**POLICY NOTE**

**THE CHARITIES (REGULATION AND ADMINISTRATION) (SCOTLAND) ACT 2023 (COMMENCEMENT NO. 3 AND TRANSITIONAL PROVISION) REGULATIONS 2026**

**SSI 2026/98 (C. 8)**

The above instrument is made by the Scottish Ministers in exercise of the powers conferred by section 21(2) and (3) of the Charities (Regulation and Administration) (Scotland) Act 2023 ("the Act"). The instrument is laid in the Scottish Parliament in accordance with section 30 of the Interpretation and Legislative Reform (Scotland) Act 2010.

**Summary Box**

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| The purpose of this instrument is to bring a number of provisions of the Act into force on 5 March 2026. The Act will accordingly be fully commenced as of that date. |

**Policy Objectives**

The Act strengthens and updates the existing regime created under the Charities and Trustee Investment (Scotland) Act 2005 ("the 2005 Act") by:

- increasing transparency and accountability in charities;
- making improvements to the Scottish Charity Regulator's ("OSCR") powers; and
- bringing Scottish charity legislation up to date with certain key aspects of charity regulation in England, Wales and Northern Ireland.

This instrument will bring the following provisions of the Act into force on 5 March 2026:

- section 2 (inclusion of names of charity trustees in the Scottish Charity Register);
- section 10 (preservation of and access to charity accounts and independent reports on accounts); and
- section 11 (independent reports: minor and consequential modifications).

Section 2 of the Act, amongst other things, amends the 2005 Act to introduce a requirement for OSCR to include the names of the trustees of a charity in its entry in the Scottish Charity Register ("the Register"). Regulation 3 makes transitional provision that provides, for those bodies entered on the Register before the commencement of this instrument, OSCR is not required to set out trustee names in the chartiy's entry until those names have been provided to OSCR, whether through the annual returns process or otherwise by virtue of the OSCR online system. Section 2 further amends the 2005 Act to ensure the ability to apply for a dispensation for information to be excluded from the charity's entry under section 3(4) of the 2005 Act extends to charity trustee names, as it currently does for the name and address of a trustee noted on the entry where the charity does not have a principal office. Section 10 of the Act amends the 2005 Act to introduce a number of requirements in relation to the accounts of a charity:

- that a charity must obtain a report on the independent examination (or audit) of its accounts (an "independent report on accounts") and furthermore that it must send a copy of that independent report on accounts to OSCR along with its accounts;
- that accounts regulations must not be made which would require a charity to divulge information in its accounts that is otherwise excluded from its Register entry; and

- that OSCR must keep a copy of the accounts and independent report on accounts sent to it by a charity for at least five years from the end of the financial year of the accounts. OSCR must also make these documents available for public inspection, at its offices and other places as it thinks fit, with these arrangements being publicised.

Section 11 of the Act makes a number of minor consequential amendments to the 2005 Act as a result of the commencement of section 10 of the Act.

**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 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 Act:

- Business and regulatory impact assessment[1]
- Data protection impact assessment[2]
- Equalities impact assessment[3]
- Island communities impact assessment[4]

**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 Act.

Scottish Government
Tackling Child Poverty and Social Justice Directorate

*February 2026*

[1] https://www.gov.scot/publications/charities-regulation-administration-scotland-bill-business-regulatory-impact-assessment/
[2] https://www.gov.scot/publications/charities-regulation-administration-scotland-bill-data-protection-impact-assessment/
[3] https://www.gov.scot/publications/charities-regulation-administration-scotland-bill-equalities-impact-assessment/
[4] https://www.gov.scot/publications/charities-regulation-administration-scotland-bill-island-communities-impact-assessment/