

**A Quick Guide to  
the Charities and Trustee Investment (Scotland) Act 2005**

**The full text of the Charities and Trustee Investment (Scotland) Act 2005 is online at  
<[www.opsi.gov.uk/legislation/scotland/acts2005/20050010.htm](http://www.opsi.gov.uk/legislation/scotland/acts2005/20050010.htm)>**

Here are some quick pointers in relation to the Act for the benefit particularly of those involved in existing charities:

- ensure that the charity's name is not likely to be objectionable to OSCR (section 10)
- adhere exclusively to the charity's Charitable Purposes and ensure that these fall within the statutory list of charitable purposes within the new Charity Test (section 7)
- demonstrate that the charity's activities provide Public Benefit and that, where there are any restrictions imposed by the charity on receiving benefit, these are not unduly restrictive (section 8)
- ensure that the charity is not dormant or non-active (section 8) or has dormant bank accounts (section 47)
- ensure that the charity's assets are not applied to any non-charitable purpose (sections 7 and 19)
- ensure the fact that the organisation is a charity is specified on all its stationery, cheques, invoices, brochures, advertisements and website (sections 13 and 15 and Regulations)
- complete and return OSCR's Annual Return on time and provide OSCR with all other information it reasonably seeks (sections 22, 28 and 29)
- lodge a signed set of the charity's accounts (and those of any other organisation "controlled" by the charity) to OSCR within the specified time-limit (section 44 and Regulations)
- obtain a Declaration from each new Trustee to confirm that they are eligible to act as a Trustee (sections 66 and 69) - please note that such a Declaration may also cover other matters (some of which may be required within Regulations)
- ensure induction and continuing training of all Trustees
- notify OSCR within 3 months of any change in:-
  - principal office (or Principal Contact person)
  - entry details on Register of Charities
  - changes in constitution (excepting charitable purposes)(section 17)
- obtain timeous prior consent from OSCR for any change in:-
  - name

- charitable purposes
  - amalgamation
  - winding up
- (section 16)
- ensure that any remuneration of a Trustee, or anyone connected to a Trustee, is permitted and, if relevant, enter into a Remuneration Agreement with such Trustee (section 67)
  - enter into a Fundraising Agreement with 'professional fundraisers' and 'commercial participators' (sections 81 - 83)
  - attend to all licensing and other requirements in respect of Public Benevolent Collections (sections 84 - 92)
  - consider any constitutional changes which may be appropriate, including:
    - change of name
    - change in or enlargement of Charitable Purposes
    - permitting remuneration of Trustees
    - permitting power to appoint nominees for investment purposes
    - permitting delegation of investment decisions
    - change of the Accounting Reference Date (year end date) if this has to be changed, rather than the AGM date, in order to comply with the 7 month deadline for lodging accounts with OSCR
    - permitting independent financial examination rather than an audit (except for charities which are "community bodies" under the Land Reform (Scotland) Act 2003 or have annual incoming resources in excess of £500,000)
    - reorganisation
    - amalgamation
  - take the opportunity generally to update Governance, Management, Financial Information and Board Policies
  - check the OSCR website regularly at [www.oscr.org.uk](http://www.oscr.org.uk) for Latest News and Recent Publications as well as verifying the details of your charity on the Scottish Charity Register.

---

*Although carefully prepared, this Fact Sheet is a guide only and is not intended to be comprehensive. Specific advice should be requested on individual situations.*

---

Colin Liddell  
*Accredited by the Law Society of Scotland as a specialist in Charity Law*  
 2006 edition