



Charities Act 1993

1993 CHAPTER 10

PART VI

CHARITY ACCOUNTS, REPORTS AND RETURNS

41 Duty to keep accounting records

- (1) The charity trustees of a charity shall ensure that accounting records are kept in respect of the charity which are sufficient to show and explain all the charity's transactions, and which are such as to—
 - (a) disclose at any time, with reasonable accuracy, the financial position of the charity at that time, and
 - (b) enable the trustees to ensure that, where any statements of accounts are prepared by them under section 42(1) below, those statements of accounts comply with the requirements of regulations under that provision.
- (2) The accounting records shall in particular contain—
 - (a) entries showing from day to day all sums of money received and expended by the charity, and the matters in respect of which the receipt and expenditure takes place; and
 - (b) a record of the assets and liabilities of the charity.
- (3) The charity trustees of a charity shall preserve any accounting records made for the purposes of this section in respect of the charity for at least six years from the end of the financial year of the charity in which they are made.
- (4) Where a charity ceases to exist within the period of six years mentioned in subsection (3) above as it applies to any accounting records, the obligation to preserve those records in accordance with that subsection shall continue to be discharged by the last charity trustees of the charity, unless the Commissioners consent in writing to the records being destroyed or otherwise disposed of.
- (5) Nothing in this section applies to a charity which is a company.

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42 Annual statements of accounts

- (1) The charity trustees of a charity shall (subject to subsection (3) below) prepare in respect of each financial year of the charity a statement of accounts complying with such requirements as to its form and contents as may be prescribed by regulations made by the Secretary of State.
- (2) Without prejudice to the generality of subsection (1) above, regulations under that subsection may make provision—
 - (a) for any such statement to be prepared in accordance with such methods and principles as are specified or referred to in the regulations;
 - (b) as to any information to be provided by way of notes to the accounts;and regulations under that subsection may also make provision for determining the financial years of a charity for the purposes of this Act and any regulations made under it.
- (3) Where a charity's gross income in any financial year does not exceed £25,000, the charity trustees may, in respect of that year, elect to prepare the following, namely—
 - (a) a receipts and payments account, and
 - (b) a statement of assets and liabilities,instead of a statement of accounts under subsection (1) above.
- (4) The charity trustees of a charity shall preserve—
 - (a) any statement of accounts prepared by them under subsection (1) above, or
 - (b) any account and statement prepared by them under subsection (3) above,for at least six years from the end of the financial year to which any such statement relates or (as the case may be) to which any such account and statement relate.
- (5) Subsection (4) of section 41 above shall apply in relation to the preservation of any such statement or account and statement as it applies in relation to the preservation of any accounting records (the references to subsection (3) of that section being read as references to subsection (4) above).
- (6) The Secretary of State may by order amend subsection (3) above by substituting a different sum for the sum for the time being specified there.
- (7) Nothing in this section applies to a charity which is a company.

43 Annual audit or examination of charity accounts

- (1) Subsection (2) below applies to a financial year of a charity ("the relevant year") if the charity's gross income or total expenditure in any of the following, namely—
 - (a) the relevant year,
 - (b) the financial year of the charity immediately preceding the relevant year (if any), and
 - (c) the financial year of the charity immediately preceding the year specified in paragraph (b) above (if any),exceeds £100,000.
- (2) If this subsection applies to a financial year of a charity, the accounts of the charity for that year shall be audited by a person who—
 - (a) is, in accordance with section 25 of the Companies Act 1989 (eligibility for appointment), eligible for appointment as a company auditor, or

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- (b) is a member of a body for the time being specified in regulations under section 44 below and is under the rules of that body eligible for appointment as auditor of the charity.
- (3) If subsection (2) above does not apply to a financial year of a charity, then (subject to subsection (4) below) the accounts of the charity for that year shall, at the election of the charity trustees, either—
 - (a) be examined by an independent examiner, that is to say an independent person who is reasonably believed by the trustees to have the requisite ability and practical experience to carry out a competent examination of the accounts, or
 - (b) be audited by such a person as is mentioned in subsection (2) above.
- (4) Where it appears to the Commissioners—
 - (a) that subsection (2), or (as the case may be) subsection (3) above, has not been complied with in relation to a financial year of a charity within ten months from the end of that year, or
 - (b) that, although subsection (2) above does not apply to a financial year of a charity, it would nevertheless be desirable for the accounts of the charity for that year to be audited by such a person as is mentioned in that subsection,the Commissioners may by order require the accounts of the charity for that year to be audited by such a person as is mentioned in that subsection.
- (5) If the Commissioners make an order under subsection (4) above with respect to a charity, then unless—
 - (a) the order is made by virtue of paragraph (b) of that subsection, and
 - (b) the charity trustees themselves appoint an auditor in accordance with the order,the auditor shall be a person appointed by the Commissioners.
- (6) The expenses of any audit carried out by an auditor appointed by the Commissioners under subsection (5) above, including the auditor's remuneration, shall be recoverable by the Commissioners—
 - (a) from the charity trustees of the charity concerned, who shall be personally liable, jointly and severally, for those expenses; or
 - (b) to the extent that it appears to the Commissioners not to be practical to seek recovery of those expenses in accordance with paragraph (a) above, from the funds of the charity.
- (7) The Commissioners may—
 - (a) give guidance to charity trustees in connection with the selection of a person for appointment as an independent examiner;
 - (b) give such directions as they think appropriate with respect to the carrying out of an examination in pursuance of subsection (3)(a) above;and any such guidance or directions may either be of general application or apply to a particular charity only.
- (8) The Secretary of State may by order amend subsection (1) above by substituting a different sum for the sum for the time being specified there.
- (9) Nothing in this section applies to a charity which is a company.

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44 Supplementary provisions relating to audits etc

- (1) The Secretary of State may by regulations make provision—
- (a) specifying one or more bodies for the purposes of section 43(2)(b) above;
 - (b) with respect to the duties of an auditor carrying out an audit under section 43 above, including provision with respect to the making by him of a report on—
 - (i) the statement of accounts prepared for the financial year in question under section 42(1) above, or
 - (ii) the account and statement so prepared under section 42(3) above, as the case may be;
 - (c) with respect to the making by an independent examiner of a report in respect of an examination carried out by him under section 43 above;
 - (d) conferring on such an auditor or on an independent examiner a right of access with respect to books, documents and other records (however kept) which relate to the charity concerned;
 - (e) entitling such an auditor or an independent examiner to require, in the case of a charity, information and explanations from past or present charity trustees or trustees for the charity, or from past or present officers or employees of the charity;
 - (f) enabling the Commissioners, in circumstances specified in the regulations, to dispense with the requirements of section 43(2) or (3) above in the case of a particular charity or in the case of any particular financial year of a charity.
- (2) If any person fails to afford an auditor or an independent examiner any facility to which he is entitled by virtue of subsection (1)(d) or (e) above, the Commissioners may by order give—
- (a) to that person, or
 - (b) to the charity trustees for the time being of the charity concerned,
- such directions as the Commissioners think appropriate for securing that the default is made good.
- (3) Section 727 of the Companies Act 1985 (power of court to grant relief in certain cases) shall have effect in relation to an auditor or independent examiner appointed by a charity in pursuance of section 43 above as it has effect in relation to a person employed as auditor by a company within the meaning of that Act.

45 Annual reports

- (1) The charity trustees of a charity shall prepare in respect of each financial year of the charity an annual report containing—
- (a) such a report by the trustees on the activities of the charity during that year, and
 - (b) such other information relating to the charity or to its trustees or officers,
- as may be prescribed by regulations made by the Secretary of State.
- (2) Without prejudice to the generality of subsection (1) above, regulations under that subsection may make provision—
- (a) for any such report as is mentioned in paragraph (a) of that subsection to be prepared in accordance with such principles as are specified or referred to in the regulations;
 - (b) enabling the Commissioners to dispense with any requirement prescribed by virtue of subsection (1)(b) above in the case of a particular charity or a

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particular class of charities, or in the case of a particular financial year of a charity or of any class of charities.

- (3) The annual report required to be prepared under this section in respect of any financial year of a charity shall be transmitted to the Commissioners by the charity trustees—
 - (a) within ten months from the end of that year, or
 - (b) within such longer period as the Commissioners may for any special reason allow in the case of that report.
- (4) Subject to subsection (5) below, any such annual report shall have attached to it the statement of accounts prepared for the financial year in question under section 42(1) above or (as the case may be) the account and statement so prepared under section 42(3) above, together with—
 - (a) where the accounts of the charity for that year have been audited under section 43 above, a copy of the report made by the auditor on that statement of accounts or (as the case may be) on that account and statement;
 - (b) where the accounts of the charity for that year have been examined under section 43 above, a copy of the report made by the independent examiner in respect of the examination carried out by him under that section.
- (5) Subsection (4) above does not apply to a charity which is a company, and any annual report transmitted by the charity trustees of such a charity under subsection (3) above shall instead have attached to it a copy of the charity's annual accounts prepared for the financial year in question under Part VII of the Companies Act 1985, together with a copy of the auditors' report on those accounts.
- (6) Any annual report transmitted to the Commissioners under subsection (3) above, together with the documents attached to it, shall be kept by the Commissioners for such period as they think fit.

46 Special provision as respects accounts and annual reports of exempt and other excepted charities

- (1) Nothing in sections 41 to 45 above applies to any exempt charity; but the charity trustees of an exempt charity shall keep proper books of account with respect to the affairs of the charity, and if not required by or under the authority of any other Act to prepare periodical statements of account shall prepare consecutive statements of account consisting on each occasion of an income and expenditure account relating to a period of not more than fifteen months and a balance sheet relating to the end of that period.
- (2) The books of accounts and statements of account relating to an exempt charity shall be preserved for a period of six years at least unless the charity ceases to exist and the Commissioners consent in writing to their being destroyed or otherwise disposed of.
- (3) Nothing in sections 43 to 45 above applies to any charity which—
 - (a) falls within section 3(5)(c) above, and
 - (b) is not registered.
- (4) Except in accordance with subsection (7) below, nothing in section 45 above applies to any charity (other than an exempt charity or a charity which falls within section 3(5)(c) above) which—
 - (a) is excepted by section 3(5) above, and
 - (b) is not registered.

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- (5) If requested to do so by the Commissioners, the charity trustees of any such charity as is mentioned in subsection (4) above shall prepare an annual report in respect of such financial year of the charity as is specified in the Commissioners' request.
- (6) Any report prepared under subsection (5) above shall contain—
 - (a) such a report by the charity trustees on the activities of the charity during the year in question, and
 - (b) such other information relating to the charity or to its trustees or officers, as may be prescribed by regulations made under section 45(1) above in relation to annual reports prepared under that provision.
- (7) Subsections (3) to (6) of section 45 above shall apply to any report required to be prepared under subsection (5) above as if it were an annual report required to be prepared under subsection (1) of that section.
- (8) Any reference in this section to a charity which falls within section 3(5)(c) above includes a reference to a charity which falls within that provision but is also excepted from registration by section 3(5)(b) above.

47 Public inspection of annual reports etc

- (1) Any annual report or other document kept by the Commissioners in pursuance of section 45(6) above shall be open to public inspection at all reasonable times—
 - (a) during the period for which it is so kept; or
 - (b) if the Commissioners so determine, during such lesser period as they may specify.
- (2) Where any person—
 - (a) requests the charity trustees of a charity in writing to provide him with a copy of the charity's most recent accounts, and
 - (b) pays them such reasonable fee (if any) as they may require in respect of the costs of complying with the request,
 those trustees shall comply with the request within the period of two months beginning with the date on which it is made.
- (3) In subsection (2) above the reference to a charity's most recent accounts is—
 - (a) in the case of a charity other than one falling within any of paragraphs (b) to (d) below, a reference to the statement of accounts or account and statement prepared in pursuance of section 42(1) or (3) above in respect of the last financial year of the charity the accounts for which have been audited or examined under section 43 above;
 - (b) in the case of such a charity as is mentioned in section 46(3) above, a reference to the statement of accounts or account and statement prepared in pursuance of section 42(1) or (3) above in respect of the last financial year of the charity in respect of which a statement of accounts or account and statement has or have been so prepared;
 - (c) in the case of a charity which is a company, a reference to the annual accounts of the company most recently audited under Part VII of the Companies Act 1985; and
 - (d) in the case of an exempt charity, a reference to the accounts of the charity most recently audited in pursuance of any statutory or other requirement or, if its

accounts are not required to be audited, the accounts most recently prepared in respect of the charity.

48 Annual returns by registered charities

- (1) Every registered charity shall prepare in respect of each of its financial years an annual return in such form, and containing such information, as may be prescribed by regulations made by the Commissioners.
- (2) Any such return shall be transmitted to the Commissioners by the date by which the charity trustees are, by virtue of section 45(3) above, required to transmit to them the annual report required to be prepared in respect of the financial year in question.
- (3) The Commissioners may dispense with the requirements of subsection (1) above in the case of a particular charity or a particular class of charities, or in the case of a particular financial year of a charity or of any class of charities.

49 Offences

Any person who, without reasonable excuse, is persistently in default in relation to any requirement imposed—

- (a) by section 45(3) above (taken with section 45(4) or (5), as the case may require), or
- (b) by section 47(2) or 48(2) above,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.