

**guidance for  
English, Welsh and  
NI charities  
operating in  
Scotland**

June 2006

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## 1 Introduction

English, Welsh and Northern Irish charities, in common with all other foreign (non - Scottish) charities that have operations or activities in Scotland may now have new, additional obligations arising under the Charities and Trustee Investment (Scotland) Act 2005 (CTISA). This Briefing Paper examines what this is likely to mean in practice.

A key principle of the CTISA is that all activities of charities in Scotland should be regulated by the new Office of the Scottish Charity Regulator (OSCR), regardless of where the charity is first registered.

## 2 Charity Registration in Scotland

Under CTISA, no charities active in Scotland will be exempt or excepted from registration and there is no financial threshold below which registration will be unnecessary. There may therefore be a requirement for charities registered in England and Wales or based in Northern Ireland to register with OSCR.

Fortunately CTISA draws a distinction between a substantive operation in Scotland and an occasional connection. In practice this means that there will only be a 'cross border' registration requirement if the charity owns or **occupies** land or premises in Scotland, or carries out activities in any office, shop or similar premises in Scotland.

Thus, charities that do any of the following are likely to require registration in Scotland:

- Own or lease premises or pay rates in Scotland
- Claim relief for non domestic rates from a local authority
- Hold **open** meetings in Scotland
- Charge for events in Scotland

It is less likely that charities doing the following will have to register:

- Advertise in the Scottish press or other media
- Award grants by correspondence only
- Conduct street collections in Scotland that do not involve operating from premises etc. in Scotland
- Hold occasional members' conferences in Scotland
- Use secretarial support provided by volunteers operating from their own home.

The intention is that 'cross-border' charities will be invited to apply for registration between September and December 2006. In the meantime, charities can supply their details to either the Charity Commission or OSCR for inclusion in a pre-list of affected charities.

## 3 Charities with branches in Scotland

A 'cross border' charity may have many branches in Scotland. If these branches are not autonomous, there will be no requirement for them to register individually. However the parent charity is likely to need to register, since operating branches will almost certainly mean the charity meets the registration criteria relating to premises etc. in Scotland.

## 4 Describing the charity

There are to be strict controls on what a charity operating in Scotland can call itself. 'Cross border' charities:

- **Registered with OSCR** may call themselves charity, charitable body, a registered charity or a charity registered in Scotland
- **Not required to be registered with OSCR** may, in Scotland, refer to themselves as a charity but only if that statement is qualified as being under the law of England and Wales (or registered with HMRC in Northern Ireland). Examples are "a charity registered with the Charity Commission" or "Recognised by HM Revenue and Customs as a charity registered in [England and Wales] [Northern Ireland]"

For most charities with supporters or any degree of operations in Scotland that fall short of a full registration requirement, it will be advisable to adopt wording similar to that in the second bullet point above.

The terms "Scottish charity" or "Registered Scottish Charity" are reserved for bodies **established** in Scotland or **managed and controlled wholly or mainly** in or from Scotland.

## 5 Status disclosure in public documents

Scotland is likely to move into line with legislation in England and Wales in requiring charity status to be disclosed on documents in the public domain. For 'cross border' charities it seems that the likely requirement will be for both charity numbers to be quoted (where applicable) in respect of documents in the public domain. Final guidance on this is awaited.

## 6 Accounts and annual returns

Charities that are registered with OSCR will be required to submit an Annual Return, at least covering the very basic Register information which must be in the public domain. In addition, all charities must lodge their annual accounts with OSCR. The deadline for submission of both documents is likely to be tied in with their accounting reference date.

Charities with an income of more than £25,000 will be asked to complete a supplementary return which will include financial information, together with some governance questions.

Given that Accounting Regulations both north and south of the border require charities with an income of over £100,000 to comply with SORP 2005 (that is the Charity Commission Statement of Recommended Practice "Accounting and Reporting by Charities", published in 2005), OSCR will not insist on separate Scottish Accounts. They will however expect charities operating in Scotland to provide some narrative in their trustees' report of activities in Scotland.

## 7 Further help

Further help and assistance can be obtained from:

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