

POLICY NOTE

THE CHARITIES REORGANISATION (SCOTLAND) AMENDMENT REGULATIONS 2012

SSI 2012/220

The above Regulations were made in exercise of the powers conferred by section 39 of the Charities and Trustee Investment (Scotland) Act 2005 (“the 2005 Act”). The instrument is subject to the negative procedure.

Policy Objectives

The purpose of this instrument is to set out changes to the process which charities and the Office of the Scottish Charity Regulator (OSCR) must follow when making and considering an application to reorganise a charity.

The Regulations set out a process for application by charities to OSCR and for decisions by OSCR which applies regardless of the size of the charity. However, where a charity is large (having income over £250,000) the Regulations set out a higher level of publicity than is needed otherwise. Similarly, the Regulations allow OSCR discretion to dispense with the need to publish information about proposed schemes involving very small charities. This recognises that OSCR must act in a proportionate manner in the exercise of its functions.

Consultation

The original Regulations were consulted on in early 2007 and have been in effect since mid-2007.

Following the amendment of the 2005 Act to allow OSCR to approve the reorganisation of restricted funds (see SSI 2012/219) and the consultation on the proposals for the application process and decision method, it was decided to align the application methods as much as possible. This recognises that a charity may apply to reorganise itself and a restricted fund at the same time. Respondents, including OSCR, were supportive of this approach.

Financial Effects

The Cabinet Secretary for Finance, Employment and Sustainable Growth confirms that no BRIA is necessary as the instrument imposes no financial effects on the Scottish Government, local government or on business. There may be some financial effect on those charities who opt to make an application under the provisions. However, only those large charities which apply to OSCR (having income over £250,000) will incur any additional cost. This cost will be offset, if the charities’ applications to OSCR are granted, with the more effective use of charitable funds by the charities.

Governance & Communities

Scottish Government

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