

**Charity Law Research Unit
University of Dundee
*Response to the Consultation Paper on the
Draft Charities and Trustee Investment (Scotland) Bill***

Introduction

This response is submitted on behalf of the Charity Law Research Unit at the University of Dundee. We warmly welcome publication of the draft Bill and its accompanying Consultation Paper, and are glad to have the opportunity of commenting on the draft before the stage of parliamentary scrutiny. We are glad also to have had some involvement in the pre-draft consultation process, in particular through Patrick Ford’s membership of the Bill reference group and Stuart Cross’s attendance at the initial specialist meeting on the SCIO. In the circumstances, we will confine our response to highlighting matters which we believe will require especially careful examination during the parliamentary process.

Our response follows the structure of the Consultation Paper. We adopt the paper’s headings for those matters on which we have comments to offer, structuring our response further by the addition of our own underlined headings. We refer to the relevant sections of the draft Bill (hereafter “the Bill”) as necessary.

2. A Vision of a Flourishing Charities Sector

Valuing the sector

Possible extension of “charities” regime to public trusts and benevolent bodies

The Consultation Paper (pp 4-5) is careful to situate the regulation of “charities” in the wider context of support for the voluntary sector as a whole. We believe this is a necessary reminder. There is a danger, we suggest, of focusing on the regulation of charities to the detriment of adequate supervision of non-charitable voluntary organisations. The Bill deals with fundraising for “benevolent bodies” (sections 60-72) but confines its principal regulatory regime to charities (sections 3-53). The question for further examination here is whether non-charitable benevolent bodies – which may under certain conditions raise funds from the public in just the same way as charities – should not be brought within the scope of the principal regime currently proposed only for charities.

A vision for charity regulation

Excessive discretion to regulator

Risk of insufficient parliamentary scrutiny

The Consultation Paper (p 7) explains that the approach taken to drafting the Bill has been “to set out key principles for the regulation of charities, which can be interpreted flexibly and proportionately by the regulator over time”, and that much of the detail of the regulatory system will be set out “in a range of secondary legislation.” We agree that there are attractions to this approach: the details of an accounting regime, for instance, which it may be desirable to adjust from time to time, are almost certainly better set out in regulations than in primary legislation. We suggest, however, that there may be dangers in allowing excessive discretion to a regulator: as we point out below, the scope given to OSCR in the application of the charity test (the Bill, sections 7 and 8) appears to be very wide, with the result, we suggest, that OSCR would in effect have power to define its own jurisdiction over charities,

as well as the incidence of “charitable” relief from local government taxation (the Bill, section 1, schedule 4, para 1). There may also be a danger that matters of principle may be relegated to secondary legislation alongside the detail and as a result may receive insufficient parliamentary scrutiny: the complex issue of limited liability for SCIOs is an obvious example (see our comments on the SCIO below).

3. Key Issues for the Reform of Scottish Charity Law – A summary of our thinking and proposals in the draft Bill

1. Definition of charity

Current alignment of Scottish regulatory, UK tax relief and English regulatory definitions

The existing regulatory regime for Scottish charities under the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 defines Scottish charities by reference to the term “charitable purposes” as it appears in UK-level tax legislation. The term “charitable purposes” in UK-level tax legislation is to be understood in its technical meaning in English law, being the law applied by the English courts and by the Charity Commissioners in their jurisdiction over charities in England and Wales. Under current arrangements, therefore, there is alignment of the concept of “Scottish charity” for regulatory purposes with both UK tax legislation and the regulation of charities in England and Wales. (The regulation of charities in Northern Ireland is similarly linked to the English definition of charitable purposes through the UK tax system.)

Proposed departure from alignment

The Bill proposes a departure from this situation of alignment by introducing its own “charity test” (sections 7 and 8). The test draws on the recommendations of the McFadden Commission (Consultation Paper, p 8), but relies at least as heavily (Consultation Paper, p 9) on proposals developed by the Home Office from the report of the Strategy Unit of the Cabinet Office, *Private Action, Public Benefit*, a review of charities and the wider not-for-profit sector concerned principally with England and Wales. That report recommended an adjustment of the existing case law definition of “charitable purposes” which is reflected, with some minor refinements introduced by the Home Office, in the draft Charities Bill for England and Wales published shortly before the Scottish Bill. The proposed Scottish charity test is broadly similar to the proposed adjusted English definition but there is considerable room for divergence (see Consultation Paper, p 10, and below). The Scottish charity test would govern the scope of OSCR’s regulatory jurisdiction over “charities” in Scotland, and also the incidence of “charitable” relief from Scottish local government taxation. The adjusted English definition would govern the scope of the Charity Commissioners’ regulatory jurisdiction over “charities” in England and Wales, and also the incidence of “charitable” relief from UK-level taxation.

Merits of separate Scottish charity test – arguments for and against

In these circumstances we suggest that very careful consideration needs to be given to whether a separate Scottish charity test is really necessary. The main arguments for a separate test might be summarised as follows:

1. Scope to develop distinctively Scottish concept of charity: Scotland would have the freedom to develop its own concept of charity independently of England and Wales.

2. Adaptability to modern conditions: A separate test would represent a fresh start permitting development of a definition truly adapted, and continuously adaptable, to modern circumstances.
3. Scottish local government taxation: In the area of local government taxation in particular there would be scope for allocating reliefs according to a distinctively Scottish understanding of what types of bodies should or should not enjoy such reliefs.

Arguments against a separate test might be summarised as follows:

1. Loss of advantages of alignment: The current advantages of alignment with the UK tax system and the English regulatory system would be lost: applicant bodies would have to satisfy one test for UK tax purposes and another for Scottish regulatory and local government taxation purposes, and there would no longer be a single concept of charity for regulatory purposes across the UK.
2. Regulatory problems arising from non-alignment: The status for regulatory purposes of bodies entitled to charitable tax relief at UK level but not eligible for Scottish charitable status under the separate test would be problematic: would they fall within OSCR's jurisdiction or not? Similar considerations might apply to bodies which were granted charitable tax relief at UK level by the Inland Revenue, and were also eligible for Scottish charitable status under the separate test, but had no interest in acquiring Scottish charitable status as such: would they be required to register with OSCR or not? If not, would they be adequately regulated?
3. Complexity: The introduction of an additional test might prove confusing: it would bring into play a fourth definition alongside those already relevant, namely the UK tax definition, the Scots common law definition of "public trust" and the definition of "benevolent body" (a body with "charitable, benevolent or philanthropic purposes").
4. Proposed test neither distinctively Scottish nor truly compatible with tax definition: The proposed Scottish charity test is heavily reliant on the adjusted English definition proposed in *Private Action, Public Benefit* and adopted with refinements by the Home Office. There is nothing distinctively Scottish about it in terms of Scotland's legal heritage, as there might have been had it been based, for instance, on the Scots common law definition of "public trust". As mentioned, however, there is scope for divergence between the Scottish test and its English regulatory/UK tax relief equivalent. In these circumstances there is a danger that the test will fall between two stools: on the one hand it is derivative of the English definition, and not distinctively Scottish, but on the other it offers none of the benefits of alignment.
5. Modernisation available via adoption of English regulatory/UK tax relief definition: A separate Scottish charity test may not be necessary if the advantages it would bring in terms of adaptability to modern circumstances can be obtained in practice by adoption of the adjusted English definition through the medium of the UK tax system. The adjusted English definition proposed in the English draft Bill is the fruit of an extended debate over many years on modernisation of the existing English case law definition. Various options for reform have been canvassed, and there is reason to think that the adjusted definition proposed in the draft Bill represents as workable a

response to the need for modernisation as any (see further below). None the less, there are indications from the proceedings of the Joint (UK) Parliamentary Committee which has been examining the draft Bill over the summer that further adjustments may be made as the Bill passes through the (UK) parliamentary process. Scottish MPs will, of course, have an opportunity of participating in that process, as is only right in a matter which concerns the applicability of UK tax reliefs in Scotland.

It seems clear, therefore, that, whatever the detail of the adjustments to the existing English definition finally settled on by the UK Parliament, the definition adopted will have been exhaustively considered in the light of contemporary requirements, and with appropriate input from Scotland. The structure of the adjusted definition proposed in the English draft Bill is such that, even allowing for significant further adjustments of detail by the UK Parliament, it would in our view – if adopted in Scotland for regulatory purposes as well as for UK tax purposes – still allow OSCR and the Scottish courts a generous (but not excessive) degree of discretion as to how it should be applied in practice to meet modern circumstances in Scotland. There seems little point in introducing a separate charity test for Scotland, therefore, unless it is either distinctively Scottish – in the sense of being drawn from Scotland’s distinctive legal heritage – or is otherwise a manifest improvement on the English definition in its finally adjusted form.

6. Separation of local government taxation from charities regulation: The issue of relief from local government taxation is perhaps a particularly sensitive one on which the collective view of the people of Scotland may very well differ from the collective view of the people of England and Wales. It would be possible, however, to separate the issue of Scottish local government tax relief for voluntary organisations from the issue of the regulation of charities in Scotland. There might be a case, in other words, for adopting the adjusted English definition, through the UK tax system, for the purposes of establishing OSCR’s regulatory jurisdiction over charities, but reviewing tax relief for voluntary organisations (charitable and non-charitable) as part of a wider review of Scottish local government taxation. The advantage of this approach would be that the benefits of alignment of the Scottish charities regime with the UK tax system and the English charities regime could be preserved without prejudice to the freedom of the Scottish Parliament to settle matters of local government taxation independently.

In the light of the above our preference is for abandonment of the separate Scottish charity test proposed in the Bill and adoption of the adjusted English definition, through the medium of the UK taxation system, for the purposes of charity regulation in Scotland.

Uncertainty of Scottish charity test as drafted – repudiation of case law

We accept, however, that there is strong support for the idea of a separate Scottish test and that the Scottish Parliament may choose to enact such a test. In that eventuality, however, we suggest that the test as currently drafted needs to be very carefully examined before it passes into law. The chief difficulty, as we see it, is that the test would allow OSCR excessive discretion as to how it would be applied in practice. This would be the result of enacting a test expressed in very general terms, particularly so far as the requirement of public benefit is concerned.

The point can be made by way of comparison with the adjusted definition proposed in the English draft Bill. As mentioned, both the adjusted English definition and the proposed Scottish charity test are inspired by the recommendations of *Private Action, Public Benefit*. That report recommended, in effect, a rationalisation of the current English definition of “charitable purposes” enshrined in the existing case law. This is what is proposed in the English draft Bill (clauses 2 and 3), namely that the case law should remain in effect subject to certain adjustments provided for in the Bill (which may themselves be subject to further adjustment as a result of parliamentary scrutiny). The rationale of this approach is to retain the combination of certainty and flexibility attainable through a case law definition while modernising the definition by removing certain perceived anomalies.

On the face of it the Scottish test is to be very similar to the adjusted English definition – there is to be a similar extended list of charitable purposes developed from the four heads of charity familiar in the existing case law, and there is likewise to be an express requirement of public benefit (Scottish Bill, section 7) – but there is a key difference in that there is no provision in the Scottish Bill that the charity test is to be read in the light of the existing case law. (The Consultation Paper, p 11, is equivocal on this, suggesting that the case law may be available to inform decisions on public benefit under the charity test, but there is nothing to this effect in the Bill.) Instead, the Bill provides that OSCR, after consulting such persons as it thinks fit, is to issue guidance on how it proposes to apply the charity test (section 8). The problem with this is that it seems to give OSCR *carte blanche* on, in particular, the meaning of “public benefit”. For instance, would the Church of Scientology pass the Scottish charity test? There is case law (and previous decisions of the Charity Commissioners) which would come into play if the question were being asked in relation to the adjusted English definition, but it appears that these resources would not necessarily be available under the Scottish test. In these circumstances there is a danger, we suggest, that OSCR will be left to fill the vacuum at its own discretion. We accept that the decisions of OSCR are to be subject to appeal to the Scottish Charity Appeals Panel and to the courts, but in the absence of any statutory direction to take the existing case law into account it appears to us that OSCR’s wide discretion would simply, on appeal, be transferred to the panel and the courts.

Legislative uncertainty – problems arising

Legislative uncertainty is problematic in this context for the reasons already mentioned: first, OSCR would in effect be defining the scope of its own regulatory jurisdiction over charities; and, secondly, if relief from local government taxation is to be directly linked to the charity test as at present proposed, OSCR would in effect be deciding the incidence of charitable reliefs from local government taxation. In our view these are both issues which should be settled to a much higher degree of certainty by the Scottish Parliament itself.

Preference for retention of case law over incorporation of broad statutory criteria

The Consultation Paper (p 10) suggests a set of five criteria which might be incorporated in the charity test as a substitute (as we understand it) for reference to the existing case law on public benefit. These criteria appear to us to have their origin in the existing case law, but they are formulated in such general terms that they would, in our view, provide little real guidance on the meaning of public benefit in isolation from the case law from which they originate. Our view is that they would still leave excessive discretion to OSCR (and to the appeals panel and the courts) in the application of the test.

The Consultation Paper (p 10) invites views on whether the interpretation of ‘public benefit’ should be left to OSCR, or whether the Bill should incorporate broad criteria of public benefit

in the provisions formulating the charity test. Our view is that broad criteria would be better than none, but that neither alternative is satisfactory: the Scottish Parliament should formulate the Scottish charity test to a much higher level of certainty than would be achieved even under the second alternative. As suggested above, the simplest way of achieving a satisfactory level of certainty would in our view be to adopt the adjusted English definition (via the UK tax system) for the purposes of charities regulation in Scotland, thus retaining access to the existing case law on public benefit.

2. Establishing a statutory charities regulator in Scotland

Role of a charity regulator

We welcome the proposal to put OSCR's existing role as charity regulator for Scotland onto a fully statutory basis (the Bill, sections 1 and 2 and schedule 1), and we welcome in particular the proposed extension of OSCR's functions to the maintenance of a register of charities in Scotland, and the proposed enlargement of OSCR's supervisory powers. Specific items we would like to draw attention to, however, are as follows:

1. Possible regulatory deficit for "UK-tax-relief-only charities": we reiterate the point made above that certain bodies may be entitled to UK charitable tax relief under the adjusted English definition but not to registration by OSCR as a charity under the Scottish charity test. What would the regulatory status of such bodies be under the Bill? Alternatively, certain bodies entitled both to UK charitable tax relief and to registration by OSCR might in practice be interested only in UK tax relief and see no advantage in registering with OSCR (a grant-making public trust run from a solicitors' office might be one example.) Again, what would the regulatory status of such bodies be under the Bill?
2. Possible regulatory deficit for non-charitable "benevolent bodies": again, certain bodies will be eligible to raise funds from the public as "benevolent bodies" under the fundraising provisions of the Bill (sections 60-71) but will not be obliged (and may not be eligible) to register with OSCR as charities. The fundraising provisions are aimed at the processes of fundraising, would do not impose a continuing regime of supervision ensuring proper administration of funds once raised. In this respect non-charitable benevolent bodies would be significantly under-regulated by comparison with charities which raise funds from the public.
3. Implications of assertion of jurisdiction over non-Scottish charities: it is envisaged that all "bodies wishing to operate as charities in Scotland will be required to register with OSCR" (Consultation Paper, p 12; the Bill, sections 3, 12, and 24). An English charitable trust, for instance, which wished to represent itself as a charity in Scotland would have to register with OSCR (first satisfying the requirements of the Scottish charity test). On the face of it such a trust would then be a charity in Scotland for all purposes, including, apparently, for the purpose of reorganisation (the Bill, sections 54-58). This seems to be an assertion of the jurisdiction of the Scottish courts over English charitable trusts which would go against a long tradition of mutual respect by the Court of Session and the English High Court for the exclusivity of the other's trust jurisdiction. Have the implications of these provisions of the Bill been fully thought through? The English Bill (in common with the existing English charities legislation)

makes no similar sweeping assertion of jurisdiction over bodies normally outside the jurisdiction of the English courts (compare the English Bill, clause 1).

Form of the regulator

In our view OSCR would be appropriately constituted as a Non-Ministerial Department.

3. How charities should be governed

Charity stewards

We support adoption of the term “charity stewards” as a generic term for the persons with primary responsibility for the administration of a charity, whatever its legal form. It seems to us a positive advantage that it would be different from the equivalent English term “charity trustee”, which readily leads to confusion with the term “trustee” used in its strict legal sense.

Duties of charity stewards

We welcome the general concept of clarifying the duties of charity stewards. We suggest, however, two lines of enquiry which do not seem to have been sufficiently considered to date but which might be pursued further at the stage of legislative scrutiny:

1. Importation of duties of trustees of public trusts: the suggested formulation of charity stewards’ duties (the Bill, section 50) clearly owes much to the Scots law of trusts (see Consultation Paper, p 17). In particular, the element setting the standard of care for charity stewards (section 50(1)(b) and (c)) appears to have been drawn from recent recommendations of the Scottish Law Commission for the reform of the existing common law duty of care for trustees. The approach adopted in the Bill appears, therefore, to be to apply to charity stewards, whatever the legal form of the charity they may be administering, selected duties appropriate for the trustees of a trust.

We suggest that this idea might be pushed to its logical conclusion, which would be to apply to charity stewards generally, whatever the legal form of their charity, the whole duties applicable under Scots law to the trustees of public trusts, subject to any specific adjustments appropriate for charities. The advantage of this approach would be that the existing law of trustee duties amounts, in effect, to a ready-made code of trustee governance which would simply be imported by statute into the regulatory regime for charities as a code of governance for charity stewards. It would be a further advantage that this ‘code’ is in the process of being reviewed by the Scottish Law Commission, since improvements to the code enacted in accordance with the Commission’s recommendations would be automatically incorporated (subject to any necessary adjustments) into the code for charity stewards.

2. Scottish Charitable Incorporated Organisation (SCIO): An alternative line of enquiry would be to explore the potential of the proposed new SCIO (the Bill, sections 38-42) as means of applying a standard code of governance to charity stewards. The SCIO is being offered as a dedicated legal form for the constitution of charities and is intended to afford the advantages of legal personality and limited liability currently available through the company limited by guarantee, but without the disadvantages inherent in

the use of a form geared primarily to commercial needs. In particular, use of the company limited by guarantee involves compliance with the companies regime as well as with the charities regime (though there are some compensating provisions). Detailed provision for the SCIO is to be made in regulations (the Bill, section 42), and these will no doubt include specification of the functions and responsibilities of the SCIO's charity stewards.

This would be an ideal opportunity to specify charity stewards' duties in their purest form. SCIOs are to be available only to charities, whereas the legal forms in which charities are most commonly constituted at present – i.e., trusts, unincorporated associations, and companies limited by guarantee – are all widely used for the constitution of non-charitable bodies and have correspondingly broad governance regimes which may not in all particulars be appropriate for charity stewards. It should be possible, therefore, to incorporate in the regulations for the SCIO a governance code designed exclusively for charity stewards. If this idea, in turn, is pushed to its logical conclusion, then the SCIO ought to be made compulsory for all charities. If the SCIO is to incorporate the governance regime *par excellence* for charities, why should not all charities be obliged to adopt the new form and conform to the ideal regime? The equivalent new dedicated form proposed in the English Bill, the Charitable Incorporated Organisation (CIO), is to be optional, not mandatory, but that is no reason, in our view, why Scotland should not consider introducing the SCIO (subject to appropriate transitional provisions) as a compulsory form (see further below).

5. Regulating Charity Fundraising

We have already made the point that the fundraising provisions of the Bill deal only with the processes of fundraising and that there may be a regulatory deficit in respect of the continuing administration of funds raised where the body benefiting from funds raised is a non-charitable benevolent body.

6. Improving the operating environment for charities

Making charity re-organisation easier

We reiterate the point that the Bill appears to be asserting the re-organisational jurisdiction of the Scottish courts over bodies constituted outside Scotland in the event that such bodies wish to represent themselves as charities in Scotland and register with OSCR. In the case of English charitable trusts in particular there is a clear conflict with the jurisdiction of the English High Court.

Widening trustees' powers of investment

It is perhaps worth emphasising that these provisions (the Bill, sections 73-75) are only incidentally concerned with charities. The provisions apply to all Scottish trusts, public and private. They will, however, apply to charities constituted as public trusts. We welcome the provisions as a long overdue implementation of the recommendations of the Scottish Law Commission on this question.

Extension of guidance on exercise of investment powers to all charity stewards

The provisions include guidance to trustees on the exercise of the wider powers of investment now being introduced (the Bill, section 74). We suggest that consideration should be given to making all powers of investment enjoyed by charity stewards (whether as the trustees of public trusts or otherwise) subject to similar guidance. This could be done by incorporating the guidance in a general statement of charity stewards' duties, i.e., in a code of governance for charity stewards.

A new legal form for charities – Scottish Charitable Incorporated Organisation

As mentioned, we participated in the initial specialist meeting on SCIOs, and are keen to contribute to the continuing discussion on the regulations. Our comments here are presented under two headings: under the first we raise questions of principle – although as suggested earlier this is an area in which it can be difficult to separate principle from detail; under the second we comment more specifically on section 42 of the Bill.

Questions of principle

We suggest that the following questions of principle need to be considered before the detailed regulations for the SCIO are taken further:

1. What exactly is the SCIO for? To confer the advantages of legal personality and limited liability in a convenient form, but have the implications of principle been fully thought through? For instance, if the liability of members and charity stewards is to be limited, how limited is limited? Are charity stewards to be spared personal liability even where they have been manifestly at fault?
2. The model for the SCIO seems to be the (still to be fully developed) English CIO: why? If the CIO is the right model, then why not simply adopt it without going through a parallel process of development? If not, then why take it as the starting point? Why not develop a truly Scottish CIO from first principles, or from models drawn from continental European systems, such as the foundation and association?
3. Linked to the previous point is the assumption that the underlying model for both CIO and SCIO should be the company limited by guarantee: why? Is the point of a special form of incorporation for charities not that existing forms – in particular the company limited by guarantee – are unsatisfactory? Why take a form which is acknowledged to be unsatisfactory as the model?
4. Should the SCIO not be developed as part of, or at least sensitively to, the Scottish Law Commission's intended work on trusts and unincorporated associations? In its forthcoming programme the Commission proposes to consider the issue of legal personality for trusts (including public trusts), and as a connected project to review the law of unincorporated associations. The SCIO is intended to be attractive to charities currently constituted as public trusts and unincorporated associations. Should steps not be taken to ensure that the development of the SCIO is carried out consistently with the broader remit of the Scottish Law Commission in this area?
5. Should the SCIO not be mandatory, for the reasons given above (under 3. **How charities should be governed**).

Comment on section 42 as drafted

As presented the Bill arguably does not contain the level of detail which would enable any charity considering converting to SCIO status to make a proper and informed assessment of

the possible benefits and adverse consequences of the new form. The content of the regulations referred to in Section 42 of the Bill is axiomatic to this assessment.

The Bill assumes that the SCIO will have members. There is no convincing reason why this should be the case. The SCIO could be made available as an organisation with both limited liability (the charitable company is the obvious example) and a single tier of management. This alternative approach would have to be reflected in any regulations to follow under section 42. Examples of the types of provisions which should be reflected in such regulations include the provision of a mechanism similar to that contained in Section 303 of the Companies Act 1985 which permits members of a company to remove a director. Trustees should similarly be allowed to remove a trustee by a specified special majority. It is also arguable that the required constitution should be treated in the same way as a company's memorandum and articles of association are treated by sections 15 and 263 of the Companies Act 1985. Treating such provisions as binding on the SCIO and the members thereof (if a membership form is adopted) provides a direct means of enforcing what become contractual entitlements contained in the constitution.

Section 42 alludes to the possibility of regulations to cover matters as diverse as registration (and, vitally the effect of registration), administration, amalgamation, winding up, insolvency or administration and such other matters in respect of SCIO's as Scottish Ministers think fit.

Regulations are obviously inevitable as they deal with a very broad range of substantive matters which go to the very heart of the nature and effectiveness of the SCIO. While the legislative approach inherent in the Bill is now commonplace and secondary legislation an inevitable accompaniment to relatively skeletal primary legislation this approach does not readily lend itself to an efficient or holistic approach to pre-legislative scrutiny. For example, in the absence of any guidance as to what is to be interpreted as "the effect of registration" it is not possible to comment on what form of limited liability is to be afforded and how this compares with that provided by existing corporate forms.

Similarly, there exists in respect of companies a well understood body of company and insolvency law. In the absence of any detail as to how regulations will deal with insolvency it is again not possible to comment on the attractiveness of the SCIO. (We say "*will deal with*" because as in other similar areas there is no realistically available permissive option, since the absence of regulations on all such matters would leave the SCIO in practice inoperable.) Another example of potential difficulties in the interaction between the SCIO and company law relates to group structures. As presently structured the intention appears to regulate the stewards of an SCIO under the provisions of the Bill while the directors of any captive trading company it might have would be dealt with under the Companies Acts. This would be unnecessarily complex and it is not clear how such a situation would be treated.

Conclusion

We welcome publication of the Bill and would be glad to contribute further to its development and to the development of associated secondary legislation as the parliamentary process proceeds.

Stuart Cross
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