



# Charities (Regulation and Administration) (Scotland) Act 2023

## 2023 asp 5

PROSPECTIVE

### *Reorganisation of charities*

#### **14 Endowments**

- (1) The 2005 Act is modified in accordance with subsections (2) and (3).
- (2) In section 42 (reorganisation: supplementary), for subsections (6) and (7) substitute—
  - “(6) But, despite subsection (5), sections 39 and 40 apply—
    - (a) to any endowment held by such a charity,
    - (b) where the property of a charity constituted under an enactment consists only of an endowment or endowments, to the charity.
  - (7) Where an application for a reorganisation scheme is made by virtue of subsection (6)(a)—
    - (a) a reference in section 39(1)(a) or 40(1)(a) to a condition being satisfied in relation to a charity is to be read as a reference to a condition being satisfied in relation to an endowment,
    - (b) the reference in section 41 to a charity’s constitution is to be read as including a reference to an instrument governing an endowment,
    - (c) a reference in subsection (2) or (3)(a) to the purposes of a charity is to be read as a reference to the purposes of an endowment,
    - (d) a reference in subsection (2)(c) or (d) or (3)(a) to a charity’s constitution is to be read as a reference to—
      - (i) a charity’s constitution as it relates to an endowment,
      - (ii) an instrument governing an endowment,
    - (e) the references in subsection (3)(c) to a charity are to be read as references to an endowment.
- (8) Where an application for a reorganisation scheme is made by virtue of subsection (6)(b), a reference in section 41 or in subsection (2)(c) or (d) or

*Status: This version of this cross heading contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Charities (Regulation and Administration) (Scotland) Act 2023, Cross Heading: Reorganisation of charities. (See end of Document for details)*

(3)(a) to a charity's constitution is to be read as including a reference to an instrument governing an endowment.

(9) For the purposes of subsections (6) to (8)—

- (a) “endowment” has the same meaning as in Part 6 (reorganisation of endowments) of Education (Scotland) Act 1980,
- (b) for the avoidance of doubt, income derived from an endowment is to be treated as being part of the endowment.

(10) The Scottish Ministers may by regulations—

- (a) modify this section so as to amend the meaning of “endowment”,
- (b) disapply subsection (6) in relation to any charity or endowment, or type of charity or endowment, specified in the regulations.”.

(3) In section 103(5) (orders, regulations and rules), after paragraph (ba) (inserted by section 18(8)(b)), insert—

“(bb) regulations under section 42(10).”.

(4) The Education (Scotland) Act 1980 is modified in accordance with subsection (5).

(5) In section 122(4) (interpretation of Part 6), for “the governing body of which is a charity within the meaning of section 106” substitute “which may be reorganised by virtue of section 42(6)”.

#### **Commencement Information**

**II** S. 14 not in force at Royal Assent, see [s. 21\(2\)](#)

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