



Charities and Trustee Investment (Scotland) Act 2005

2005 asp 10

PART 4

GENERAL AND SUPPLEMENTARY

105 Meaning of “control” etc.

- (1) A charity which is able (whether directly or through one or more nominees) to secure that the affairs of a body are conducted in accordance with the charity's wishes is, for the purposes of sections 28 to 35, to be treated as being in control of that body.
- (2) For the purposes of sections 46(5) and 68(2)—
 - (a) a person who is able to secure that the affairs of an institution are conducted in accordance with the person's wishes is to be treated as being in control of the institution,
 - (b) a person who—
 - (i) is interested in shares comprised in the equity share capital of a body corporate of a nominal value of more than one-fifth of that share capital, or
 - (ii) is entitled (whether directly or through one or more nominees) to exercise, or control the exercise of, more than one-fifth of the voting power at any general meeting of a body corporate,is to be treated as having a substantial interest in the body corporate.
- (3) The rules set out in [^{F1}Schedule 1 to the Companies Act 2006] apply for the purposes of subsection (2) as they apply for the purposes of [^{F2}section 254 (directors connected with body corporate)] of that Act (and “equity share capital” and “share” have the same meanings in subsection (2) as they have in that Act).

Textual Amendments

- F1** Words in s. 105(3) substituted (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), [Sch. 1 para. 241\(3\)\(a\)](#) (with arts. 6, 11, 12)

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Charities and Trustee Investment (Scotland) Act 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

F2 Words in s. 105(3) substituted (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), [Sch. 1 para. 241\(3\)\(b\)](#) (with arts. 6, 11, 12)

Commencement Information

I1 S. 105 in force at 1.4.2006 by [S.S.I. 2006/189](#), art. 2(1), [Sch. Pt. 1](#)

Changes to legislation:

There are outstanding changes not yet made by the legislation.gov.uk editorial team to Charities and Trustee Investment (Scotland) Act 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Pt. 1 Ch. 7A inserted by [2023 asp 5 s. 13\(2\)](#)
- s. 2(1A) inserted by [2023 asp 5 sch. para. 1\(2\)](#)
- s. 3(3)(aa) inserted by [2023 asp 5 s. 2\(2\)\(a\)](#)
- s. 3(6)(c) and word inserted by [2023 asp 5 sch. para. 3\(2\)\(b\)](#)
- s. 5(2)(aa) inserted by [2023 asp 5 s. 18\(3\)\(a\)](#)
- s. 5(3) inserted by [2023 asp 5 sch. para. 4\(2\)](#)
- s. 5(4)(5) inserted by [2023 asp 5 s. 18\(3\)\(b\)](#)
- s. 10(3) inserted by [2023 asp 5 sch. para. 6\(3\)\(b\)](#)
- s. 11(3A)(3B) inserted by [2023 asp 5 sch. para. 5\(2\)\(b\)](#)
- s. 11(4)(a) words in s. 11(4) renumbered as s. 11(4)(a) by [2023 asp 5 sch. para. 5\(2\)\(c\)\(i\)](#)
- s. 11(4)(b) and word inserted by [2023 asp 5 sch. para. 5\(2\)\(c\)\(ii\)](#)
- s. 11(5) inserted by [2023 asp 5 sch. para. 5\(2\)\(d\)](#)
- s. 12(2A) inserted by [2023 asp 5 sch. para. 6\(4\)\(b\)](#)
- s. 12(3A) inserted by [2023 asp 5 sch. para. 4\(3\)](#)
- s. 12(3B) inserted by [2023 asp 5 sch. para. 6\(4\)\(d\)](#)
- s. 12(6) inserted by [2023 asp 5 sch. para. 6\(4\)\(g\)](#)
- s. 17(1)(ba) inserted by [2023 asp 5 s. 3\(2\)](#)
- s. 19(1)-(1D) substituted for s. 19(1) by [2023 asp 5 sch. para. 9\(2\)](#)
- s. 23(1A) inserted by [2023 asp 5 sch. para. 10\(3\)](#)
- s. 24A inserted by [2023 asp 5 sch. para. 11\(3\)](#)
- s. 25(1)(ba)(bb) inserted by [2023 asp 5 sch. para. 11\(4\)\(a\)](#)
- s. 25(3)(4) inserted by [2023 asp 5 sch. para. 11\(4\)\(b\)](#)
- s. 28(2A) inserted by [2023 asp 5 s. 15\(3\)](#)
- s. 28(4A) inserted by [2023 asp 5 s. 15\(4\)](#)
- s. 29(2A) inserted by [2023 asp 5 s. 16\(2\)\(c\)](#)
- s. 30A inserted by [2023 asp 5 s. 18\(4\)](#)
- s. 30B inserted by [2023 asp 5 s. 17\(3\)](#)
- s. 32(2)(a) words in s. 32(2) renumbered as s. 32(2)(a) by [2023 asp 5 s. 17\(5\)\(a\)](#)
- s. 32(2)(a) words inserted by [2023 asp 5 s. 17\(5\)\(b\)](#)
- s. 32(2)(b) words in s. 32(2) renumbered as s. 32(2)(b) by [2023 asp 5 s. 17\(5\)\(c\)](#)
- s. 32(2)(b) words inserted by [2023 asp 5 s. 17\(5\)\(d\)](#)
- s. 33(1)(a)(ib) inserted by [2023 asp 5 s. 17\(7\)](#)
- s. 33(1)(a)(ia) inserted by [2023 asp 5 s. 18\(5\)](#)
- s. 42(6)-(10) substituted for s. 42(6)(7) by [2023 asp 5 s. 14\(2\)](#)
- s. 44(1)(ca) inserted by [2023 asp 5 s. 10\(2\)\(a\)\(i\)](#)
- s. 44(2A) inserted by [2023 asp 5 sch. para. 12\(3\)](#)
- s. 44(4A) inserted by [2023 asp 5 s. 10\(2\)\(b\)](#)
- s. 45A inserted by [2023 asp 5 s. 12\(4\)](#)
- s. 45B and cross-heading inserted by [2023 asp 5 s. 10\(3\)](#)
- s. 48A and cross-heading inserted by [2023 asp 5 sch. para. 15\(2\)](#)
- s. 52(3A)(3B) inserted by [2023 asp 5 sch. para. 16\(2\)](#)
- s. 64(1) words in s. 64 renumbered as s. 64(1) by [2023 asp 5 sch. para. 18\(2\)\(a\)](#)
- s. 64(2) inserted by [2023 asp 5 sch. para. 18\(2\)\(b\)](#)
- s. 66A and cross-heading inserted by [2023 asp 5 s. 3\(3\)](#)
- s. 69(2)(a)(ai) inserted by [2023 asp 5 s. 4\(2\)\(a\)\(i\)](#)
- s. 69(2)(b)(i) words in s. 69(2)(b) renumbered as s. 69(2)(b)(i) by [2023 asp 5 s. 5\(2\)\(a\)\(i\)](#)

- s. 69(2)(b)(i) words inserted by 2023 asp 5 s. 5(2)(a)(ii)
- s. 69(2)(b)(ii) inserted by 2023 asp 5 s. 5(2)(a)(iii)
- s. 69(2)(f)-(i) inserted by 2023 asp 5 s. 5(2)(d)
- s. 69(2)(da)(db) inserted by 2023 asp 5 s. 5(2)(c)
- s. 69(2A) inserted by 2023 asp 5 s. 5(3)(b)
- s. 69(3A) inserted by 2023 asp 5 s. 5(3)(c)
- s. 69(7) inserted by 2023 asp 5 s. 5(3)(e)
- s. 69A inserted by 2023 asp 5 s. 4(3)
- s. 69B inserted by 2023 asp 5 s. 6(2)
- s. 70(4)-(6) inserted by 2023 asp 5 s. 5(4)(b)
- s. 70A(5A) inserted by 2023 asp 5 s. 8(6)
- s. 70A(9) inserted by 2023 asp 5 s. 8(10)
- s. 70ZA70ZB inserted by 2023 asp 5 s. 7(3)
- s. 71(ib)(ic) inserted by 2023 asp 5 s. 18(6)
- s. 71(id) inserted by 2023 asp 5 s. 17(9)
- s. 71(mb) inserted by 2023 asp 5 s. 12(5)
- s. 71(pa) inserted by 2023 asp 5 s. 6(5)
- s. 71(pb) inserted by 2023 asp 5 s. 9(2)
- s. 71(pc) inserted by 2023 asp 5 s. 7(4)
- s. 72(2)(ba) inserted by 2023 asp 5 s. 16(3)(a)(ii)
- s. 72(2)(bb) inserted by 2023 asp 5 s. 9(3)
- s. 72(4) inserted by 2023 asp 5 s. 16(3)(b)
- s. 74(1A) inserted by 2023 asp 5 s. 9(5)
- s. 100(5A)-(5E) inserted by 2023 asp 5 sch. para. 20(2)
- s. 103(5)(ba) inserted by 2023 asp 5 s. 18(8)(b)
- s. 103(5)(bb) inserted by 2023 asp 5 s. 14(3)
- s. 103(5)(ca) inserted by 2023 asp 5 s. 5(5)
- s. 103(5)(cb) inserted by 2023 asp 5 s. 4(4)
- s. 103(5)(za) inserted by 2023 asp 5 s. 18(8)(a)