



Charities Act 1993 (repealed)

1993 CHAPTER 10

PART I

THE [^{F1}CHARITY COMMISSION] AND THE OFFICIAL CUSTODIAN FOR CHARITIES

Textual Amendments

- F1** Words in Pt. I heading substituted (27.2.2007) by [Charities Act 2006 \(c. 50\)](#), s. 79(2), [Sch. 8 para. 97](#); [S.I. 2007/309](#), art. 2, [Sch.](#)

^{F2}1 The Charity Commisioners.

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Textual Amendments

- F2** S. 1 repealed (27.2.2007) by [Charities Act 2006 \(c. 50\)](#), ss. 6(6), 79(2), [Sch. 9](#); [S.I. 2007/309](#), art. 2, [Sch.](#)

^{F3}1A The Charity Commission

- (1) There shall be a body corporate to be known as the Charity Commission for England and Wales (in this Act referred to as “the Commission”).
- (2) In Welsh the Commission shall be known as “Comisiwn Elusennau Cymru a Lloegr”.
- (3) The functions of the Commission shall be performed on behalf of the Crown.
- (4) In the exercise of its functions the Commission shall not be subject to the direction or control of any Minister of the Crown or other government department.
- (5) But subsection (4) above does not affect—
 - (a) any provision made by or under any enactment;

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- (b) any administrative controls exercised over the Commission's expenditure by the Treasury.
- (6) The provisions of Schedule 1A to this Act shall have effect with respect to the Commission.]

Textual Amendments

F3 S. 1A inserted (27.2.2007) by Charities Act 2006 (c. 50), ss. 6(1), 79(2); S.I. 2007/309, art. 2, Sch.

[^{F4}1B The Commission's objectives

- (1) The Commission has the objectives set out in subsection (2).
- (2) The objectives are—
- (1) The public confidence objective.
 - (2) The public benefit objective.
 - (3) The compliance objective.
 - (4) The charitable resources objective.
 - (5) The accountability objective.
- (3) Those objectives are defined as follows—
- (1) The public confidence objective is to increase public trust and confidence in charities.
 - (2) The public benefit objective is to promote awareness and understanding of the operation of the public benefit requirement.
 - (3) The compliance objective is to promote compliance by charity trustees with their legal obligations in exercising control and management of the administration of their charities.
 - (4) The charitable resources objective is to promote the effective use of charitable resources.
 - (5) The accountability objective is to enhance the accountability of charities to donors, beneficiaries and the general public.
- (4) In this section “the public benefit requirement” means the requirement in section 2(1)(b) of the Charities Act 2006 that a purpose falling within section 2(2) of that Act must be for the public benefit if it is to be a charitable purpose.

Textual Amendments

F4 Ss. 1B-1E inserted (27.2.2007 except for the insertion of ss. 1C(2) for specified purposes, 1C(5), 1E(3)) by Charities Act 2006 (c. 50), ss. 7, 79(2); S.I. 2007/309, art. 2, Sch.

1C The Commission's general functions

- (1) The Commission has the general functions set out in subsection (2).
- (2) The general functions are—
- (1) Determining whether institutions are or are not charities.
 - (2) Encouraging and facilitating the better administration of charities.

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- (3) Identifying and investigating apparent misconduct or mismanagement in the administration of charities and taking remedial or protective action in connection with misconduct or mismanagement therein.
 - (4) Determining whether public collections certificates should be issued, and remain in force, in respect of public charitable collections.
 - (5) Obtaining, evaluating and disseminating information in connection with the performance of any of the Commission's functions or meeting any of its objectives.
 - (6) Giving information or advice, or making proposals, to any Minister of the Crown on matters relating to any of the Commission's functions or meeting any of its objectives.
- (3) The Commission's fifth general function includes (among other things) the maintenance of an accurate and up-to-date register of charities under section 3 below.
 - (4) The Commission's sixth general function includes (among other things) complying, so far as is reasonably practicable, with any request made by a Minister of the Crown for information or advice on any matter relating to any of its functions.
 - (5) In this section “public charitable collection” and “public collections certificate” have the same meanings as in Chapter 1 of Part 3 of the Charities Act 2006.

Textual Amendments

- F4** Ss. 1B-1E inserted (27.2.2007 except for the insertion of ss. 1C(2) for specified purposes, 1C(5), 1E(3)) by [Charities Act 2006 \(c. 50\)](#), [ss. 7, 79\(2\)](#); [S.I. 2007/309](#), [art. 2](#), [Sch.](#)

1D The Commission's general duties

- (1) The Commission has the general duties set out in subsection (2).
- (2) The general duties are—
 - (1) So far as is reasonably practicable the Commission must, in performing its functions, act in a way—
 - (a) which is compatible with its objectives, and
 - (b) which it considers most appropriate for the purpose of meeting those objectives.
 - (2) So far as is reasonably practicable the Commission must, in performing its functions, act in a way which is compatible with the encouragement of—
 - (a) all forms of charitable giving, and
 - (b) voluntary participation in charity work.
 - (3) In performing its functions the Commission must have regard to the need to use its resources in the most efficient, effective and economic way.
 - (4) In performing its functions the Commission must, so far as relevant, have regard to the principles of best regulatory practice (including the principles under which regulatory activities should be proportionate, accountable, consistent, transparent and targeted only at cases in which action is needed).
 - (5) In performing its functions the Commission must, in appropriate cases, have regard to the desirability of facilitating innovation by or on behalf of charities.

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- (6) In managing its affairs the Commission must have regard to such generally accepted principles of good corporate governance as it is reasonable to regard as applicable to it.

Textual Amendments

F4 Ss. 1B-1E inserted (27.2.2007 except for the insertion of ss. 1C(2) for specified purposes, 1C(5), 1E(3)) by [Charities Act 2006 \(c. 50\)](#), **ss. 7, 79(2)**; S.I. 2007/309, **art. 2, Sch.**

1E The Commission's incidental powers

- (1) The Commission has power to do anything which is calculated to facilitate, or is conducive or incidental to, the performance of any of its functions or general duties.
- (2) However, nothing in this Act authorises the Commission—
- (a) to exercise functions corresponding to those of a charity trustee in relation to a charity, or
 - (b) otherwise to be directly involved in the administration of a charity.
- (3) Subsection (2) does not affect the operation of section 19A or 19B below (power of Commission to give directions as to action to be taken or as to application of charity property).]

Textual Amendments

F4 Ss. 1B-1E inserted (27.2.2007 except for the insertion of ss. 1C(2) for specified purposes, 1C(5), 1E(3)) by [Charities Act 2006 \(c. 50\)](#), **ss. 7, 79(2)**; S.I. 2007/309, **art. 2, Sch.**

2 The official custodian for charities.

- (1) There shall continue to be an officer known as the official custodian for charities (in this Act referred to as “the official custodian”) whose function it shall be to act as trustee for charities in the cases provided for by this Act; and the official custodian shall be by that name a corporation sole having perpetual succession and using an official seal which shall be officially and judicially noticed.
- [^{F5}(2) Such individual as the Commission may from time to time designate shall be the official custodian.]
- (3) The official custodian shall perform his duties in accordance with such general or special directions as may be given him by the [^{F6}Commission], and his expenses (except those re-imbursed to him or recovered by him as trustee for any charity) shall be defrayed by the [^{F6}Commission].
- (4) Anything which is required to or may be done by, to or before the official custodian may be done by, to or before any [^{F7}member of the staff of the Commission] generally or specially authorised [^{F8}by it] to act for him during a vacancy in his office or otherwise.
- (5) The official custodian shall not be liable as trustee for any charity in respect of any loss or of the mis-application of any property unless it is occasioned by or through the wilful neglect or default of the custodian or of any person acting for him; but the

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Consolidated Fund shall be liable to make good to a charity any sums for which the custodian may be liable by reason of any such neglect or default.

- (6) The official custodian shall keep such books of account and such records in relation thereto as may be directed by the Treasury and shall prepare accounts in such form, in such manner and at such times as may be so directed.
- (7) The accounts so prepared shall be examined and certified by the Comptroller and Auditor General^{F9}...
- [^{F10}(8) The Comptroller and Auditor General shall send to the Commission a copy of the accounts as certified by him together with his report on them.
- (9) The Commission shall publish and lay before Parliament a copy of the documents sent to it under subsection (8) above.]

Textual Amendments

- F5** S. 2(2) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 98(2)** (with Sch. 10 para. 19); S.I. 2007/309, art. 2, Sch.
- F6** Words in s. 2(3) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 98(3)**; S.I. 2007/309, art. 2, Sch.
- F7** Words in s. 2(4) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 98(4)(a)**; S.I. 2007/309, art. 2, Sch.
- F8** Words in s. 2(4) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 98(4)(b)**; S.I. 2007/309, art. 2, Sch.
- F9** Words in s. 2(7) repealed (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), Sch. 8 para. 98(5), **Sch. 9**; S.I. 2007/309, art. 2, Sch. (with art. 4)
- F10** S. 2(8)(9) added (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 98(6)**; S.I. 2007/309, art. 2, Sch. (with art. 4)

Status:

Point in time view as at 28/02/2008.

Changes to legislation:

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