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Convener
Social Justice and Social Security Committee

By email: sjss.committee@parliament.scot

8th June 2023

STAGE 2 CHARITIES (REGULATION AND ADMINISTRATION) (SCOTLAND) BILL

Dear Convener,

I write in response to a query raised by Miles Briggs MSP at Stage 2 of the Charities (Regulation and Administration) (Scotland) Bill.

Mr Briggs asked in relation to section 12 of the Bill, the recording of charity mergers and treatment of legacies: ‘There is one point of clarification that I feel is still needed—maybe it is for stage 3—which relates to the situation of a United Kingdom-wide charity that is based in England and does research funding in Scotland. That research project could have a legacy gifted to it from a Scotland-domiciled individual. Has that been captured in these amendments?’

The short answer to this is no. Section 12 of the Bill only applies to charities registered in Scotland.

Where the charity is registered solely in England and Wales then charity law in England and Wales will apply, which already includes provisions on charity mergers broadly equivalent to those the Bill introduces for Scotland.

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

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Regardless of where a charity is registered in the UK, if a donor specifies that a legacy is donated for a particular project or campaign, that legacy will be classed as a restricted fund and the charity must ensure the donation is ring-fenced for that specified purpose.

In terms of the new Scottish rule, the Bill provides that it is open to an individual to make clear in their will that the rule redirecting a legacy should not apply if they do not wish their legacy to pass to a transferee charity in the event of a charity merger.

I hope the Committee finds this response helpful.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Shirley-Anne". The signature is written in a cursive, flowing style.

SHIRLEY-ANNE SOMERVILLE