

Executive Note
Draft: The Protection of Charities Assets (Exemption) (Scotland) Amendment Order
2007 (SSI/2007/)

The above instrument was made in exercise of the powers conferred by sections 19(8) and (9) and 103(2) of the Charities and Trustees Investment (Scotland) Act 2005 (“the 2005 Act”). The instrument is subject to affirmative resolution procedure.

Policy Objectives

Section 19 of the 2005 Act locks the assets of any body removed from the Scottish Charity Register into charitable purposes. The body has a continuing duty, despite removal, to ensure specified sections of the Act are complied with in relation to the property. Section 19 also allows OSCR to apply to the Court of Session to approve a scheme for the transfer to a specified charity of any property or income belonging to a body removed from the Register and which is locked into charitable purposes under section 19. Section 19(8) allows Scottish Ministers to exempt named bodies, by order, from these requirements.

The Protection of Charities Assets (Exemption) (Scotland) Order 2006 (“the 2006 Order”) exempts all 12 charitable NDPBs, all Further Education Colleges and all Higher Education Institutions (HEIs) from these requirements in order to protect Government money invested in these bodies and help ensure that they can continue to carry out their function if they were to lose their charitable status.

This instrument amends the Schedule of the 2006 Order to reflect a number of changes to the list of FE Colleges and HEIs. The modifications are:

- changing Jewel and Esk Valley College to Jewel and Esk College, Lauder College to Carnegie College and Oatridge Agricultural College to Oatridge College following Ministers’ consent to these name changes;
- changing the University of Paisley to the University of the West of Scotland pursuant to Privy Council consent to the change of name under section 49 of the Further and Higher Education (Scotland) Act 1992 and the University of the West of Scotland Order of Council 2007 (S.S.I. 2007/426) which formalised the change of name;
- changing Queen Margaret University College to Queen Margaret University, Edinburgh following its achievement of university title and subsequent change of name on 15 January 2007, the Governing Body’s name is also changed to University Court; and
- making a change of name of the Governing Body of Robert Gordon University from The Governors to The Board as provided for in the Robert Gordon University (Scotland) Order of Council 2006.

This instrument also adds the Scottish Agricultural College, a Central Institution, to the 2006 Order.

Consultation

Scottish Government directorates and Scottish Ministers responsible for charity law and for the Scottish Agricultural College were consulted during the preparation of this instrument.

Financial Effects

A Regulatory Impact Assessment has not been prepared as this instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government Lifelong Learning Directorate
September 2007