

237

Harmsworth House  
13-15 Bouverie Street  
London EC4Y 8DP

Direct Line: 020 7674 2471  
Fax: 020 7674 2310  
General Enquiries: 0870 3330123 (Voice)  
0870 3330125 (Minicom)

Website: [www.charitycommission.gov.uk](http://www.charitycommission.gov.uk)  
Email: [jane.hobson@charitycommission.gsi.gov.uk](mailto:jane.hobson@charitycommission.gsi.gov.uk)

Myra Watson  
Charity Bill Consultation  
Voluntary Issues Unit  
Scottish Executive Development Department  
2-G, Victoria Quay  
EH6 6QQ

Your Ref:

Our Ref:

Date: 25 August 2004

Dear Ms Watson

**Draft Charities and Trustee Investments (Scotland) Bill**

The Charity Commission is established by law as the regulator and registrar for charities in England and Wales. We fulfil this role by:

- securing compliance with charity law, and dealing with abuse and poor practice;
- enabling charities to work better within an effective legal, accounting and governance framework, keeping pace with developments in society, the economy and the law; and
- promoting sound governance and accountability.

Our aim is to provide the best possible regulation of charities in England and Wales, in order to increase charities' efficiency and effectiveness and public confidence and trust.

Whilst containing many similarities the proposals for regulation of charities in Scotland envisage a different approach in a number areas from that taken for England and Wales, including a different threshold for registration and a requirement that charities operating in Scotland register with the Scottish regulator. We note that the differences in approach are intended to reflect the needs of the Scottish charity sector and the public interest. The consultation document also emphasises that where appropriate you have sought to ensure that your proposals complement those in England and Wales.

The register in Scotland is to include "all bodies eligible to operate as charities in Scotland". This means that, notwithstanding that an organisation operating in Scotland is already registered as a charity with us, it will also have to register with the Office of the Scottish Charity Regulator (OSCR) and there are consequences if it operates without registering. The consultation document

**Trustees' names will appear on our website from 1<sup>st</sup> April - have you submitted your charity's Trustee Update Form to update your details yet?**

recognises that charities that are registered in England and Wales, or further afield, which also operate in Scotland will be subject to more than one regulator.

Generally speaking "operating" would be interpreted in England and Wales as meaning carrying out activities which help beneficiaries. We understand that in the Scottish proposals it will be wider than this and will include fundraising. For English and Welsh charities operating in Scotland it will be necessary to ensure that this is properly understood. We think that it would be helpful to have a clear statement of what is meant by "operating".

We do not know to what extent English and Welsh charities which operate in Scotland are aware of these proposals in the draft Scottish bill. We have drawn attention to your bill and to your consultation on our website and we have heard from a number of charities which are concerned about the additional burden of regulation which will be introduced. I understand that these charities will write to you with their views.

The Charity Commission already engages with OSCR on both policy and operational matters including the development of the SORP (Statement of Recommended Practice on Accounting and Reporting by Charities) which is currently being revised. We will continue to develop this relationship and to work with OSCR to develop ways which will minimise the additional burden for English and Welsh charities which operate in Scotland. This may include discussion on the nature and form of information required by each of us and the extent to which it fulfils the differing requirements. As we do with other regulators we would hope to agree with OSCR a memorandum of understanding covering ways in which we deal with matters such as the exchange of information and with cross border and jurisdictional issues.

In September 2002 the Cabinet Office Strategy Unit published recommendations following a review of charities and the wider not-for-profit sector. Whilst the Home Secretary has responsibility for charity law in England and Wales some of the recommendations in the report, such as the definition of charitable status, have implications throughout the UK. In particular, the Government accepted the recommendation that a new umbrella committee on which all charity regulators are represented, should be created, to ensure a consistent regulatory approach UK-wide and to share information and best practice. Plans are well underway to establish this committee and the first meeting of this committee will take place this winter. Both the Charity Commission and OSCR will be members. We believe this Committee, alongside our good working relationship with OSCR, will help to ensure consistent and successful implementation of the new regulatory arrangements which will accompany the respective Bills.

Yours sincerely

Jane Hobson