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Convener
Social Justice and Social Security Committee

By email: sjss.committee@parliament.scot

10 March 2023

Dear Convener,

CHARITIES (REGULATION AND ADMINISTRATION) (SCOTLAND) BILL - STAGE 1 EVIDENCE

I am writing to clarify a number of points which have arisen during the evidence provided at Stage 1 on the Charities (Regulation and Administration) (Scotland) Bill, which I hope will be helpful to the Committee members in their scrutiny of the Bill.

Disqualification criteria

Undischarged bankruptcy is an existing criteria for disqualification under the Charities and Trustee Investment (Scotland) Act 2005 (the 2005 Act), it is not one of the new criteria introduced by the Bill. In addition, the ability to apply to OSCR for a waiver to the disqualification is already provided for by the 2005 Act. Many of the existing and new criteria for disqualification are time limited, not permanent, the disqualification falls when a specified conviction is spent, or a bankruptcy discharged.

List of removed persons

Section 7 of the Bill would require OSCR to maintain a record of those individuals who have been disqualified or removed by the Court of Session from acting as a charity trustee. The list does not apply to all disqualification criteria, just to those individuals who have been removed by the Court of Session, usually due to serious misconduct in their involvement with a charity. OSCR have confirmed that there are 50 people who have been permanently removed by the Court of Session from acting as a charity trustee under the Charities and

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Trustee Investment (Scotland) Act 2005 and the proceeding Law Reform (Miscellaneous Provisions) (Scotland) Act 1990.

Interim trustees

The ability of OSCR to appoint interim trustees is a short-term, emergency measure to be used where there are no trustees, or where they are unwilling or unable to act. This measure is designed to prevent the charity stagnating and where appropriate to keep the charity going until permanent trustees can be appointed.

I hope the above is helpful for the Committee and look forward to speaking with you next week to take forward and carefully consider this important piece of legislation.

Please do not hesitate to contact me should you require further information.

Yours sincerely,



SHONA ROBISON

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