

CHARITIES AND TRUSTEE INVESTMENT (SCOTLAND) ACT 2005

EXPLANATORY NOTES

COMMENTARY ON PARTS

Part 1: Charities

Chapter 8 – Religious charities

Designated religious charities

75. **Section 65** allows OSCR to designate a charity that meets certain criteria as a designated religious charity. To be designated, the body's main purpose must be the advancement of religion, its main activity the regular holding of public worship, it must have been established in Scotland for at least 10 years and have a membership of at least 3,000 over the age of 16. In addition, it must have an internal organisation with supervisory and disciplinary functions over all its component parts and have a regime for keeping accounting record which OSCR considers correspond to those for other charities.
76. Designated religious charities will be exempt from certain provisions of the Act; namely that it does not need to seek OSCR's consent for certain of the changes to its constitution set out in **section 16**, OSCR may not direct the charity or its trustees to stop undertaking activities (under **section 28(3)**) nor to suspend its charity trustees (under **section 31(4)**) following its inquiries. The Court of Session may not (under **section 34(5)**) appoint a judicial factor, appoint a trustee, nor suspend a charity trustee or manager of the religious charity. Lastly, **section 69** on those disqualified from serving as a charity trustee does not apply to designated religious charities.
77. Under **section 65(5)**, OSCR may withdraw the designated status from a designated religious charity if it considers the qualifying criteria no longer apply or if, following an investigation, OSCR considers that it is no longer appropriate for the body to hold that status.
78. These provisions largely replicate the existing regime under section 3 of the 1990 Act which allow the Scottish Ministers (or OSCR acting on their behalf) to designate religious bodies to allow similar exemptions where it is satisfied that an adequate supervisory and disciplinary regime is already in place.