



The formal powers of the Scottish Charity Regulator and the Court of Session

The Scottish Charity Regulator and Court of Session have a number of specific formal powers under the Charities and Trustee Investment (Scotland) Act 2005 ('the 2005 Act'). This factsheet briefly outlines those powers.

The powers of the Scottish Charity Regulator

Brief description of power	Section of the 2005 Act
Review entries in the Scottish Charity Register	3(6)
Direct a charity to change its name and remove it where non-compliant	12(2), (3) &(5)
Direct a charity not to take action in a consent matter, pending further inquiry	16(6)
Obtain information for Register entry purposes	22(1)
Make inquiries, either generally or for a particular purpose	28(1)
Direct any charity, body or person from undertaking activities for a period of six months while making inquiries	28(3)
Obtain information for inquiries	29(1)
Direct a charity to take action to meet the charity test within a specified period	30(1)(a)
Remove a charity from the Register	30(1)(b) & 30(3)
Suspend any person concerned in the management and control of a charity for a period of six months	31(4)
Direct any body misrepresenting itself as a charity to stop doing so	31(5)
Restrict transactions of a charity	31(6)
Direct that property not be parted with	31(7) & 31(9)
Direct a person to cease acting on behalf of a charity	31(8)
Publish a report of the subject matter of an inquiry	33(2)
Appoint a suitable person to prepare accounts	45(2)
Direct a charity to recover remuneration in contravention of section 67	67(7)

The powers of the Court of Session on application by the Scottish Charity Regulator

Brief description of power	Section of the 2005 Act
Approve a scheme presented to us for transfer of any assets to another charity	19(4) & 35(1)
Interdict the charity or body from such action as the Court thinks fit	34(5)(a)
Interdict the body from representing itself as a charity	34(5)(b)
Appoint a judicial factor	34(5)(c)
Appoint a trustee	34(5)(d)
Suspend or remove any person concerned in the management of the charity	34(5)(e)
Make an order declaring that any person who was concerned in the management or control of a charity or body is to be treated, for the purpose of section 69(2)(c) (disqualification from being charity trustee) as having been removed from being concerned in the management or control of the charity or body	34(5)(ea)
Order any financial institution or individual not to part with property without the consent of the Courts	34(5)(f)
Make an order restricting transactions, which may be entered into or the nature or amount of payments, which may be made in the administration of a charity without the consent of the Court consent	34(5)(g)
Interdict a person from representing a body as a charity or from such other action as the Court sees fit	34(5)(h)
Interdict the charity from representing itself or a person from representing the charity as being established under the law of Scotland	34(5)(i)
Where misconduct by a person outlined in s.28(1)(d), interdict that person from acting or representing itself as acting, on behalf of the charity or body; order the person to pay sums to the charity; order any financial institution not to part with such property without consent	34(8) & (9)
Order a financial institution not to part with property belonging to an English and Welsh charity	36(2)
Order the transfer of property attached under s.36(2) to a specified charity	36(5)