

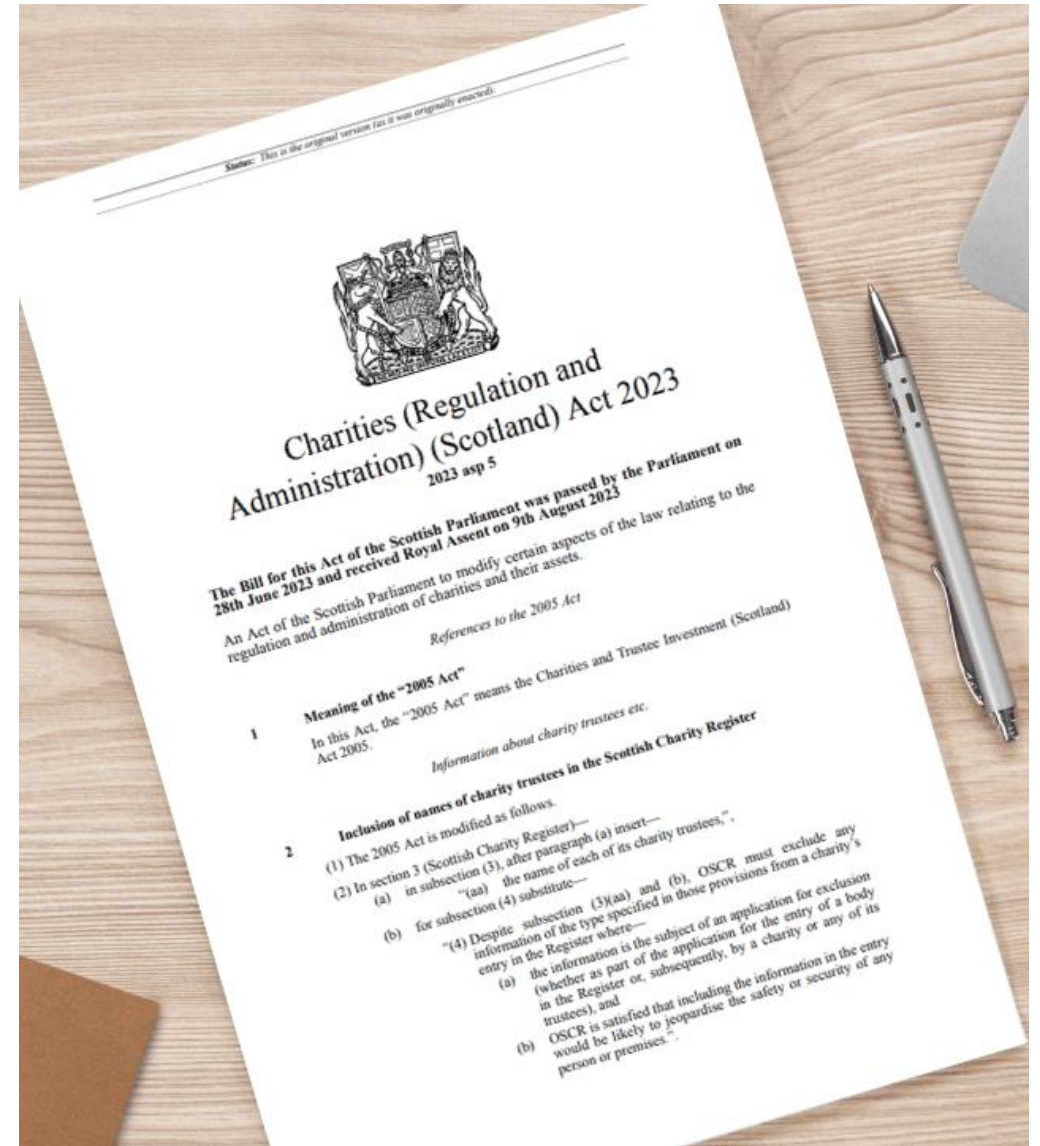
Changing Charity Law in Scotland

Charities (Regulation and Administration) (Scotland) Act 2023 and
what it will mean for charities

Charles Willis
Senior Manager, Policy and Sector Improvement

Why did Scotland need new charity law?

- Current legislation was 18 years old and has remained largely unchanged since enacted
- Practical improvements identified by OSCR
- More recent modernisation in other nations of the UK
- Changes in the charity sector and in the public expectation of charities

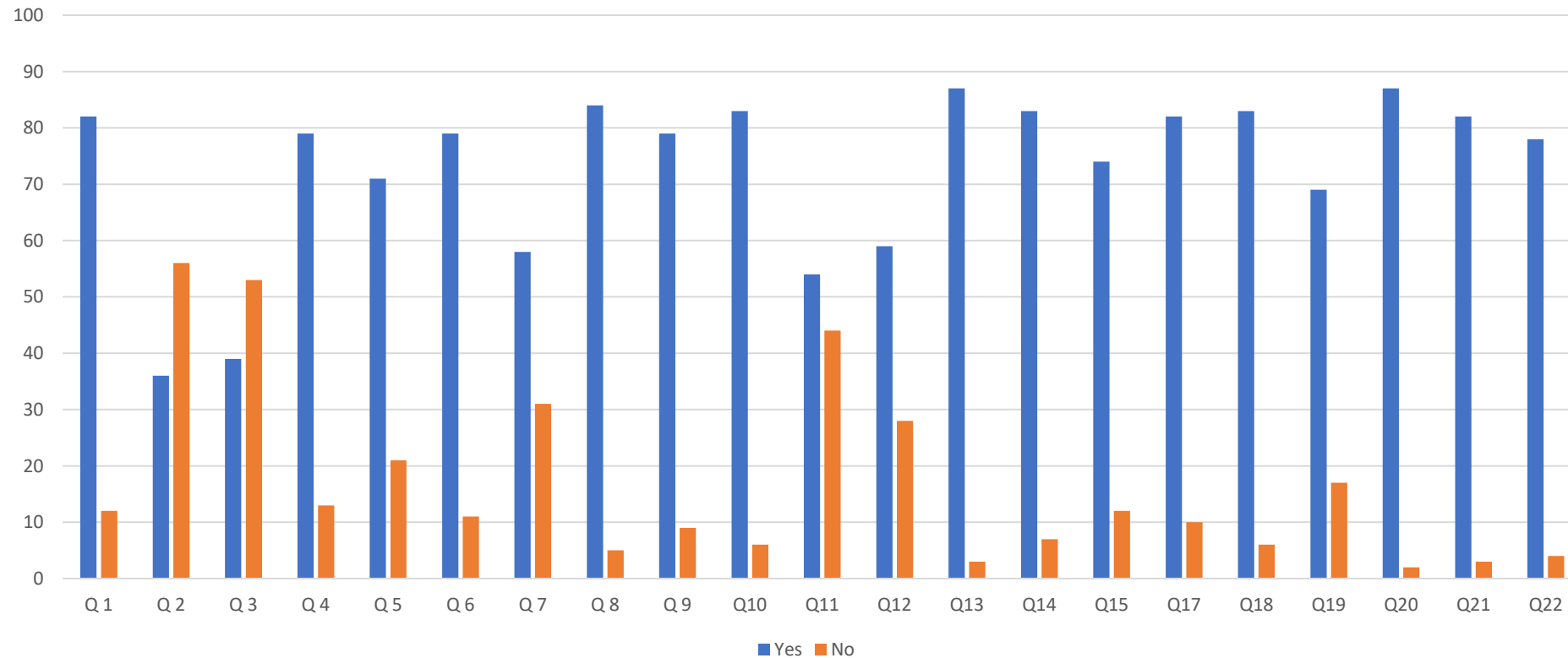


How did we get here?



Rationale for the Bill – results from the consultation

Response to Scottish Government Consultation



Rationale for the new measures

OSCR surveys of the public and charities

“...The first of these themes, enforced transparency, was most often targeted towards financial matters. This included regular third-party audits of charities’ finances, public posting of charities’ accounts online, and making it mandatory for charities to work with an independent specialist, such as a registered accountant, to sign their accounts off. ”

“...However, the expectations of transparency were not limited to a charity’s finances. Some members of the public also expected to see evidence of good stewardship in terms of:

- Annual checks into how they are operating and what they have achieved
- Active vetting of individuals who are involved in the charity
- Making specific details of what the charity has achieved with its funds available to the public.”

What will not change?

Does not
replace the
2005 Act

OSCR's role as
regulator

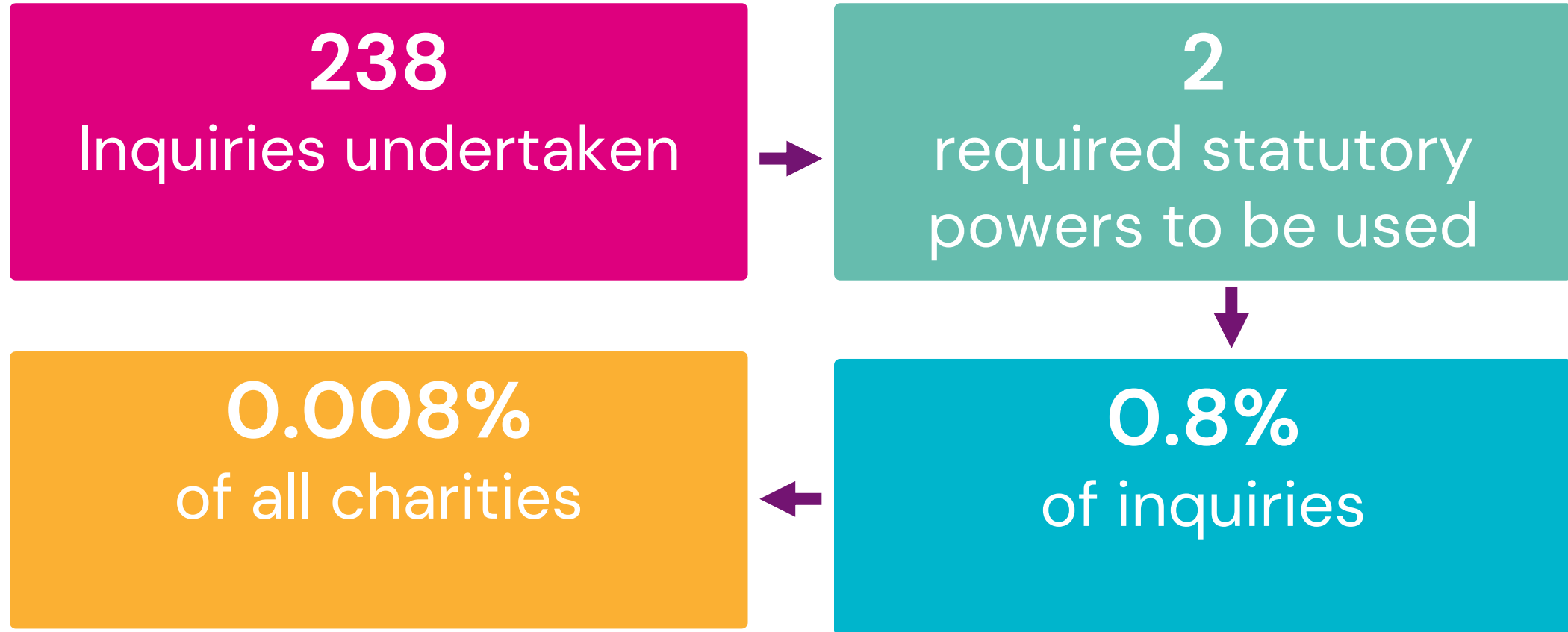
The Charity
Test and
purposes

General duties
of charity
trustees

Accounting
and reporting
requirements

OSCR's existing
powers (but
improved!)

How does OSCR work?

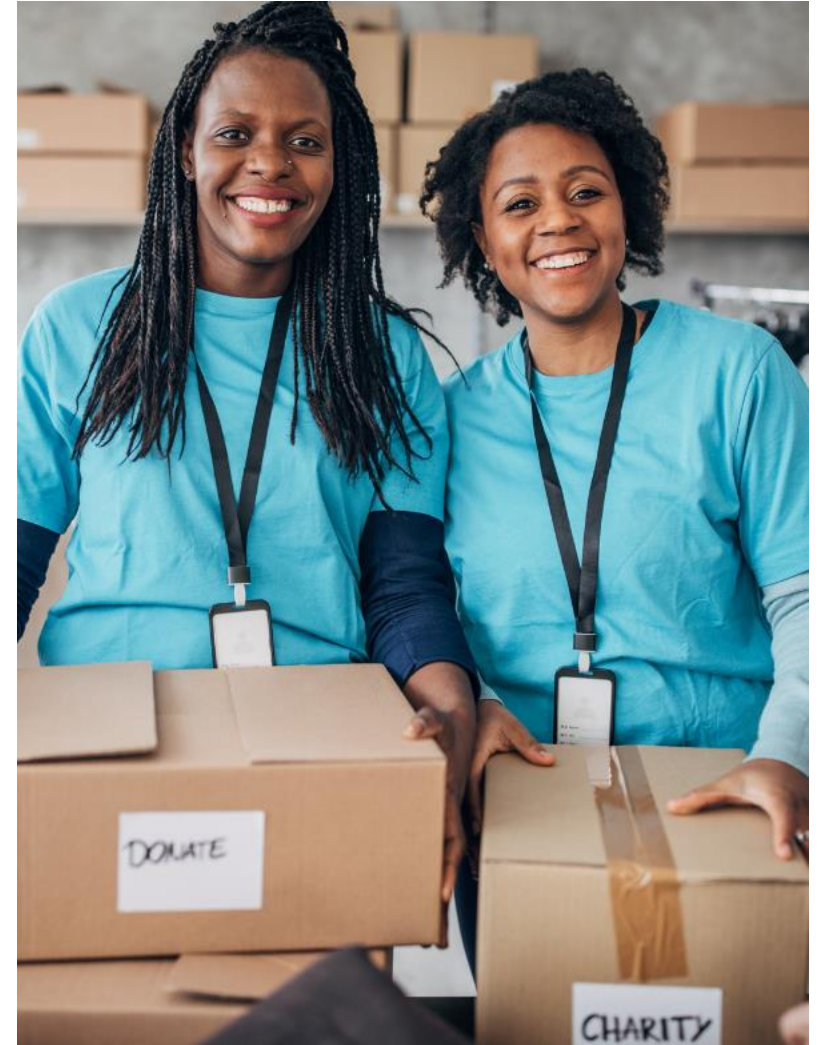


IMPLEMENTATION OF CHANGES

- We are seeking views from charities and key stakeholders on how these changes should be implemented.
- We want your help to inform our decision-making and help make sure that charities can easily comply with the law.
- We want to understand your concerns or questions, and to provide information and guidance for charities that is helpful and reflects how they actually run.

Information about charity trustees

- OSCR to hold a record (database) of all charity trustees for **internal use only**
- Data processed to verify identity and enable OSCR to exercise its regulatory functions
- Data entered by charities through OSCR Online portal
- Charity trustee **names only** will be published on Register
- Dispensation available where there is a risk to personal safety or security of premises





Publishing charity accounts

- New duty on OSCR to make accounts available to the public
- Accounts for all charities will be published by individual charities
- Published for the most recent 5 reporting periods
- Accounts format and deadline for submission **will not change**
- Onus on charities to ensure accounts are 'publication ready'

Automatic disqualification of charity trustees

CURRENT

Conviction for offence involving dishonesty

Disqualified as a company director

Undischarged bankruptcy or Protected Trust Deed

Removed as trustee by the Court

Removed as trustee by Charity Commission

NEW

Conviction under bribery legislation

Conviction under proceeds of crime legislation

Conviction for perverting the course of justice

Terrorism or association with proscribed terrorist group

Misconduct or negligence as a public official

Disobedience with an order of Court

Sexual offences subject to notification

Automatic disqualification of senior managers

- Disqualification rules extended to include staff and volunteers undertaking senior management functions
- We are currently considering the wording of the legislation. In particular we are considering the term **senior management function** should be interpreted and explained to charities:
- OSCR has discretion to **waive disqualification** on application by the affected person

Disqualification of senior managers

- Disqualification rules extended to include individuals holding office or employment with senior management functions
- A **senior management function** means:



- OSCR discretion to **waive disqualification** in exceptional circumstances

Reasons for the changes

Protecting charities

- OSCR database of all charity trustees
- Automatic disqualification of charity trustees and those in senior management roles
- Inquiries into former charities and former trustees
- Appointment of interim trustees
- OSCR power of positive direction

Public confidence

- Publishing all charity accounts
- Trustee names added to public register
- Published list of removed trustees
- Charities require a connection to Scotland
- Removal of defaulting, non-responding charities
- Register of charity mergers

What can charities do to prepare?



Ensure that you know who all your trustees are and collect up to date information on them



Update your own governance materials (eg. induction packs, trustee declarations, due diligence on trustee appointments)



Ensure that your annual accounts are prepared to a style and standard that you would be content to be published



Keep a watch for new OSCR guidance and news updates



Identify early any charity trustees or managers who might be affected by the new disqualification rules

Q&A SESSION

- Scan the QR code to complete our **survey**
- Visit our website:
<https://www.oscr.org.uk/law-changes/>
- Subscribe to the **OSCR Reporter newsletter**
- Email our team:
engagement@oscr.org.uk



Keep up to date

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