

## **POLICY NOTE**

### **THE CHARITIES (REGULATION AND ADMINISTRATION) (SCOTLAND) ACT 2023 (COMMENCEMENT NO. 1, TRANSITIONAL AND SAVING PROVISIONS) REGULATIONS 2024**

**SSI 2024/63 (C. 6)**

The above instrument was made in exercise of the powers conferred by section 21 of the Charities (Regulation and Administration) (Scotland) Act 2023 (“the 2023 Act”). The instrument is subject to laid no procedure.

#### **Summary Box**

To bring a number of provisions of the 2023 Act into force on 1 April 2024 and 1 October 2024.

#### **Policy Objectives**

The 2023 Act strengthens and updates the existing Charities and Trustee Investment (Scotland) Act 2005 (“the 2005 Act”) to:

- Increase transparency and accountability in charities;
- Make improvements to the Scottish Charity Regulator’s (OSCR) powers; and
- Bring Scottish charity legislation up to date with certain key aspects of charity regulation in England, Wales and Northern Ireland.

The instrument will bring the following provisions of the 2023 Act into force:

- Section 7 (Record of persons removed from office);
- Section 8 and 9 (Appointment of interim charity trustees);
- Section 12 (Removal of non-responsive charities for failure to submit accounts);
- Section 14 (Endowments);
- Sections 15, 16 and 17 (Inquiries);
- Section 18 (Charities which it is not appropriate for OSCR to regulate); and
- Schedule.

The Regulations will, for the most part, bring the relevant provisions into force on 1 April this year. Section 7 (record of persons removed from office) will however commence on 1 October this year to allow OSCR sufficient lead-in time to prepare the supporting IT systems. Paragraph 1 of the schedule, which requires OSCR to include in its annual reports information about its activities in relation to promoting awareness and understanding among charities of the 2005 Act’s provisions will also commence on 1 October this year, meaning that the relevant information will require to be included in the first annual report that follows that date.

#### **EU Alignment Consideration**

This instrument is not relevant to the Scottish Government’s policy to maintain alignment with the EU.

## Consultation

In 2018, OSCR submitted a paper to the Scottish Ministers with practical proposals to ‘modernise’ the 2005 Act, focused on improving trust and confidence in the charity sector and updating the existing law. A 12-week consultation on the proposals closed on 1 April 2019, with 307 responses indicating broad support for all proposals. However, some respondents felt that certain proposals needed further development before they could be considered and that almost all of the proposals required refinement and/or further policy development. The responses from OSCR and the Law Society of Scotland Charity Law sub-committee also suggested a longer list of more technical changes that would require to be taken forward by primary legislation. Further proposals were identified following analysis of the consultation responses and discussions with stakeholders.

Progress on further engagement with the sector to help define and refine the proposals was delayed due to COVID-19. The engagement with the charity sector re-started in December 2020. Targeted stakeholder events with partners took place in December 2020 and January 2021 with a mix of charity professionals, trustees, charity staff, volunteers and practitioners, including:

- The Law Society of Scotland Charity Law sub-committee, made up of practising legal professionals and academics;
- OSCR charities reference group, representatives from approximately 35 charities reflecting the range and breadth of the sector;
- The Scottish Council for Voluntary Organisations (SCVO) and the Association of Chief Officers of Scottish Voluntary Organisations (ACOSVO) jointly hosted two events with 33 attendees; and
- Local charities took part in events held by 12 Third Sector Interfaces (TSIs).

A Citizen Space survey (‘Strengthening Scottish Charity Law’) asked detailed questions about six of the proposals and ran between December 2020 and February 2021 with 100 responses received. The remaining proposals were not considered appropriate for this strand of engagement due to their technical nature and/or limited application to the wider sector. The proposals were implemented via the 2023 Act and the Citizen Space survey suggests a high level of support for the changes.

## Impact Assessments

The following impact assessments were carried out as part of the Parliamentary passage of the 2023 Act:

- Business and regulatory impact assessment<sup>1</sup>
- Data protection impact assessment<sup>2</sup>
- Equalities impact assessment<sup>3</sup>
- Island communities impact assessment<sup>4</sup>

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<sup>1</sup> Charities (Regulation and Administration) (Scotland) Bill: business and regulatory impact assessment - gov.scot ([www.gov.scot](http://www.gov.scot))

<sup>2</sup> Charities (Regulation and Administration) (Scotland) Bill: data protection impact assessment - gov.scot ([www.gov.scot](http://www.gov.scot))

<sup>3</sup> Charities (Regulation and Administration) (Scotland) Bill: equalities impact assessment - gov.scot ([www.gov.scot](http://www.gov.scot))

<sup>4</sup> Charities (Regulation and Administration) (Scotland) Bill: island communities impact assessment - gov.scot ([www.gov.scot](http://www.gov.scot))

**Financial Effects**

The Cabinet Secretary for Social Justice confirms that no BRIA is necessary as one was completed as part of the Parliamentary passage of the 2023 Act.

Scottish Government  
Public Service Reform Directorate  
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