied that—

- (a) the charity has no existing charity trustees,
- (b) all of the charity’s existing charity trustees either—
  - (i) cannot be found, or
  - (ii) are not acting and are not expected to resume acting, or
- (c) the number of the charity’s existing charity trustees who fall within sub-paragraph (i) or (ii) of paragraph (b) is such that the charity is unable to make a request under subsection (1).”.

(3) In subsection (3)—

- (a) for “acting” substitute “interim”,
- (b) after “subsection”, insert “(1) or”.

*Status: This version of this cross heading contains provisions that are prospective.*

**Changes to legislation:** *There are currently no known outstanding effects for the Charities (Regulation and Administration) (Scotland) Act 2023, Cross Heading: Appointment of interim charity trustees. (See end of Document for details)*

- (c) after “constitution” insert “without requiring involvement from charity trustees who cannot be found or are not acting”.
- (4) In subsection (4)—
  - (a) for “acting” substitute “interim”,
  - (b) after “subsection” insert “(1) or”.
- (5) In subsection (5)—
  - (a) in paragraph (a)—
    - (i) the word “still” is repealed,
    - (ii) for “acting” substitute “interim”,
    - (iii) after “constitution” insert “without requiring involvement from charity trustees who cannot be found or are not acting”,
  - (b) in paragraph (b), for “acting” substitute “interim”,
  - (c) in the closing words, for “acting” substitute “interim”.
- (6) After subsection (5), insert—
 

“(5A) For the purpose of subsection (5)(b), no account is to be taken of any charity trustees who cannot be found or are not acting.”.
- (7) In subsection (6)—
  - (a) for “acting” substitute “interim”,
  - (b) after “subsection” insert “(1) or”.
- (8) In subsection (7), for “acting” substitute “interim”.
- (9) In subsection (8), for “acting” in both places where it appears substitute “interim”.
- (10) After subsection (8), insert—
 

“(9) For the purposes of subsection (1), a request is the request of a charity if it is from—

  - (a) the majority of the charity trustees of the charity, or
  - (b) if there are only two charity trustees of the charity, either of them.”.

#### **Commencement Information**

**II** S. 8 not in force at Royal Assent, see [s. 21\(2\)](#)

## **9 Review of proposed appointment of interim trustee**

- (1) The 2005 Act is modified as follows.
- (2) In section 71 (decisions), after paragraph (pa) (inserted by section 6(5)) insert—
 

“(pb) appoint an interim charity trustee under section 70A(1) or (2)(c).”.
- (3) In section 72(2) (notice of decisions), after paragraph (ba) (inserted by section 16(3)) (a)(ii) insert—
 

“(bb) in the case of a decision referred to in paragraph (pb) of section 71, the charity trustees of the charity in respect of which the decision was made.”.

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(4) In section 73(2) (effect of decisions), in the opening words, after “(o)” insert “, (pb)”.

(5) In section 74 (review of decisions), after subsection (1) insert—

“(1A) Where there is more than one charity trustee to whom notice of a decision referred to in section 71(pb) is given under section 72, a request under subsection (1) may be made by any of them.”.

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**Commencement Information**

**I2** S. 9 not in force at Royal Assent, see [s. 21\(2\)](#)

**Status:**

This version of this cross heading contains provisions that are prospective.

**Changes to legislation:**

There are currently no known outstanding effects for the Charities (Regulation and Administration) (Scotland) Act 2023, Cross Heading: Appointment of interim charity trustees.