

Social Justice and Social Security Committee
Thursday 16 May 2024
15th Meeting, 2024 (Session 6)

Note by the Clerk on the Charities (References in Documents) (Miscellaneous Amendment) (Scotland) Regulations 2024 (SSI 2024/111)

Overview

1. At this meeting, the Committee will consider the following Scottish Statutory Instrument (SSI), which is subject to annulment by resolution of the Parliament until 27 May 2024. The Committee is invited to consider the instrument and decide what, if any, recommendations to make.
2. More information about the instrument is summarised below:

Title of instrument: [The Charities \(References in Documents\) \(Miscellaneous Amendment\) \(Scotland\) Regulations 2024 \(SSI 2024/111\)](#)

Laid under: [The Charities and Trustee Investment \(Scotland\) Act 2005](#)

Laid on: 18 April 2024

Procedure: Negative

Deadline for committee consideration: 20 May 2024 (Advisory deadline for any committee report to be published)

Deadline for Chamber consideration: 27 May 2024 (Statutory 40-day deadline for any decision whether to annul the instrument)

Commencement: 1 June 2024

Procedure

3. Under the negative procedure, an instrument is laid after it is made, and is subject to annulment by resolution of the Parliament for a period of 40 days beginning on the day it is laid.
4. Once laid, the instrument is referred to:

- the Delegated Powers and Law Reform (DPLR) Committee, for scrutiny on various technical grounds, and
 - a lead committee, whose remit includes the subject-matter of the instrument, for scrutiny on policy grounds.
5. Any MSP may propose, by motion, that the lead committee recommend annulment of the instrument. If such a motion is lodged, it must be debated at a meeting of the Committee, and the Committee must then report to the Parliament (by the advisory deadline referred to above).
 6. If there is no motion recommending annulment, the lead committee is not required to report on the instrument.

Delegated Powers and Law Reform Committee consideration

7. The DPLR Committee considered the instrument on 30 April 2024 and reported on it in its [31st Report, 2024](#). The DPLR Committee made no recommendations in relation to the instrument.

Purpose of the instrument

8. These Regulations amend the Scottish Charitable Incorporated Organisations Regulations 2011 (“the 2011 Regulations”) and the Charities References in Documents (Scotland) Regulations 2007 (“the 2007 Regulations”). The amendments aim to “ensure consistency across different legal forms of charities in relation to information they are required to include on certain specified documents.”
9. Regulation 2 adds a requirement for Scottish Charitable Incorporated Organisations to include their Scottish charity number and any working name on certain documents.
10. Regulation 3 makes an amendment to the 2007 Regulations as a consequence of changes made to the 2005 Act by the Charities (Regulation and Administration) (Scotland) Act 2023 in relation to ‘working names’ (the name a charity will be most commonly known as by the public as opposed to its official name).
11. The Policy Note accompanying the instrument is included in the Annexe. It includes a summary of consultation undertaken on the instrument, impact assessments carried out, and the anticipated financial effects.

Committee consideration

12. So far, no motion recommending annulment has been lodged.
13. Members are invited to consider the instrument and decide whether there are any points they wish to raise. If there are, options include:

- seeking further information from the Scottish Government (and/or other stakeholders) through correspondence, and/or
- inviting the Minister (and/or other stakeholders) to attend the next meeting to give evidence on the instrument.

It would then be for the Committee, at the next meeting, to consider the additional information gathered and decide whether to make recommendations in relation to the instrument.

14. If members have no points to raise, the Committee should note the instrument (that is, agree that it has no recommendations to make).
15. However, should a motion recommending annulment be lodged later in the 40-day period, it may be necessary for the Committee to consider the instrument again.

**Clerk to Committee
May 2024**

ANNEXE

POLICY NOTE

THE CHARITIES (REFERENCES IN DOCUMENTS) (MISCELLANEOUS AMENDMENT) (SCOTLAND) REGULATIONS 2024 SSI 2024/111

The above instrument was made in exercise of the powers conferred by sections 15(1)(b), 52(1) and (3A) and 103(2)(a) of the Charities and Trustee Investment (Scotland) Act 2005 (“the 2005 Act”). This instrument is subject to negative procedure.

Summary

These Regulations amend the Scottish Charitable Incorporated Organisations Regulations 2011 (“the 2011 Regulations”) and the Charities References in Documents (Scotland) Regulations 2007 (“the 2007 Regulations”).

Firstly, they amend the 2011 Regulations to require Scottish Charitable Incorporated Organisations (SCIOs) to include their Scottish charity number and any working name on certain specified documents.

Secondly, they make a consequential amendment to the 2007 Regulations as a result of changes made to the 2005 Act by the Charities (Regulation and Administration) (Scotland) Act 2023 (“the 2023 Act”) in relation to working names.

Policy Objectives

These Regulations seek to ensure consistency across different legal forms of charities in relation to information they are required to include on certain specified documents.

Section 52(1) of the 2005 Act requires SCIOs to include their name on such documents signed or issued by, or on behalf of, SCIOs as are specified in regulations made under this section. Section 52, as originally enacted, did not provide for other types of information (such as the Scottish charity number) to be included on the specified documents. This is in contrast to section 15(1) of the 2005 Act, which applies to charities other than SCIOs and which allows the Scottish Ministers to require such charities to state their name, as well as such other information as may be specified in the regulations, on the specified documents. Accordingly, the position was that SCIOs were not required to include their Scottish charity number or their working name on the specified documents while other charities were.

This was considered to be an oversight and therefore the enabling power in section 52 of the 2005 Act was amended by the 2023 Act to allow the Scottish Ministers to specify, in regulations, other types of information that SCIOs are required to include on the specified documents. These Regulations amend the 2011 Regulations to require SCIOs

to include their Scottish charity number and any working name on the specified documents.

Many charities are more commonly known to the public by a different name (referred to as a 'working name') to the official name entered on the Scottish Charity Register. The 2023 Act makes certain changes to the 2005 Act to provide OSCR with powers in relation to working names. A definition of a 'working name' was also inserted into the 2005 Act. These Regulations make a consequential amendment to the 2007 Regulations to reflect this change, for consistency reasons.

EU Alignment Consideration

This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

Consultation

This instrument makes minor amendments to the 2011 Regulations and the 2007 Regulations following changes made by the 2023 Act. Two public consultations were carried out in 2019 and 2021 in relation to the proposals the 2023 Act implements. No separate public consultation has been carried out in relation to the amendments made by this instrument.

Impact Assessments

This instrument makes minor amendments following changes made by the 2023 Act. The following impact assessments were carried out as part of the Parliamentary passage of the 2023 Act:

- Business and regulatory impact assessment¹
- Data protection impact assessment²
- Equalities impact assessment³
- Island communities impact assessment⁴.

No further impact assessments have been undertaken.

Financial Effects

The Cabinet Secretary for Social Justice confirms that no BRIA is necessary as one was completed as part of the Parliamentary passage of the 2023 Act.
Scottish Government Public Service Reform Directorate April 2024

¹ Charities (Regulation and Administration) (Scotland) Bill: business and regulatory impact assessment - gov.scot (www.gov.scot)

² Charities (Regulation and Administration) (Scotland) Bill: data protection impact assessment - gov.scot (www.gov.scot)

³ Charities (Regulation and Administration) (Scotland) Bill: equalities impact assessment - gov.scot (www.gov.scot)

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Charities (Regulation and Administration) (Scotland) Bill: island communities impact assessment - gov.scot (www.gov.scot)