
STATUTORY INSTRUMENTS

2008 No. 629

The Charities (Accounts and Reports) Regulations 2008

PART 1

GENERAL

Citation and commencement

1. These Regulations may be cited as the Charities (Accounts and Reports) Regulations 2008 and come into force on 1st April 2008.

Interpretation

2.—(1) In these Regulations—

“the 1960 Act” means the Charities Act 1960(1);

“the 1985 Act” means the Companies Act 1985(2);

“the 1993 Act” means the Charities Act 1993;

“the 2006 Act” means the Charities Act 2006(3);

“the 2005 Regulations” means the Charities (Accounts and Reports) Regulations 2005(4);

“auditable charity” means a charity the accounts of which for the financial year in question are required to be audited in pursuance of any statutory requirement;

“authorised person” has the meaning given by section 31 of the Financial Services and Markets Act 2000(5);

“charitable subsidiary undertaking” means a subsidiary undertaking that is a charity;

“common deposit fund” means a common deposit fund established by a scheme under section 22A of the Charities Act 1960(6) or section 25 of the 1993 Act;

“common investment fund” has the meaning given by paragraph (2);

“director”—

- (a) in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate;
- (b) in any other case, includes any person occupying the position of a director by whatever name called;

(1) 1960 c. 58. The 1960 Act was repealed in part by the Charities Act 1993 (c. 10). The provisions remaining in force are repealed by the Charities Act 2006, Schedule 9. The relevant entry in Schedule 9 to the 2006 Act has not yet been commenced.

(2) 1985 c. 6.

(3) 2006 c.50.

(4) S.I. 2005/572.

(5) 2000 c. 8. There have been amendments to the Financial Services and Markets Act 2000 which are not relevant for the purposes of these Regulations.

(6) section 22A of the Charities Act 1960 was inserted by section 16 of the Charities Act 1992 (c. 41).

“English National Health Service Charity” has the meaning given by section 43A(7) of the 1993 Act;

“ex gratia payment” means any such application of the property of a charity, or any such waiver by a charity of any entitlement to receive any property, as is capable of being authorised under section 27(1) of the 1993 Act;

“fixed assets” means the assets of a charity which are intended for use or investment on a continuing basis;

“fund” means particular assets of a charity held on trusts which, as respect the purposes for which those assets are held or the powers of the charity trustees to use or apply those assets, are not identical to the trusts on which other assets of the charity are held;

“investment fund” means a common deposit fund or a common investment fund;

“non-charitable subsidiary undertaking” means a subsidiary undertaking that is not a charity;

“parent charity” has the meaning given by paragraph 1 of Schedule 5A to the 1993 Act;

“relevant financial year” means the financial year in respect of which—

- (a) the statement of accounts is prepared;
- (b) the receipt and payments account and statement of assets and liabilities are prepared; or
- (c) group accounts are prepared;

“reserves” means—

- (a) in relation to a charity, those assets in the unrestricted fund of a charity which the charity trustees have, or can make, available to apply for all of any its purposes, once they have provided for—
 - (i) the liabilities of the unrestricted fund; and
 - (ii) any commitments of the charity or other planned expenditure intended to be met from the assets of the unrestricted fund;
- (b) in relation to any body that is not a charity, the net assets or liabilities of the body that are disclosed in the body’s balance sheet for the financial year in question;

“restricted fund” means any fund of a charity other than an unrestricted fund;

“the SORP” means the Statement of Recommended Practice for Accounting and Reporting by Charities, issued by the Commission on 4th March 2005(7);

“special case charity” means—

- (a) a charity which is a registered social landlord within the meaning of the Housing Act 1996(8) and whose registration has been the subject of a notice under section 3(3)(a) of that Act;
- (b) a charity which has during the financial year in question—
 - (i) conducted an institution in relation to which a designation made, or having effect as if made, under section 129 of the Education Reform Act 1988(9) has effect;
 - (ii) received financial support from funds administered by a higher education funding council within the meaning of the Further and Higher Education Act 1992(10) in

(7) Copies of the SORP can be obtained from the Charity Commission’s website: <http://www.charitycommission.gov.uk/investigations/sorp/sorp05docs.asp>. Printed copies can be obtained from CCH on 0870 777 2906 or customerservices@cch.co.uk (quoting product code CCSORP) or via the CCH website: <http://www.cch.co.uk>. There may be a charge for obtaining printed copies of the SORP.

(8) 1996 c. 52. Eligibility for registration as a social landlord is determined in accordance with section 2 of that Act. Section 3(3)(a) of the 1996 Act was amended by the Charities Act 2006 (c.50), Schedule 8, paragraph 184. There are other amendments to the 1996 Act not relevant for the purposes of these Regulations.

(9) 1988 c. 40. Section 129 of the 1988 Act was amended by section 72(1) of the Further and Higher Education Act 1992 (c. 13).

(10) 1992 c. 13.

respect of expenditure incurred or to be incurred by the charity in connection with that institution; and

- (iii) incurred no expenditure for charitable purposes other than the purposes of that institution or any other such institution; and

“subsidiary undertaking” has the meaning given by paragraph 1 of Schedule 5A to the 1993 Act;

“trustee for a charity” means a person other than the charity itself (“A”) or a charity trustee of A who holds title to property belonging to A and includes a custodian trustee and a nominee;

“unrestricted fund” means a fund which is to be used, or applied, in any way determined by the charity trustees of a charity for the furtherance of the objects of the charity;

“Welsh National Health Service Charity” has the meaning given by section 43B(4) of the 1993 Act.

(2) Subject to paragraph (3), in these Regulations, “common investment fund” means a common investment fund established by a scheme under section 22 of the 1960 Act or section 24 of the 1993 Act.

(3) A fund is not a “common investment fund” for the purposes of these Regulations if its trusts provide for property to be transferred to that fund only by or on behalf of a participating charity of which the charity trustees are the trustees appointed to manage the fund.

(4) Where the scheme or schemes regulating an investment fund allocates responsibility for the exercise of a function of a charity trustee to a particular person, “charity trustees”, in relation to that investment fund, includes the person to whom the relevant function has been allocated.

Financial year of a charity which is not a company

3.—(1) The financial year of a charity which is not a company (“relevant charity”) is, for the purposes of the 1993 Act and regulations made under that Act, to be determined in accordance with this regulation.

(2) The first financial year of a relevant charity is the period beginning with the day on which the charity is established and ending with—

- (a) its accounting reference date; or
- (b) such other date, not more than seven days before or after the accounting reference date, as the charity trustees may determine.

(3) Subsequent financial years of a relevant charity—

- (a) begin with the day immediately following the last day of the charity’s previous financial year; and
- (b) end with—
 - (i) its accounting reference date; or
 - (ii) such other date, not more than seven days before or after the accounting reference date, as the charity trustees may determine.

(4) For the purposes of this regulation, the “accounting reference date” of a relevant charity is—

- (a) in relation to the first financial year of the charity, such date, not less than 6 months and not more than 18 months after the date on which the charity was established as the charity trustees may determine;
- (b) in relation to a subsequent financial year of the charity—
 - (i) the date 12 months after the previous accounting reference date of the charity; or

(ii) subject to paragraphs (5) and (7), such other date, not less than 6 months and not more than 18 months after the previous accounting reference date of the charity as the charity trustees may determine.

(5) The charity trustees may only exercise the power in paragraph (4)(b)(ii) in respect of a restricted financial year with the consent of the Commission.

(6) In paragraph (5), “restricted financial year” means a financial year beginning immediately after—

- (a) a financial year in respect of which the charity trustees had exercised the power in paragraph (4)(b)(ii) above or in regulation 6(4)(b) of the 2005 Regulations;
- (b) a financial year (“A”) where A began immediately after a financial year in respect of which the charity trustees had exercised the power in paragraph (4)(b)(ii) above or in regulation 6(4)(b) of the 2005 Regulations.

(7) The charity trustees may exercise their power under paragraph (4)(b)(ii) so as to determine an accounting reference date less, or more, than 12 months from the beginning of the financial year only where they satisfied that there are exceptional reasons to do so.

Application, revocation, savings and transitional provisions

4.—(1) The 2005 Regulations are revoked.

(2) Despite paragraph (1) and subject to paragraphs (3) and (4), the 2005 Regulations continue to apply in respect of a financial year of a charity which began before 1st April 2008.

(3) The duty in regulation 7(5) of the 2005 Regulations continues to apply only in respect of matters of which an auditor became aware of—

- (a) before 1st April 2008; and
- (b) during a financial year ending on or before 31st March 2008.

(4) These Regulations apply in respect of a financial year of a charity which—

- (a) begins on or after 1st April 2008; or
- (b) is a transferred year.

(5) Despite paragraph (4)—

- (a) nothing in these Regulations applies to a charity which is an exempt charity;
- (b) the group accounts provisions do not apply in respect of a transferred year.

(6) In this regulation—

- (a) “accounts determination” means—
 - (i) in relation to an investment fund, a determination that regulation 6 of these Regulations rather than regulation 4 of the 2005 Regulations is to apply to the statement of accounts prepared in respect of the financial year in question;
 - (ii) in relation to any other charity, a determination that regulation 8 of these Regulations rather than regulation 3 of the 2005 Regulations is to apply to the statement of accounts prepared in respect of the financial year in question;
- (b) “group accounts provisions” means—
 - (i) Part 3;
 - (ii) Chapter 3 of Part 4;
 - (iii) in so far as it applies to audits carried out under paragraph 6 of Schedule 5A to the 1993 Act, Chapter 3 of Part 4,

of these Regulations

- (c) “report determination” means—
 - (i) in relation to an investment fund, a determination that regulation 38 of these Regulations rather than regulation 12 of the 2005 Regulations is to apply to the annual report prepared in respect of the financial year in question;
 - (ii) in relation to any other charity, a determination that regulation 40 of these Regulations rather than regulation 11 of the 2005 Regulations is to apply to the annual report prepared in respect of the financial year in question;
 - (d) “transferred year” means a financial year of a charity—
 - (i) which began before 1st April 2008; and
 - (ii) in respect of which the charity trustees may make and make an accounts determination and a report determination.
- (7) The charity trustees of a charity may not make an accounts determination or a report determination in respect of financial year beginning before 1st April 2008 if—
- (a) the charity is a special case charity; or
 - (b) before that date they have—
 - (i) approved the accounts of the charity prepared in respect of that financial year; or
 - (ii) authorised the signature of an annual report prepared in respect of that financial year in accordance with the 2005 Regulations.

PART 2

FORM AND CONTENT OF STATEMENTS OF ACCOUNT

General

5. The requirements as to the form and content of a statement of accounts of a charity to be prepared under section 42(1) of the 1993 Act are prescribed—
- (a) in the case of an investment fund, in regulation 6;
 - (b) in the case of special case charity, in regulation 7;
 - (c) in the case of any other charity, in regulation 8.

Form and content of statement of accounts: investment funds

- 6.—(1) This regulation applies to a statement of accounts prepared by the charity trustees of an investment fund in accordance with section 42(1) of the 1993 Act.
- (2) The requirements as to form and content of a statement of accounts to which this regulation applies are prescribed in paragraphs (3) to (8).
- (3) Subject to paragraph (4), the statement of accounts must consist of—
- (a) a statement of total return which satisfies the requirements prescribed in Part 1 of Schedule 1;
 - (b) a statement of changes in net assets which satisfies the requirements prescribed in Part 2 of Schedule 1; and
 - (c) a balance sheet which satisfies the requirements prescribed in Part 3 of Schedule 1.
- (4) In the case of any financial year of a common deposit fund in which there are no gains or losses on disposal or revaluation of assets, paragraph (3) has effect as if sub-paragraph (b) were omitted.

(5) The statement of accounts must be prepared in accordance with the methods and principles specified or referred to in Part 4 of Schedule 1.

(6) There must be provided by way of notes to the accounts the information specified in Part 5 of Schedule 1.

(7) The balance sheet must—

- (a) if the scheme or schemes regulating the investment fund allocates responsibility for preparing the accounts to a particular person, be signed and dated by that person;
- (b) in any other case, be signed by at least one of the charity trustees of the investment fund, each of whom has been authorised to do so.

(8) Where the balance sheet of an investment fund is signed by one or more of the charity trustees in accordance with paragraph (7)(b), the balance sheet must specify the date on which the statement of accounts of which the balance sheet forms part was approved by the charity trustees.

Form and content of statement of accounts: special case charities

7.—(1) This regulation applies to a statement of accounts prepared by the charity trustees of a special case charity in accordance with section 42(1) of the 1993 Act.

(2) The requirements as to form and content of a statement of accounts to which this regulation applies are prescribed in paragraphs (3) to (5).

(3) The statement of accounts must consist of—

- (a) an income and expenditure account; and
- (b) a balance sheet showing the state of affairs of the charity as at the end of the relevant financial year.

(4) The statement must be prepared in accordance with the following principles—

- (a) the income and expenditure account must give a true and fair view of the income and expenditure of the charity for the relevant financial year; and
- (b) the balance sheet must give a true and fair view of the state of affairs of the charity at the end of that year.

(5) The balance sheet must—

- (a) be signed by at least one of the charity trustees of the charity, each of whom has been authorised to do so; and
- (b) specify the date on which the statement of accounts of which the balance sheet forms part was approved by the charity trustees.

Form and content of statement of accounts: charities other than investment funds or special case charities

8.—(1) This regulation applies to a statement of accounts prepared by the charity trustees of a charity which is not an investment fund or a special case charity in accordance with section 42(1) of the 1993 Act.

(2) The requirements as to form and content of a statement of accounts to which this regulation applies are prescribed in paragraphs (3) to (11).

(3) The statement of accounts must consist of—

- (a) a statement of financial activities showing the total incoming resources and application of the resources, together with any other movements in the total resources, of the charity during the relevant financial year; and

- (b) a balance sheet showing the state of affairs of the charity as at the end of the relevant financial year.
- (4) The statement of accounts must be prepared in accordance with the following principles—
 - (a) the statement of financial activities must give a true and fair view of the incoming resources and application of the resources of the charity in the relevant financial year;
 - (b) the balance sheet must give a true and fair view of the state of affairs of the charity at the end of the relevant financial year;
 - (c) where compliance with paragraphs (5) to (10) would not be sufficient to give a true and fair view as required under sub-paragraph (a) or (b), the additional information necessary to give a true and fair view must be given in the statement of accounts or in notes to the accounts;
 - (d) if in special circumstances compliance with any of the requirements of paragraphs (5) to (10) would be inconsistent with giving a true and fair view, the charity trustees must depart from the relevant requirement to the extent necessary to give a true and fair view.
- (5) The statement of accounts must be prepared in accordance with the methods and principles set out in the SORP.
- (6) Subject to paragraphs (7) to (9), the statement of accounts must, in relation to any amount required to be shown in the statement of financial activities or in the balance sheet for the relevant financial year, show the corresponding amount for the financial year immediately preceding the relevant financial year.
- (7) Where a charity has more than one fund, only amounts corresponding to the entries in the statement of financial activities relating to the totals of both or all of the funds of the charity need be shown.
- (8) Where the corresponding amount referred to in paragraph (6) is not comparable with the amount to be shown for the item in question in respect of the relevant financial year, the corresponding amount is to be adjusted.
- (9) Where—
 - (a) the effect of paragraphs (4) and (5) is that there is nothing to be shown in respect of a particular item for the relevant financial year; but
 - (b) an amount was required to be shown in respect of that item in the statement of accounts for the financial year immediately preceding the relevant financial year,paragraphs (4) and (5) have effect as if an amount were required to be shown in the statement of accounts for the relevant financial year, and that amount were nil.
- (10) There must be provided by way of notes to the accounts the information specified in Schedule 2.
- (11) The balance sheet must—
 - (a) be signed by at least one of the charity trustees of the charity, each of whom has been authorised to do so; and
 - (b) specify the date on which the statement of accounts of which the balance sheet forms part was approved by the charity trustees.

PART 3
PREPARATION OF GROUP ACCOUNTS
CHAPTER 1
GENERAL

Meaning of “aggregate gross income”

9.—(1) For the purposes of Schedule 5A to the 1993 Act the aggregate gross income for a financial year of a group consisting of a parent charity and its subsidiary undertaking or undertakings is to be determined by eliminating all group transactions for that year from the group income for that year.

(2) For the purposes of this regulation—

- (a) “corresponding financial year” has the meaning given by paragraph (3);
- (b) “gross income” means, in relation to a non-charitable subsidiary undertaking, the amount of income of that undertaking that would be construed as its gross income were it a charity;
- (c) “group income” means the aggregate of—
 - (i) the gross income of the parent charity for the financial year;
 - (ii) the gross income of each charitable subsidiary undertaking of that parent charity for the corresponding financial year; and
 - (iii) the gross income of each non-charitable subsidiary undertaking of that parent charity for the corresponding financial year.
- (d) “group transactions” means—
 - (i) all income and expenditure relating to transactions between members of the group;
 - (ii) all gains and losses relating to transactions between members of the group;
- (e) “member of a group” is to be construed in accordance with paragraph 1 of Schedule 5A to the 1993 Act;

(3) Subject to paragraph (4), “corresponding financial year” in relation to a subsidiary undertaking means—

- (a) in the case of a subsidiary undertaking whose financial year ends with that of the parent charity, that year;
- (b) in any other case, the financial year of the subsidiary undertaking ending immediately before the end of the financial year of the parent charity.

(4) If the figures for the corresponding financial year of a subsidiary undertaking cannot be obtained without disproportionate expense or undue delay, the latest available figures are to be taken.

Financial years of subsidiary undertakings

10.—(1) For the purposes of Schedule 5A to the 1993 Act the financial years of subsidiary undertakings are to be determined in accordance with this regulation.

(2) The financial year of a charitable subsidiary undertaking is to be determined in accordance with section 97 of the 1993 Act.

(3) The financial year of a non-charitable subsidiary undertaking is a period in respect of which a profit and loss account of the undertaking is required to be made up (by its constitution or by the law under which it is established), whether that period is a year or not.

Requirement for financial years of a parent charity and its subsidiary undertakings to coincide

11. The charity trustees of a parent charity must secure that, except where in their opinion there are good reasons against it, the financial year of each of its subsidiary undertakings coincides with its own financial year.

CHAPTER 2

FORM AND CONTENT OF GROUP ACCOUNTS

Form and content of group accounts: general

12. The requirements as to the form and content of group accounts to be prepared under paragraph 3(2) of Schedule 5A to the 1993 Regulations are prescribed—

- (a) in the case of a parent charity that is an investment fund, in regulation 13;
- (b) in the case of a parent charity that is a special case charity, in regulation 14;
- (c) in the case of any other parent charity, in regulation 15.

Form and content of group accounts: parent charities that are investment funds

13.—(1) This regulation applies to the group accounts prepared by the charity trustees of a parent charity that is an investment fund under paragraph 3(2) of Schedule 5A to the 1993 Act.

(2) The requirements as to the form and content of the group accounts to which this regulation applies are prescribed in paragraphs (3) and (4) and regulation 16.

(3) The group accounts must consist of—

- (a) a consolidated statement of total return dealing with the total return of the parent charity and its subsidiary undertakings in the relevant financial year;
- (b) a consolidated statement of changes in net assets dealing with the changes in the net assets of the parent and its subsidiary undertakings in the relevant financial year;
- (c) a consolidated balance sheet dealing with the state of affairs of the parent and its subsidiary undertakings as at the end of the relevant financial year.

(4) The group accounts must be prepared in accordance with the following principles—

- (a) the consolidated statement of total return must give a true and fair view of the total return of the parent charity and its subsidiary undertakings in the relevant financial year;
- (b) the consolidated statement of changes in net assets must give a true and fair view of the changes in the net assets of the parent charity and its subsidiary undertakings between their position at the beginning of the relevant financial year and their position at the end of that year;
- (c) the consolidated balance sheet must give a true and fair view of the state of affairs of the parent charity and its subsidiary undertakings at the end of the relevant financial year.

(5) The group accounts must comply so far as practicable with—

- (a) paragraphs (3) and (4) of;
- (b) in so far as it relates to paragraphs 14 and 15 of Schedule 1, paragraph (5); and
- (c) paragraph (6) of,

regulation 6 as if the parent charity and its subsidiary undertakings required to be included in the group accounts were a single charity.

Form and content of group accounts: parent charities that are special case charities

14.—(1) This Regulation applies to the group accounts prepared by the charity trustees of a parent charity that is a special case charity under paragraph 3(2) of Schedule 5A to the 1993 Act.

(2) The requirements as to the form and content of the group accounts to which this regulation applies are prescribed in paragraphs (3) and (4) and regulation 16.

(3) The group accounts must consist of—

- (a) a consolidated income and expenditure account dealing with the income and expenditure of the parent charity and its subsidiary undertakings for the relevant financial year;
- (b) a consolidated balance sheet dealing with the state of affairs of the parent charity and its subsidiary undertakings as at the end of the relevant financial year.

(4) The group accounts must be prepared in accordance with the following principles—

- (a) the consolidated income and expenditure account must give a true and fair view of the income and expenditure of the parent charity and its subsidiary undertakings as a whole in the relevant financial year;
- (b) the consolidated balance sheet must give a true and fair view of the state of affairs of the parent charity and its subsidiary undertakings as at the end of the relevant financial year.

(5) The group accounts must comply with the requirements of paragraph (5) of regulation 7 as if the parent charity and its subsidiary undertakings required to be included in the group accounts were a single charity.

Form and content of group accounts: parent charities that are not investment funds or special case charities

15.—(1) This regulation applies to the group accounts prepared by the charity trustees of a parent charity other than a parent charity to which regulation 13 or 14 applies under paragraph 3(2) of Schedule 5A to the 1993 Act.

(2) The form and content of the group accounts to which this regulation applies are prescribed in paragraphs (3) to (5) and regulation 16.

(3) The group accounts must consist of—

- (a) a consolidated statement of financial activities showing the total incoming resources and application of the resources, together with any other movements in the total resources, of the parent charity and its subsidiary undertakings in the relevant financial year; and
- (b) a consolidated balance sheet showing the state of affairs of the parent charity and its subsidiary undertakings as at the end of the relevant financial year.

(4) The group accounts must be prepared in accordance with the following principles—

- (a) the consolidated statement of financial activities must give a true and fair view of the total incoming resources of the parent charity and its subsidiary undertakings and the movements in the total resources of the group during the relevant financial year;
- (b) the consolidated balance sheet gives a true and fair view of the state of affairs of the parent charity and its undertakings as at the end of the relevant financial year.

(5) The group accounts prepared under this regulation must—

- (a) so far as practicable comply with the requirements of paragraphs (6) to (10) of regulation 8 as if parent charity and its subsidiary undertakings were a single charity; and
- (b) in any case where the parent charity is a company, be prepared as if its charity trustees had been required to prepare a statement of accounts under section 42(1) of the 1993 Act.

(6) Where paragraph (5)(b) applies, there is substituted for paragraph 1(w) of Schedule 2—

- “(w) where the company has exercised its power under section 225 of the 1985 Act to determine an accounting reference date earlier or later than 12 months from the beginning of the financial year, a statement of their reasons for doing so.”.

Form and content of group accounts: general requirements

16.—(1) In addition to complying with regulation 13, 14 or 15, as the case may be, the group accounts prepared by the charity trustees of any parent charity under paragraph 3(2) of Schedule 5A to the 1993 Act must comply with the requirements prescribed in this regulation.

(2) The group accounts must be prepared in accordance with applicable accounting principles and in particular must make the adjustments or include the information prescribed in this regulation.

(3) The group accounts must incorporate in full the information contained in the individual accounts of the parent charity and its relevant subsidiary undertakings, subject to such consolidation adjustments, if any, as may be appropriate in accordance with applicable accounting principles.

(4) Where the financial year of a relevant subsidiary undertaking differs from that of the parent charity, the group accounts must be made up from—

- (a) the accounts of the relevant subsidiary undertaking for its most recent financial year ending before the last day of the parent financial year, provided that financial year ended no more than three months before the parent financial year ended; or
- (b) interim accounts prepared by the relevant subsidiary undertaking as at the end of the parent financial year.

(5) Where an undertaking becomes a subsidiary undertaking of a parent charity, that event must be accounted for in the group accounts by the acquisition method or merger method of accounting as appropriate in accordance with applicable accounting principles.

(6) Where the parent charity or a relevant subsidiary undertaking—

- (a) has an interest in an associated undertaking or participates in the management of a joint venture and that associated undertaking or joint venture is not itself a subsidiary undertaking of the parent charity; or
- (b) participates in a joint arrangement,

the interest of the parent charity or subsidiary undertaking in that associated undertaking, joint venture or joint arrangement must appear in the group accounts as appropriate in accordance with applicable accounting principles.

(7) The consolidated balance sheet must identify as a separate item any minority interest in the net assets or liabilities of any relevant subsidiary undertaking as appropriate in accordance with applicable accounting principles.

(8) The consolidated statement of financial activities, consolidated income and expenditure account or consolidated statement of changes in net assets, as relevant, must identify as a separate item any minority interest in the net movement of the funds of a relevant subsidiary undertaking as appropriate in accordance with applicable accounting principles.

(9) In this regulation—

- (a) “applicable accounting principles” means, in relation to a parent charity that is required to prepare group accounts, the methods and principles set out in—
 - (i) the financial reporting standards and statements of standard accounting practice issued by the body known as The Accounting Standards Board⁽¹¹⁾ (“the Board”) that are relevant to the preparation of those accounts by that parent charity;

⁽¹¹⁾ The Accounting Standards Board was established under the articles of association of The Accounting Standards Board Limited.

- (ii) any abstract issued by the committee of the Board known as the Urgent Issues Task Force which is relevant to the preparation of those accounts by that parent charity; and
 - (iii) any statement of recommended practice (including the SORP) issued by a body recognised by the Board for the purpose of issuing guidance on the standards in paragraph (i) relevant to the preparation of those accounts by that parent charity.
- (b) “parent financial year” means the financial year of the parent charity in respect of which the group accounts are prepared;
 - (c) “relevant subsidiary undertaking” means a subsidiary undertaking of the parent charity which is not excluded under regulation 19 from the group accounts required to be prepared for the parent financial year.

Group Accounts: departure from the general rules

17.—(1) Where compliance with the group accounts requirements is not sufficient to comply with any requirement to give a true and fair view, the necessary additional information must be given in the group accounts or a note to them.

(2) If in special circumstances compliance with any of the group accounts requirements is inconsistent with a requirement to give a true and fair view, the charity trustees must depart from the relevant provision to the extent necessary to give a true and fair view.

(3) Particulars of any departure under paragraph (2), the reasons for it and its effect must be given in a note to the group accounts.

(4) In this regulation “group accounts requirements” mean the requirements prescribed by regulation 13, 14 or 15, as the case may be, and regulation 16.

CHAPTER 3

EXCEPTIONS TO THE REQUIREMENT TO PREPARE GROUP ACCOUNTS

Exceptions relating to requirement to prepare group accounts

18. The sum specified for the purposes of paragraph 4(2) of Schedule 5A to the 1993 Act is £500,000.

19.—(1) The circumstances in which a subsidiary undertaking may be excluded from group accounts required to be prepared under paragraph 3(2) of Schedule 5A to the 1993 Act are—

- (a) subject to paragraph (2), where the inclusion of the subsidiary undertaking is not material for the purposes of giving a true and fair view;
- (b) severe long term restrictions substantially hinder the exercise of the rights of the parent charity over the assets or management of the undertaking;
- (c) the information which is necessary for the preparation of the group accounts cannot be obtained without disproportionate expense or undue delay;
- (d) the interest of the parent charity in the undertaking is held exclusively with a view to subsequent resale.

(2) Two or more subsidiary undertakings may only be excluded from the group accounts under paragraph (1)(a) if they are not material when taken together.

PART 4
SCRUTINY OF ACCOUNTS
CHAPTER 1
GENERAL

Duties of auditors: general

- 20.** The duties of an auditor carrying out an audit of the accounts of a charity are—
- (a) in the case of an audit carried out under section 43 of the 1993 Act, specified—
 - (i) where the auditor is carrying out an audit of a statement of accounts prepared under section 42(1) of the 1993 Act, in regulation 24;
 - (ii) where the auditor is carrying out an audit of individual accounts of a company that is a charity prepared under Part 7 of the 1985 Act, in regulation 25;
 - (iii) where the auditor is carrying out an audit of a receipts and payments account and a statement of assets and liabilities prepared under section 42(3) of the 1993 Act, in regulation 26;
 - (b) in the case of an audit carried out under section 43A of the 1993 Act, specified in regulation 27;
 - (c) in the case of an audit carried out under section 43B of the 1993 Act, specified in regulation 28.

21. The duties of an auditor carrying out an audit of the group accounts of a parent charity under paragraph 6 of Schedule 5A to the 1993 Act, specified in regulation 30.

Duties of examiners: general

22. The duties of an independent examiner with respect to the making of a report in respect of an examination carried out by him under section 43 of the 1993 Act are specified in regulation 31.

23. The duties of an examiner with respect to the making of a report in respect of an examination carried out by him under section 43A or 43B are specified in regulation 32.

CHAPTER 2
AUDIT OF INDIVIDUAL CHARITY ACCOUNTS

Duties of auditors: audit of a statement of accounts prepared under section 42(1) of the 1993 Act

24.—(1) Where a statement of accounts has been prepared under section 42(1) of the 1993 Act for the relevant financial year, the auditor carrying out the audit of those accounts under section 43 of that Act must make a report on that statement to the charity trustees which—

- (a) states the name and address of the auditor and the name of the charity concerned;
- (b) is signed by him or, where the office of auditor is held by a body corporate or partnership, in its name by a person authorised to sign on its behalf;
- (c) states that the auditor is a person falling within paragraph (a) or, as the case may be, paragraph (b) of section 43(2) of the 1993 Act;
- (d) is dated and specifies the financial year in respect of which the accounts to which it relates have been prepared;

- (e) specifies that it is a report in respect of an audit carried out—
 - (i) under section 43 of the 1993 Act; and
 - (ii) in accordance with regulations made under section 44 of that Act;
 - (f) states whether in the auditor’s opinion the statement of accounts complies with—
 - (i) the requirements of regulation 6, 7 or 8, as relevant; and
 - (ii) in particular whether—
 - (aa) the balance sheet gives a true and fair view of the state of affairs of the charity at the end of the relevant financial year; and
 - (bb) the true and fair view requirements specified in paragraph (2) are satisfied.
 - (g) where the auditor has formed the opinion that—
 - (i) accounting records have not been kept in respect of the charity in accordance with section 41 of the 1993 Act;
 - (ii) the statement of accounts does not accord with those records;
 - (iii) any information contained in the statement of accounts is inconsistent in any material respect with any report of the charity trustees prepared under section 45 of the 1993 Act in respect of the relevant financial year; or
 - (iv) any information or explanation to which he is entitled under regulation 33 has not been afforded to him,
 contains a statement of that opinion and of the grounds for forming it.
- (2) The true and fair view requirements specified for the purposes of sub-paragraph (f)(ii)(bb) of paragraph (1) are—
- (a) in the case of a charity to which regulation 6 applies—
 - (i) the statement of total return gives a true and fair view of the incoming resources and application of the resources of the investment fund in the relevant financial year;
 - (ii) the statement of changes in net assets gives a true and fair view of the movements in the net assets of the investment fund between their position as at the beginning of the relevant financial year;
 - (b) in the case of a charity to which regulation 7 applies, the income and expenditure account gives a true and fair view of the income and expenditure of the charity in the financial year in question;
 - (c) in the case of a charity to which regulation 8 applies, the statement of financial activities gives a true and fair view of the incoming resources and application of the resources of the charity in the relevant financial year
- (3) The auditor must, in preparing his report carry out such investigations as will enable him to form an opinion as to the matters specified in sub-paragraphs (f) and (g) of paragraph (1).

Duties of auditor: audit of accounts prepared under Part 7 of the Companies Act 1985

25.—(1) Where individual accounts have been prepared by the charity trustees of a charity which is a company under Chapter 1 of Part 7 of the 1985 Act, the auditor carrying out the audit of those accounts under section 43 of the 1993 Act must make a report on those accounts to the charity trustees which—

- (a) states the name and address of the auditor and the name of the charity concerned;
- (b) is signed by him or, where the office of auditor is held by a body corporate or partnership, in its name by a person authorised to sign on its behalf;

- (c) states that the auditor is a person falling within paragraph (a) or, as the case may be, paragraph (b) of section 43(2) of the 1993 Act;
 - (d) is dated and specifies the financial year in respect of which the accounts to which it relates have been prepared;
 - (e) confirms that the accounts were not required to be audited in accordance with Part 7 of the 1985 Act;
 - (f) specifies that it is a report in respect of an audit carried out under section 43 of the 1993 Act and in accordance with regulations made under section 44 of that Act;
 - (g) states whether in the auditor's opinion—
 - (i) the company's individual accounts comply with the requirements of section 226A of the 1985 Act, and in particular whether—
 - (aa) the income and expenditure account gives a true and fair view of the income and expenditure of the charity for the relevant financial year; and
 - (bb) the balance sheet gives a true and fair view of the state of affairs of the charity as at the end of that year;
 - (ii) in any case where the charity has prepared a statement of financial activities in addition to complying with the requirements of the 1985 Act, that statement gives a true and fair view of the charity's incoming resources and application of resources in the relevant financial year;
 - (iii) in any case where the accounts state that they have been prepared in accordance with the methods and principles in the SORP, those methods and principles have been followed;
 - (h) where the auditor has formed the opinion that—
 - (i) accounting records have not been kept in respect of the charity in accordance with section 221 of the 1985 Act;
 - (ii) the charity's individual accounts do not accord with those records;
 - (iii) any information contained in those accounts is inconsistent in any material respect with—
 - (aa) any report of the charity trustees prepared under section 45 of the 1993 Act in respect of relevant financial year; or
 - (bb) the report prepared in respect of the relevant financial year under section 234 of the 1985 Act; or
 - (iv) that any information or explanation to which he is entitled under regulation 33 has not been afforded to him,contains a statement of that opinion and of the grounds for forming it.
- (2) The auditor must in preparing his report carry out such investigations as will enable him to form an opinion as to the matters specified in sub-paragraphs (g) and (h) of paragraph (1).

Duties of auditors: audit of a receipts and payments account and a statement of assets and liabilities prepared under section 42(3) of the 1993 Act

26.—(1) Where an account and statement have been prepared under section 42(3) of the 1993 Act for the relevant financial year the auditor carrying out the audit of the accounts under section 43 of that Act must make a report on those accounts to the charity trustees which—

- (a) states the name and address of the auditor and the name of the charity concerned;

- (b) is signed by him or, where the office of auditor is held by a body corporate or partnership, in its name by a person authorised to sign on its behalf;
- (c) states that the auditor is a person falling within paragraph (a) or, as the case may be, paragraph (b) of section 43(2) of the 1993 Act;
- (d) is dated and specifies the financial year in respect of which the accounts to which it relates have been prepared;
- (e) specifies that it is a report in respect of an audit carried out under section 43 of the 1993 Act and in accordance with regulations made under section 44 of that Act;
- (f) states whether in the auditor's opinion—
 - (i) the account and statement properly present—
 - (aa) the receipts and payments of the charity for the relevant financial year; and
 - (bb) its assets and liabilities as at the end of that year;
 - (ii) the account and statement adequately distinguish any material special trust or other restricted fund of the charity;
- (g) where the auditor has formed the opinion that—
 - (i) accounting records have not been kept in respect of the charity in accordance with section 41 of the 1993 Act;
 - (ii) the account and statement do not accord with those records; or
 - (iii) any information or explanation to which he is entitled under regulation 33 has not been afforded to him,
 contains a statement of that opinion and of the grounds for forming it.

(2) The auditor must in preparing his report carry out such investigations as will enable him to form an opinion as to the matters specified in sub-paragraphs (f) and (g) of paragraph (1).

Duties of auditors of the accounts of English National Health Service Charities

27.—(1) The duties of an auditor carrying out an audit of the accounts of an English National Health Service Charity under section 43A of the 1993 Act are specified in this regulation.

(2) Where—

- (a) the accounts of the charity in respect of the relevant financial year are required to be audited by section 43A(2) of the 1993 Act; or
- (b) an auditor is appointed by the Audit Commission under section 43A(3)(a) of the 1993 Act to audit the accounts of the charity and the charity has prepared a statement of accounts under section 42(1) of that Act for the relevant financial year,

regulation 24 applies to the auditor with the modifications specified in paragraph (3).

(3) The specified modifications to regulation 24 are—

- (a) for paragraph (1)(c) there is substituted—
 - “(c) states that the auditor is a person appointed under section 43A(2) or, as the case may be, section 43(3)(a);”;
- (b) in paragraph (1)(d) for “section 43” there is substituted “section 43A”.

(4) Where—

- (a) the charity has prepared an account and statement have been prepared under section 42(3) in respect of the relevant financial year; and
- (b) an auditor has been appointed by the Audit Commission under section 43A(3)(a) of the 1993 Act to audit those accounts,

regulation 26 applies to the auditor with the modifications specified in paragraph (5).

- (5) The specified modifications to regulation 26 are—
- (a) for paragraph (1)(c) there is substituted—
 - “(c) states that the auditor is a person appointed under section 43A(3)(a);”;
 - (6) in paragraph (1)(d) for “section 43” there is substituted “section 43A”.

Duties of auditors of accounts of Welsh National Health Service Charities

28.—(1) The duties of an auditor carrying out an audit of the accounts of a Welsh National Health Service Charity under section 43B are specified in this regulation.

- (2) Where—
- (a) the accounts of the charity in respect of the relevant financial year are required to be audited under section 43B(2) of the 1993 Act; or
 - (b) the Auditor General for Wales elects under section 43B(3) of the 1993 Act that the accounts of the charity be audited and the charity has prepared a statement of accounts under section 42(1) of that Act for the relevant financial year,

regulation 24 applies to the Auditor General for Wales with the modifications specified in paragraph (3).

- (3) The specified modifications to regulation 24 are—
- (a) the requirement in paragraph (1)(a) to provide the name and address of the auditor is omitted;
 - (b) paragraph (1)(c) is omitted;
 - (c) in paragraph (1)(e) for “section 43” there is substituted “section 43B”.

- (4) Where—
- (a) the charity has prepared an account and statement have been prepared under section 42(3) of the 1993 Act in respect of the relevant financial year; and
 - (b) the Auditor General for Wales elects under section 43B(3) of the 1993 Act that the accounts of the charity be audited,

regulation 26 applies to the Auditor General for Wales with the modifications specified in paragraph (5).

- (5) The specified modifications to regulation 26 are—
- (a) the requirement in paragraph (1)(a) to provide the name and address of the auditor is omitted;
 - (b) paragraph (1)(c) is omitted;
 - (c) in paragraph (1)(e) for “section 43” there is substituted “section 43B”.

CHAPTER 3

AUDIT OF GROUP ACCOUNTS

Audit of accounts of larger groups

29. The sum prescribed as the relevant income threshold for the purpose of paragraph 6(1)(a) of Schedule 5A to the 1993 Act is £500,000.

Duties of auditors carrying out an audit of group accounts under paragraph 6 of Schedule 5A to the Charities Act 1993

30.—(1) Where group accounts prepared under paragraph 3(2) of Schedule 5A to the 1993 Act are required to be audited under paragraph 6 of that Schedule, the auditor must make a report on those accounts to the charity trustees of the parent charity which—

- (a) states the name and address of the auditor and the name of the parent charity concerned;
- (b) is signed by him or, where the office of auditor is held by a body corporate or partnership, in its name by a person authorised to sign on its behalf;
- (c) states that the auditor is—
 - (i) if section 43A of the 1993 Act applies in relation to the relevant financial year, a person appointed by the Audit Commission;
 - (ii) if section 43B of that Act applies in relation to the relevant financial year, is the Auditor General for Wales;
 - (iii) in any other case, is a person falling within paragraph (a) or, as the case may be, paragraph (b) of section 43(2) of that Act;
- (d) is dated and specifies the financial year in respect of which the accounts to which it relates have been prepared;
- (e) where the parent charity is a company, confirms that the charity trustees were not required by section 227 of the 1985 Act to prepare group accounts for that year;
- (f) specifies that it is a report in respect of an audit carried out under paragraph 6 of Schedule 5A to the 1993 Act and in accordance with regulations made under section 44 of that Act (as modified by paragraph 8 of Schedule 5A to that Act);
- (g) states whether in the auditor's opinion the group accounts—
 - (i) in the case of a parent charity to which regulation 13 applies, comply with the requirements of regulation 13 and in particular whether—
 - (aa) the consolidated statement of total return gives a true and fair view of the total return of the parent charity and its subsidiary undertakings during the relevant financial year;
 - (bb) the consolidated statement of changes in net assets gives a true and fair view of the changes in the net assets of the parent charity and its subsidiary undertakings during the relevant financial year;
 - (cc) the consolidated balance sheet gives a true and fair view of the state of affairs of the parent charity and its subsidiary undertakings at the end of the relevant financial year;
 - (ii) in the case of a parent charity to which regulation 14 applies, comply with the requirements of regulation 14 and in particular whether—
 - (aa) the consolidated balance sheet gives a true and fair view of the state of affairs of the parent charity and its subsidiary undertakings at the end of the relevant financial year; and
 - (bb) the consolidated income and expenditure account gives a true and fair view of the income and expenditure of the parent charity and its subsidiary undertakings as a whole in the relevant financial year;
 - (iii) in the case of a parent charity to which regulation 15 applies, comply with the requirements of regulation 15 and in particular whether—

- (aa) the consolidated balance sheet gives a true and fair view of the state of affairs of the parent charity and its subsidiary undertakings as at the end of relevant financial year;
 - (bb) the consolidated statement of financial activities gives a true and fair view of the total incoming resources of the parent charity and its subsidiary undertakings and the movements in the total resources of the group in the relevant financial year;
 - (h) where the auditor has formed the opinion that—
 - (i) any information contained in the group accounts is inconsistent in any material respect with any report of the charity trustees prepared—
 - (aa) under section 45 of the 1993 Act in respect of the relevant financial year; or
 - (bb) where the parent charity is a company, with the report prepared in respect of that financial year under section 234 of the 1985 Act;
 - (ii) any information or explanation to which he is entitled under regulation 33 has not been afforded to him;contains a statement of that opinion and of the grounds for forming it.
- (2) The auditor must, in preparing his report carry out such investigations as will enable him to form an opinion as to the matters specified in sub-paragraphs (g) and (h) of paragraph (1).

CHAPTER 4

INDEPENDENT EXAMINATION OF INDIVIDUAL CHARITY ACCOUNTS

Independent examination of individual charity accounts

31. An independent examiner who has carried out an examination of the accounts of a charity under section 43 of the 1993 Act must make a report to the charity trustees which—

- (a) states his name and address and the name of the charity concerned;
- (b) is signed by him;
- (c) is dated and specifies—
 - (i) in all cases, the financial year in respect of which the accounts to which it relates have been prepared;
 - (ii) where the charity whose accounts are being examined is a company, confirms that the accounts are not required to be audited under Part 7 of the 1985 Act;
- (d) if the gross income of the charity in that year exceeds the sum specified in section 43(3A) of the 1993 Act, specifies the basis on which he qualifies to act as independent examiner in accordance with that section;
- (e) states any, or any other, relevant professional qualifications or professional body of which he is a member;
- (f) where the accounts are being examined in the circumstances specified in regulation 34(3)(b), states the date when the Commission dispensed with the requirements of section 43(2) of the 1993 Act;
- (g) specifies that it is a report in respect of an examination carried out under section 43 of the 1993 Act and in accordance with any directions given by the Commission under subsection (7)(b) of that section which are applicable;
- (h) states whether or not any matter has come to the examiner's attention in connection with the examination which gives him reasonable cause to believe that in any material respect—

- (i) accounting records have not been kept in respect of the charity in accordance with—
 - (aa) where that charity is a company, section 221 of the 1985 Act;
 - (bb) in any other case, section 41 of the 1993 Act;
- (ii) the accounts do not accord with those records;
- (iii) in the case of an examination of a statement of accounts which has been prepared under 42(1) of the 1993 Act, the statement of accounts does not comply with any of the requirements of regulations 6, 7 or 8 as relevant other than any requirement to give a true and fair view;
- (iv) in the case of the examination of the accounts prepared under Part 7 of the 1985 Act, the charity's accounts—
 - (aa) do not comply with the requirements of section 226A of the 1985 Act other than any requirement to give a true and fair view;
 - (bb) in any case where those accounts state they have been prepared in accordance with the SORP, have not in fact been prepared in accordance with the methods and principles set out in the SORP;
- (i) states whether or not any matter has come to the examiner's attention in connection with the examination to which, in his opinion, attention should be drawn in the report in order to enable a proper understanding of the accounts to be reached;
- (j) contains a statement as to any of the following matters that has become apparent to the examiner during the course of the examination, namely, that—
 - (i) there has been any material expenditure or action which appears not to be in accordance with the trusts of the charity;
 - (ii) any information or explanation to which he is entitled under regulation 32 has not been afforded to him;
 - (iii) in the case of an examination of a statement of accounts which has been prepared under section 42(1) of the 1993 Act, any information contained in the statement of accounts is inconsistent in any material respect with any report of the charity trustees prepared under section 45 of the 1993 Act in respect of the financial year in question;
 - (iv) in the case of an examination of accounts prepared under Part 7 of the 1985 Act, any information contained in the accounts is inconsistent in any material respect with any report of the charity trustees prepared under section 45 of the 1993 Act or the report prepared under section 234 of the 1985 Act in respect of the financial year in question.

CHAPTER 5

EXAMINATION OF THE ACCOUNTS OF ENGLISH AND WELSH NATIONAL HEALTH SERVICE CHARITIES

Examination of the accounts of English and Welsh National Health Service Charities

32. Where a person has carried out an examination of the accounts of an English National Health Service charity under section 43A of the 1993 Act, or the Auditor General for Wales has carried out an examination of the accounts of a Welsh National Health Service charity under section 43B of that Act, that person or, as the case may be, the Auditor General for Wales must make a report to the charity trustees which—

- (a) states the name of the charity concerned, and, in the case of an examination under section 43A, the name and address of the examiner;

- (b) is signed by him;
- (c) is dated and specifies the financial year in respect of which the accounts to which it relates have been prepared;
- (d) in the case of an examination under section 43A, states any relevant professional qualifications or professional body of which he is a member;
- (e) specifies that it is a report in respect of an examination carried out under section 43A, or, as the case may be, section 43B, of the 1993 Act and, in the case of an examination under section 43A, in accordance with any directions given by the Commission under subsection (5) of that section which are applicable;
- (f) states whether or not any matter has come to the examiner's attention in connection with the examination which gives him reasonable cause to believe that in any material respect—
 - (i) accounting records have not been kept in respect of the charity in accordance with section 41 of the 1993 Act;
 - (ii) the accounts do not accord with those records;
 - (iii) in the case of an examination of a statement of accounts which has been prepared under 42(1) of the 1993 Act, the statement of accounts does not comply with any of the requirements of regulation 6, 7 or 8, as relevant, other than any requirement to give a true and fair view;
- (g) states whether or not any matter has come to the examiner's or, as the case may be, the Auditor General for Wales', attention in connection with the examination to which, in his opinion, attention should be drawn in the report in order to enable a proper understanding of the accounts to be reached;
- (h) contains a statement as to any of the following matters that has become apparent to the examiner or, as the case may be, the Auditor General for Wales, during the course of the examination, namely, that—
 - (i) there has been any material expenditure or action which appears not to be in accordance with the trusts of the charity, or
 - (ii) any information or explanation to which he is entitled under regulation 33 has not been afforded to him, or
 - (iii) in the case of an examination of accounts a statement of which has been prepared under section 42(1) of the 1993 Act, any information contained in the statement of accounts is inconsistent in any material respect with any report of the charity trustees prepared under section 45 of the 1993 Act in respect of the financial year in question.

CHAPTER 6

MISCELLANEOUS

Audit and independent examination: supplementary provisions

33.—(1) Any person carrying out an audit or examination of the accounts of a charity under sections 43, 43A or 43B or of paragraph 6 of Schedule 5A to the 1993 Act has a right of access to any books, documents and other records (however kept) which relate to the charity concerned and which the person concerned considers it necessary to inspect for the purpose of carrying out the audit or examination.

(2) Such a person is entitled to require, in the case of the charity concerned, such information and explanations from past or present charity trustees of, or trustees for, the charity, or from past or present officers or employees of the charity, as he considers it necessary to obtain for the purposes of carrying out the audit or examination.

- (3) An auditor carrying out an audit of the group accounts of a parent charity under paragraph 6 of Schedule 5A to the 1993 Act also has—
- (a) a right of access to any books, documents and other records (however kept) which relate to any of the subsidiary undertakings included in group accounts and which the auditor considers it necessary to inspect for the purpose of carrying out the audit;
 - (b) the right to require, in the case of any such subsidiary undertaking, such information and explanations from—
 - (i) in the case of a subsidiary undertaking which is a charity, past or present charity trustees of, or trustees for, that charity;
 - (ii) in the case of any subsidiary undertaking which is not a charity from the subsidiary undertaking itself and from past or present officers or employees of that undertaking;
 as he considers it necessary to obtain for the purposes of carrying out the audit;
 - (c) the right to require the charity trustees of the parent charity to take all such steps as are reasonably open to them to obtain from any such subsidiary undertaking such information and explanations as he may reasonably require for the purposes of carrying out the audit.
- (4) For the purposes of this regulation, “officer” includes any auditor or other person appointed to scrutinise the accounts of any such undertaking.

Dispensations from audit or examination requirements

- 34.—**(1) The Commission may—
- (a) in the circumstances specified in paragraph (2), dispense with the requirements of section 43(2) or (3) of the 1993 Act in the case of a particular charity;
 - (b) in the circumstances specified in paragraph (3) dispense with those requirements in respect of a particular financial year of a charity;
 - (c) in the circumstances specified in paragraph (4) dispense with the requirements in paragraph 6(4)(a) of Schedule 5A to the 1993 Act in the case of a particular charity;
 - (d) in the circumstances specified in paragraph (5) dispense with those requirements in respect of a particular financial year of a charity.
- (2) The circumstances specified for the purposes of paragraph (1)(a) are where the Commission is satisfied that the accounts of the charity concerned—
- (a) are required to be audited in accordance with any statutory provision contained in or having effect under an Act of Parliament which imposes requirements which, in the opinion of the Commission, are sufficiently similar to the requirements of section 43(2) for those requirements to be dispensed with;
 - (b) have been audited by the Comptroller and Auditor General or the Auditor General for Wales.
- (3) The circumstances specified for the purposes of paragraph (1)(b) are where the Commission—
- (a) is satisfied that the accounts of the charity concerned for the financial year in question have been, or will be, audited or examined in accordance with requirements or arrangements which, in the opinion of the Commission, are sufficiently similar to the relevant requirements of section 43 of the 1993 Act applicable to that financial year of that charity for those requirements to be dispensed with;
 - (b) considers that, although the financial year in question of the charity concerned is one to which section 43(2) of the 1993 Act applies, there are exceptional circumstances which justify the examination of the accounts by an independent examiner instead of their audit in accordance with that subsection.

(4) The circumstances specified for the purposes of paragraph (1)(c) are where the Commission is satisfied that the group accounts of the parent charity concerned—

- (a) are required to be audited in accordance with any statutory provision contained in or having effect under an Act of Parliament which imposes requirements which, in the opinion of the Commission, are sufficiently similar to the requirements of paragraph 6(4)(a) of Schedule 5A for those requirements to be dispensed with;
- (b) have been audited by the Comptroller and Auditor General or the Auditor General for Wales.

(5) The circumstances specified for the purpose of paragraph (1)(d) are where the Commission is satisfied that the group accounts of the parent charity concerned for the financial year in question have been, or will be, audited in accordance with requirements or arrangements which, in the opinion of the Commission, are sufficiently similar to the requirements of paragraph 6(4)(a) of Schedule 5A for those requirements to be dispensed with.

(6) The Commission must make it a condition of a dispensation granted under this regulation that the charity trustees send to the Commission any report made to the trustees with respect to the accounts of that charity for the relevant financial year of which it requests a copy.

(7) The Commission must make it a condition of a dispensation granted under paragraph (3)(b) that the charity trustees comply with the requirements of section 43(3) of the 1993 Act as if they were able to make and had in fact made an election under that section that the accounts of the charity for the relevant financial year be examined by an independent examiner.

(8) The Commission may revoke a dispensation granted under this regulation if the charity trustees fail to comply with a condition imposed under paragraph (6) or (7).

Ceasing to hold office

35.—(1) Where an auditor appointed by charity trustees or under section 43A(2) or (3)(a) ceases for any reason to hold office he must send—

- (a) to the charity trustees—
 - (i) a statement of any circumstances connected with his ceasing to hold office which he considers should be brought to their attention; or
 - (ii) if he considers that there are no such circumstances, a statement that there are none;
- (b) a copy of any statement sent to the charity trustees under sub-paragraph (a)(i) to the Commission.

Auditors appointed by the Commission

36.—(1) Subject to paragraph (2), in the case of an auditor appointed by the Commission, any report required by any of the provisions of this Part to be made to the charity trustees must instead be made to the Commission.

(2) This regulation does not apply in the case of an English or Welsh National Health Service Charity.

PART 5

ANNUAL REPORTS

General

37.—(1) The report and information to be contained in the annual report prepared by the charity trustee's of a charity are prescribed—

- (a) in the case of a non-parent investment fund, in regulation 38;
- (b) in the case of a parent investment fund, in regulation 39.
- (c) in the case of a non-parent charity, in regulation 40;
- (d) in the case of a qualifying parent charity, in regulation 41.

(2) In this Part—

- (a) “non-parent charity” means a charity—
 - (i) which is not an investment fund; and
 - (ii) is—
 - (aa) not a parent charity; or
 - (bb) a parent charity but the charity trustees are not required to prepare group accounts in respect of the financial year to which the annual report relates;
- (b) “non-parent investment fund” means an investment fund which—
 - (i) is not a parent charity; or
 - (ii) is a parent charity but the charity trustees are not required to prepare group accounts in respect of the financial year to which the annual report relates;
- (c) “parent investment fund” means an investment fund—
 - (i) which is a parent charity; and
 - (ii) the charity trustees of which are required to prepare group accounts in respect of the financial year to which the annual report relates;
- (d) “qualifying parent charity” means a charity—
 - (i) which is not an investment fund; and
 - (ii) the charity trustees of which are required to prepare group accounts in respect of the financial year to which the annual report relates.

Annual Reports: non-parent investment fund

38.—(1) This regulation applies to the annual report prepared under section 45(1) of the 1993 Act by the charity trustees of a non-parent investment fund.

(2) The report on the activities of the investment fund during the year which is required to be contained in the annual report must—

- (a) specify the financial year to which it relates;
- (b) be a review of the significant activities of the investment fund during that year, including details of—
 - (i) the aims and objectives which have been set for the investment fund during the year,
 - (ii) the policies adopted for achieving those aims and objectives; and
 - (iii) the achievements of the investment fund, measured by reference to the aims and objectives which have been set;

- (c) provide any other significant information which the charity trustees consider would assist charities participating in the investment fund to make an informed judgement on the suitability to the charity of the investment fund as an investment for the charity;
 - (d) specify any material events affecting the investment fund which have occurred since the end of the year;
 - (e) contain a statement as to the steps (if any) taken to consider whether any person to whom functions in respect of the management of the investment fund has been delegated has complied with the terms of the delegation; and
 - (f) be signed—
 - (i) if the scheme or schemes regulating the investment fund allocates responsibility for preparing the report to a particular person, by that person;
 - (ii) in any other case, by at least one of the charity trustees of the investment fund, each of whom has been authorised to do so.
- (3) The information relating to an investment fund and to its trustees and officers which is required to be contained in the annual report is—
- (a) the name of the investment fund as it appears in the register of charities and any other name by which it makes itself known;
 - (b) the number assigned to the investment fund in the register;
 - (c) the principal address of the investment fund;
 - (d) particulars, including the date, of any scheme or schemes containing provisions which regulate the purposes and administration of the investment fund;
 - (e) the name of any person or body of persons entitled under any such scheme or schemes to appoint any charity trustee of the investment fund, and a description of the method provided by any such scheme or schemes for such appointment;
 - (f) a description of the objects of the investment fund;
 - (g) a description of the organisational structure of the investment fund;
 - (h) the name of any charity trustee of the investment fund, on the date of the signature of the report, where paragraph (2)(f)(i) applies, and otherwise on the date when the authority referred to in paragraph (2)(f)(ii) is given, and, where any such person is a body corporate, the name of any person who is a director of the body corporate on that date;
 - (i) the professional qualifications of any individual person referred to in sub-paragraphs (e) or (h);
 - (j) the name of any other person who has, at any time during the financial year in question, been a charity trustee of the investment fund;
 - (k) the name of any person who is, in relation to the investment fund, a trustee for the charity on the date referred to in sub-paragraph (h);
 - (l) the name of any other person who has, at any time during the financial year in question, been, in relation to the investment fund, a trustee for the charity;
 - (m) a description of any functions relating to the management of the investment fund which have been delegated (including the maintenance of the register of charities participating in the investment fund), and of the procedures adopted to ensure that those functions are discharged consistently with the scheme or schemes by which the investment fund is regulated, and with the investment policies adopted for the investment fund;
 - (n) the name and address of any person to whom any such functions in respect of the management of the investment fund have been delegated or who have been instructed to provide advice on investment matters; and

- (o) a statement as to which, if any, of the persons whose names are given in accordance with the provisions of sub-paragraphs (h), (j), (k), (l) or (n), are authorised persons.

Annual Reports: parent investment funds

39.—(1) This regulation applies to an annual report prepared in accordance with section 45(1) of the 1993 Act by the charity trustees of a parent investment fund.

(2) The report on the activities of such an investment fund and of its subsidiary undertakings, during the year which is required to be contained in the annual report prepared under section 45 of the 1993 Act in respect of each financial year of the investment fund must—

- (a) specify the financial year to which it relates;
 - (b) be a review of the significant activities of the investment fund and of its subsidiary undertakings during that year, including details of—
 - (i) the aims and objectives which have been set for the investment fund and its subsidiary undertakings during the year and identifying, in the case of subsidiary undertakings, how these aims and objectives support the investment activities of the investment fund;
 - (ii) the policies adopted for achieving those aims and objectives; and
 - (iii) the achievements of the investment fund and of its subsidiary undertakings, measured by reference to the aims and objectives which have been set;
 - (c) where the total of capital and reserves in any of the investment fund's subsidiary undertakings was materially in deficit at the beginning of the financial year, contain particulars of the steps taken by the relevant undertaking or undertakings to eliminate that deficit;
 - (d) provide any other significant information which the charity trustees consider would assist charities participating in the investment fund to make an informed judgement on the suitability to the charity of the investment fund as an investment for the charity;
 - (e) specify any material events affecting the investment fund which have occurred since the end of the relevant financial year;
 - (f) contain a statement as to the steps (if any) taken to consider whether any person to whom functions in respect of the management of the investment fund has been delegated has complied with the terms of the delegation; and
 - (g) be signed—
 - (i) if the scheme or schemes regulating the investment fund allocates responsibility for preparing the report to a particular person, by that person;
 - (ii) in any other case, by at least one of the charity trustees of the investment fund, each of whom has been authorised to do so.
- (3) The information relating to a parent investment fund, to its trustees and officers, and to its subsidiary undertakings, which is required to be contained in the annual report is—
- (a) the name of the investment fund as it appears in the register of charities and any other name by which it makes itself known;
 - (b) the number assigned to the investment fund in the register;
 - (c) the principal address of the investment fund;
 - (d) particulars, including the date, of any scheme or schemes containing provisions which regulate the purposes and administration of the investment fund;

- (e) the name of any person or body of persons entitled under any such scheme or schemes to appoint any charity trustee of the investment fund, and a description of the method provided by any such scheme or schemes for such appointment;
 - (f) a description of the objects of the investment fund;
 - (g) a description of the organisational structure of the investment fund, and of its subsidiary undertakings;
 - (h) the name of any charity trustee of the investment fund, on the date of the signature of the report, where paragraph (2)(g)(i) applies, and otherwise on the date when the authority referred to in paragraph (2)(g)(ii) is given, and, where any such person is a body corporate, the name of any person who is a director of the body corporate on that date;
 - (i) the professional qualifications of any individual person referred to in sub-paragraphs (e) or (h);
 - (j) the name of any other person who has, at any time during the financial year in question, been a charity trustee of the investment fund;
 - (k) the name of any person who is, in relation to the investment fund, a trustee for the charity on the date referred to in sub-paragraph (h);
 - (l) the name of any other person who has, at any time during the financial year in question, been, in relation to the investment fund, a trustee for the charity;
 - (m) a description of any functions relating to the management of the investment fund which have been delegated (including the maintenance of the register of charities participating in the investment fund), and of the procedures adopted to ensure that those functions are discharged consistently with the scheme or schemes by which the investment fund is regulated, and with the investment policies adopted for the investment fund;
 - (n) the name and address of any person to whom any such functions in respect of the management of the investment fund have been delegated or who have been instructed to provide advice on investment matters; and
 - (o) a statement as to which, if any, of the persons whose names are given in accordance with the provisions of sub-paragraphs (h), (j), (k), (l) or (n), are authorised persons.
- (4) In this regulation “subsidiary undertaking” does not include a subsidiary undertaking which is excluded from group accounts in accordance with regulation 19.

Annual reports: non-parent charity

40.—(1) This regulation applies to an annual report prepared in accordance with section 45(1) of the 1993 Act by the charity trustees of a non-parent charity.

(2) The report on the activities of a charity during the year which is required to be contained in the annual report prepared under section 45 of the 1993 Act—

- (a) must specify the financial year to which it relates;
- (b) must—
 - (i) in the case of a charity which is not an auditable charity, be a brief summary setting out—
 - (aa) the main activities undertaken by the charity to further its charitable purposes for the public benefit; and
 - (bb) the main achievements of the charity during the year.
 - (ii) in the case of a charity which is an auditable charity, be a review of the significant activities undertaken by the charity during the relevant financial year to further its

charitable purposes for the public benefit or to generate resources to be used to further its purposes including—

- (aa) details of the aims and objectives which the charity trustees have set for the charity in that year, details of the strategies adopted and of significant activities undertaken, in order to achieve those aims and objectives;
- (bb) details of the achievements of the charity during the year, measured by reference to the aims and objectives which have been set;
- (cc) details of any significant contribution of volunteers to these activities;
- (dd) details of the principal sources of income of the charity; and
- (ee) a statement as to whether the charity trustees have given consideration to the major risks to which the charity is exposed and satisfied themselves that systems or procedures are established in order to manage those risks;

(c) must—

(i) where—

- (aa) any fund of the charity was in deficit at the beginning of the relevant financial; and
- (bb) the charity is one in respect of which a statement of accounts has been prepared under section 42(1) of the 1993 Act for that financial year,

contain particulars of the steps taken by the charity trustees to eliminate that deficit;

- (ii) contain a statement by the charity trustees as to whether they have complied with the duty in section 4 of the 2006 Act to have due regard to guidance published by the Commission; and
- (iii) be dated and be signed by one or more of the charity trustees, each of whom has been authorised to do so.

(3) Subject to paragraphs (4) to (7), the other information relating to a charity and to its trustees and officers which is required to be contained in the annual report is—

- (a) the name of the charity as it appears in the register of charities and any other name by which it makes itself known;
- (b) the number assigned to it in the register and, in the case of a charitable company, the number with which it is registered as a company;
- (c) the principal address of the charity and, in the case of a charitable company, the address of its registered office;
- (d) the name of any person who is a charity trustee of the charity on the date when the authority referred to in paragraph (2)(c)(iii) above is given, and, where any charity trustee on that date is a body corporate, the name of any person who is a director of the body corporate on that date;
- (e) the name of any other person who has, at any time during the relevant financial year been a charity trustee of the charity;
- (f) the name of any person who is a trustee for the charity on the date referred to in sub-paragraph (d);
- (g) the name of any other person who has, at any time during the relevant financial year been a trustee for the charity;
- (h) particulars, including the date if known, of any deed or other document containing provisions which regulate the purposes and administration of the charity;

- (i) the name of any person or body of persons entitled by the trusts of the charity to appoint one or more new charity trustees and a description of the method provided by those trusts for such appointment;
 - (j) a description of the policies and procedures (if any) which have been adopted by the charity trustees for the induction and training of charity trustees and where no such policies have been adopted a statement to that effect;
 - (k) a description of the organisational structure of the charity;
 - (l) a summary description of the purposes of the charity;
 - (m) a description of the policies (if any) which have been adopted by the charity trustees for the selection of individuals and institutions who are to receive grants or other forms of financial support out of the assets of the charity;
 - (n) a statement regarding the performance during the financial year of the investments belonging to the charity (if any);
 - (o) where material investments are owned by a charity, a description of the policies (if any) which have been adopted by the charity trustees for the selection, retention and realisation of investments for the charity including the extent (if any) to which social, environmental or ethical considerations are taken into account;
 - (p) a description of the policies (if any) which have been adopted by the charity trustees for the purpose of determining the level of reserves which it is appropriate for the charity to maintain in order to meet effectively the needs designated by its trusts, together with details of the amount and purpose of any material commitments and planned expenditure not provided for in the balance sheet which have been deducted from the assets in the unrestricted fund of the charity in calculating the amount of reserves, and where no such policies have been adopted, a statement to that effect;
 - (q) a description of the aims and objectives which the charity trustees have set for the charity in the future and of the activities contemplated in furtherance of those aims and objectives;
 - (r) a description of any assets held by the charity or by any charity trustee of, or trustee for, the charity, on behalf of another charity, and particulars of any special arrangements made with respect to the safe custody of such assets and their segregation from assets of the charity not so held and a description of the objects of the charity on whose behalf the assets are held.
- (4) The Commission may, where it is satisfied that, in the case of a particular charity or class of charities, or in the case of a particular financial year of a charity or class of charities—
- (a) the disclosure of the name of any person whose name is required by any of sub-paragraphs (d), (e), (f), (g) and (i) of paragraph (3) to be contained in the annual report of a charity could lead to that person being placed in any personal danger, dispense with the requirement in any of those sub-paragraphs so far as it applies to the name of such person;
 - (b) the disclosure of the principal address of the charity in accordance with paragraph (3)(c) above could lead to any such person being placed in any personal danger, dispense with that requirement.
- (5) In the case of a charity having more than 50 charity trustees on the date referred to in paragraph (3)(d)—
- (a) paragraph (3)(d) has effect as if for “name of any person who is a charity trustee of the charity” there were substituted “names of not less than 50 of the charity trustees of the charity, including any charity trustee who is also an officer of the charity”; and
 - (b) paragraph (3)(e) has effect as if, at the end of that paragraph, there were inserted “other than the name of any charity trustee whose name has been excluded from the report in pursuance of sub-paragraph (d)”.

(6) In the case of a report prepared under section 46(5) of the 1993 Act (excepted charities which are not registered), paragraph (4) has effect as if—

- (a) in sub-paragraph (a) from “as it appears in the register of charities” to the end; and
- (b) in sub-paragraph (b) “the number assigned to it in the register and,”

were omitted.

(7) Sub-paragraphs (j), (k), (m), (n), (o) and (q) of paragraph (3) do not apply to a charity which is not an auditable charity.

Annual Reports: qualifying parent charities

41.—(1) This regulation applies to an annual report prepared in accordance with section 45(1) of the 1993 Act by the charity trustees of a qualifying parent charity.

(2) The report on the activities of such a parent charity and its subsidiary undertakings, during the year, which is required to be contained in the annual report prepared under section 45 of the 1993 Act in respect of each financial year of the charity must—

- (a) specify the financial year to which it relates;
- (b) be a review of the significant activities undertaken by the charity during the relevant financial year to further its charitable purposes for the public benefit or to generate resources to be used to further its purposes including details of—
 - (i) the aims and objectives which the charity trustees have set for the parent charity and its subsidiary undertakings in that year;
 - (ii) the strategies adopted and the significant activities undertaken, in order to achieve those aims and objectives;
 - (iii) the achievements of the parent charity and its subsidiary undertakings during the year, measured by reference to the aims and objectives which have been set,
 - (iv) any significant contribution of volunteers to these activities; and
 - (v) the principal sources of income of the parent charity and of its subsidiary undertakings;
- (c) contain a statement as to whether the charity trustees have—
 - (i) given consideration to the major risks to which the parent charity and its subsidiary undertakings are exposed; and
 - (ii) satisfied themselves that systems or procedures are established in order to manage those risks;
- (d) where any fund of the parent charity was in deficit at the beginning of the financial year in question, contain particulars of the steps taken by the charity trustees to eliminate that deficit;
- (e) where the total of capital and reserves in any of the parent charity’s subsidiary undertakings was materially in deficit at the beginning of the financial year, contain particulars of the steps taken by the relevant undertaking or undertakings to eliminate that deficit,
- (f) contain a statement by the charity trustees as to whether they have complied with the duty in section 4 of the 2006 Act to have due regard to guidance published by the Commission; and
- (g) be dated and be signed by one or more of the charity trustees, each of whom has been authorised to do so.

(3) Subject to paragraphs (4) to (6), the information relating to a qualifying parent charity, to its trustees and officers, and to its subsidiary undertakings, which is required to be contained in the annual report is—

- (a) the name of the parent charity as it appears in the register of charities and any other name by which it makes itself known;
- (b) the number assigned to the parent charity in the register and, in the case of a charitable company, the number with which it is registered as a company;
- (c) the principal address of the parent charity and, in the case of a charitable company, the address of its registered office;
- (d) the name of any person who is a charity trustee of the parent charity on the date when the authority referred to in paragraph (2)(g) is given, and, where any charity trustee on that date is a body corporate, the name of any person who is a director of the body corporate on that date;
- (e) the name of any other person who has, at any time during the financial year in question, been a charity trustee of the parent charity;
- (f) the name of any person who is a trustee for the parent charity on the date referred to in sub-paragraph (d);
- (g) the name of any other person who has, at any time during the financial year in question, been a trustee for the parent charity;
- (h) particulars, including the date if known, of any deed or other document containing provisions which regulate the purposes and administration of the parent charity;
- (i) the name of any person or body of persons entitled by the trusts of the parent charity to appoint one or more new charity trustees, and a description of the method provided by those trusts for such appointment;
- (j) a description of the policies and procedures (if any) which have been adopted by the charity trustees of the parent charity for the induction and training of charity trustees, and where no such policies have been adopted a statement to this effect;
- (k) a description of the organisational structure of the parent charity and of its subsidiary undertakings;
- (l) a summary description of the purposes of the parent charity;
- (m) a description of the policies (if any) which have been adopted by the charity trustees of the parent charity for the selection of individuals and institutions who are to receive grants, or other forms of financial support, out of the assets of the charity;
- (n) a statement regarding the performance during the financial year of—
 - (i) any investments belonging to the parent charity; and
 - (ii) any investments belonging to the parent charity's subsidiary undertakings, where those investments are material to the group accounts;
- (o) where—
 - (i) investments are owned by a qualifying parent charity or any of its subsidiary undertakings; and
 - (ii) those investments are material to the group accounts,a description of the policies (if any) which have been adopted by the charity trustees, or as the case may be the subsidiary undertaking, for the selection, retention and realisation of investments, including the extent (if any) to which social, environmental or ethical considerations are taken into account;

- (p) where the charity trustees have adopted policies for the purpose of determining the level of reserves which it is appropriate to maintain in order to meet effectively the needs designated by its trusts—
 - (i) a description of those policies including in particular whether account has been taken of any reserves held by its subsidiary undertakings in determining the appropriate level of reserves;
 - (ii) details of the amount and purpose of any material commitments and planned expenditure not provided for in the balance sheet which have been deducted from the assets in the unrestricted fund of the charity in calculating the amount of reserves;
 - (q) if the charity trustees have not adopted policies falling within sub-paragraph (p), a statement that no such policies have been adopted;
 - (r) a description of the aims and objectives which the charity trustees have set for the parent charity in the future, and of the activities contemplated in furtherance of those aims and objectives;
 - (s) a description of any assets held by the parent charity or by any charity trustee of, or trustee for, the charity, on behalf of another charity, and particulars of any special arrangements made with respect to the safe custody of such assets and their segregation from assets of the charity not so held and a description of the objects of the charity on whose behalf the assets are held.
- (4) The Commission may, where it is satisfied that, in the case of a particular charity or class of charities, or in the case of a particular financial year of a charity or class of charities—
- (a) the disclosure of the name of any person whose name is required by any of sub-paragraphs (d), (e), (f), (g) and (i) of paragraph (3) above to be contained in the annual report of a charity could lead to that person being placed in any personal danger, dispense with the requirement in any of those sub-paragraphs so far as it applies to the name of that person; or
 - (b) the disclosure of the principal address of the charity in accordance with paragraph (3)(c) above could lead to any such person being placed in any personal danger, dispense with that requirement.
- (5) In the case of a charity having more than 50 charity trustees on the date referred to in paragraph (3)(d)—
- (a) that sub-paragraph has effect as if for the words “name of any person who is a charity trustee of the charity” there were substituted the words “names of not less than 50 of the charity trustees of the charity, including any charity trustee who is also an officer of the charity”; and
 - (b) paragraph (3)(e) has effect as if, at the end of the sub-paragraph, there were inserted the words “other than the name of any charity trustee whose name has been excluded from the report in pursuance of sub-paragraph (d)”.
- (6) In the case of a report prepared under section 46(5) of the 1993 Act (excepted charities which are not registered), paragraph (3) above shall have effect as if—
- (a) in sub-paragraph (a) the words from “as it appears in the register of charities” to the end, and
 - (b) in sub-paragraph (b) the words “the number assigned to it in the register and,”,
- were omitted.
- (7) In this regulation, “subsidiary undertaking” does not include a subsidiary undertaking which is excluded from the group accounts in accordance with regulation 19.

6th March 2008

Phil Hope
Parliamentary Secretary of State
Cabinet Office