



Charities and Trustee Investment (Scotland) Act 2005

2005 asp 10

PART 1

CHARITIES

CHAPTER 4

SUPERVISION OF CHARITIES ETC.

Inquiries

31 Powers of OSCR following inquiries

- (1) Subsections (4), (6) and (7) apply where it appears to OSCR, as a result of inquiries under section 28—
 - (a) that there has been misconduct in the administration of—
 - (i) a charity, or
 - (ii) a body controlled by a charity, or
 - (b) that it is necessary or desirable to act for the purpose of protecting the property of a charity or securing a proper application of such property for its purposes.
- (2) Subsections (5) to (7) apply where it appears to OSCR, as a result of inquiries under section 28—
 - (a) that a body which is not a charity is being or has been represented as a charity, or
 - (b) that a charity which is not entitled to refer to itself in either of the ways described in section 13(2) is being or has been represented as being established under the law of Scotland or managed or controlled wholly or mainly in or from Scotland.
- (3) Subsections (8) and (9) apply where it appears to OSCR, as a result of inquiries under section 28, that there is or has been misconduct by a person falling within section 28(1)

Status: This is the original version (as it was originally enacted).

- (d) in any activity which the person undertakes for or on behalf of the charity or body referred to in that provision.
- (4) OSCR may, by notice, suspend any person concerned in the management or control of the charity or body who appears to it to—
- (a) have been responsible for or privy to the misconduct,
 - (b) have contributed to, or facilitated, the misconduct, or
 - (c) be unable or unfit to perform that person’s functions in relation to the property of the charity or body.
- (5) OSCR may direct—
- (a) the body representing itself as a charity,
 - (b) the person representing the body as a charity,
 - (c) the charity representing itself as being established under the law of Scotland or managed or controlled wholly or mainly in or from Scotland, or, as the case may be
 - (d) the person representing the charity as being established under the law of Scotland or managed or controlled wholly or mainly in or from Scotland,
- to stop doing so.
- (6) OSCR may give a direction restricting the transactions which may be entered into, or the nature or amount of the payments which may be made, in the administration of the charity or body without OSCR’s consent.
- (7) OSCR may direct any relevant financial institution or other person holding property on behalf of the charity or body or of any person concerned in its management or control not to part with the property without OSCR’s consent.
- (8) OSCR may direct the person—
- (a) to cease acting, or representing itself as acting, for or on behalf of the charity or body in any activity specified in the direction,
 - (b) to pay to the charity or body, within such period as the direction may specify, any sums which it has collected for the charity or body and which are held by it or by any relevant financial institution or other person on its behalf, after deducting any sums payable to the person or any other person under an agreement with the charity or body.
- (9) OSCR may direct any relevant financial institution or other person holding property which OSCR considers to be, or to represent, sums collected for the charity or body not to part with the property without OSCR’s consent.
- (10) OSCR’s power to suspend a person by giving notice under subsection (4)(a) or (b) does not apply if OSCR considers that the person has acted honestly and reasonably in relation to the misconduct concerned and ought fairly to be excused.