



Public Services Reform (Scotland) Act 2010

2010 asp 8

PART 9

CHARITIES

126 Appointment of charity trustees

After section 70 of the 2005 Act, insert—

“Appointment

70A Appointment of charity trustees

- (1) Subsection (2) applies where—
 - (a) a charity has an insufficient number of charity trustees to be able to appoint a charity trustee under its constitution, and
 - (b) the constitution does not provide a mechanism for appointing a charity trustee in such circumstances.
- (2) OSCR may, upon the request of—
 - (a) the majority of the charity trustees of a charity,
 - (b) if there are only two charity trustees, either of them,appoint a person as an acting charity trustee for the charity.
- (3) OSCR may appoint more than one acting charity trustee under subsection (2), but only as many as is necessary for the charity to be able to appoint charity trustees under its constitution.
- (4) A person appointed as an acting charity trustee under subsection (2)—
 - (a) is appointed for the period of 12 months (or such shorter period as OSCR thinks fit) starting with the date of appointment, and
 - (b) has the same functions as a charity trustee appointed under the charity’s constitution.

Status: This is the original version (as it was originally enacted).

- (5) Despite subsection (4)(a), if—
- (a) at the end of the period mentioned in that subsection, the charity is still not (but for the acting charity trustee) able to appoint a charity trustee under its constitution, and
 - (b) OSCR, the majority of the charity trustees (or if only two trustees, either of them) and the acting charity trustee agree to an extension, an acting charity trustee's period of appointment may be extended by one period of up to three months starting with the expiry of the original period of appointment.
- (6) Nothing in subsections (1) to (5) prevents a person appointed as an acting charity trustee by OSCR under subsection (2) from being appointed as a charity trustee by the charity under its constitution.
- (7) But the acting charity trustee may not vote on whether to make such an appointment.
- (8) Where an acting charity trustee is appointed as a charity trustee under the charity's constitution, the person's appointment as an acting charity trustee comes to an end on the date of that subsequent appointment."