



# Charities Act 1993 (repealed)

## 1993 CHAPTER 10

VALID FROM 01/08/1993

### PART III

#### COMMISSIONERS' INFORMATION POWERS

#### **8 General power to institute inquiries.**

- (1) The Commissioners may from time to time institute inquiries with regard to charities or a particular charity or class of charities, either generally or for particular purposes, but no such inquiry shall extend to any exempt charity.
- (2) The Commissioners may either conduct such an inquiry themselves or appoint a person to conduct it and make a report to them.
- (3) For the purposes of any such inquiry the Commissioners, or a person appointed by them to conduct it, may direct any person (subject to the provisions of this section)—
  - (a) to furnish accounts and statements in writing with respect to any matter in question at the inquiry, being a matter on which he has or can reasonably obtain information, or to return answers in writing to any questions or inquiries addressed to him on any such matter, and to verify any such accounts, statements or answers by statutory declaration;
  - (b) to furnish copies of documents in his custody or under his control which relate to any matter in question at the inquiry, and to verify any such copies by statutory declaration;
  - (c) to attend at a specified time and place and give evidence or produce any such documents.
- (4) For the purposes of any such inquiry evidence may be taken on oath, and the person conducting the inquiry may for that purpose administer oaths, or may instead of administering an oath require the person examined to make and subscribe a declaration of the truth of the matters about which he is examined.

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- (5) The Commissioners may pay to any person the necessary expenses of his attendance to give evidence or produce documents for the purpose of an inquiry under this section, and a person shall not be required in obedience to a direction under paragraph (c) of subsection (3) above to go more than ten miles from his place of residence unless those expenses are paid or tendered to him.
- (6) Where an inquiry has been held under this section, the Commissioners may either—
  - (a) cause the report of the person conducting the inquiry, or such other statement of the results of the inquiry as they think fit, to be printed and published, or
  - (b) publish any such report or statement in some other way which is calculated in their opinion to bring it to the attention of persons who may wish to make representations to them about the action to be taken.
- (7) The council of a county or district, the Common Council of the City of London and the council of a London borough may contribute to the expenses of the Commissioners in connection with inquiries under this section into local charities in the council's area.

## **9 Power to call for documents and search records.**

- (1) The Commissioners may by order—
  - (a) require any person to furnish them with any information in his possession which relates to any charity and is relevant to the discharge of their functions or of the functions of the official custodian;
  - (b) require any person who has in his custody or under his control any document which relates to any charity and is relevant to the discharge of their functions or of the functions of the official custodian—
    - (i) to furnish them with a copy of or extract from the document, or
    - (ii) (unless the document forms part of the records or other documents of a court or of a public or local authority) to transmit the document itself to them for their inspection.
- (2) Any officer of the Commissioners, if so authorised by them, shall be entitled without payment to inspect and take copies of or extracts from the records or other documents of any court, or of any public registry or office of records, for any purpose connected with the discharge of the functions of the Commissioners or of the official custodian.
- (3) The Commissioners shall be entitled without payment to keep any copy or extract furnished to them under subsection (1) above; and where a document transmitted to them under that subsection for their inspection relates only to one or more charities and is not held by any person entitled as trustee or otherwise to the custody of it, the Commissioners may keep it or may deliver it to the charity trustees or to any other person who may be so entitled.
- (4) No person properly having the custody of documents relating only to an exempt charity shall be required under subsection (1) above to transmit to the Commissioners any of those documents, or to furnish any copy of or extract from any of them.
- (5) The rights conferred by subsection (2) above shall, in relation to information recorded otherwise than in legible form, include the right to require the information to be made available in legible form for inspection or for a copy or extract to be made of or from it.

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## **10 Disclosure of information to and by Commissioners.**

- (1) Subject to subsection (2) below and to any express restriction imposed by or under any other enactment, a body or person to whom this section applies may disclose to the Charity Commissioners any information received by that body or person under or for the purposes of any enactment, where the disclosure is made by the body or person for the purpose of enabling or assisting the Commissioners to discharge any of their functions.
- (2) Subsection (1) above shall not have effect in relation to the Commissioners of Customs and Excise or the Commissioners of Inland Revenue; but either of those bodies of Commissioners (“the relevant body”) may disclose to the Charity Commissioners the following information—
  - (a) the name and address of any institution which has for any purpose been treated by the relevant body as established for charitable purposes;
  - (b) information as to the purposes of an institution and the trusts under which it is established or regulated, where the disclosure is made by the relevant body in order to give or obtain assistance in determining whether the institution ought for any purpose to be treated as established for charitable purposes; and
  - (c) information with respect to an institution which has for any purpose been treated as so established but which appears to the relevant body—
    - (i) to be, or to have been, carrying on activities which are not charitable, or
    - (ii) to be, or to have been, applying any of its funds for purposes which are not charitable.
- (3) In subsection (2) above, any reference to an institution shall, in relation to the Commissioners of Inland Revenue, be construed as a reference to an institution in England and Wales.
- (4) Subject to subsection (5) below, the Charity Commissioners may disclose to a body or person to whom this section applies any information received by them under or for the purposes of any enactment, where the disclosure is made by the Commissioners—
  - (a) for any purpose connected with the discharge of their functions, and
  - (b) for the purpose of enabling or assisting that body or person to discharge any of its or his functions.
- (5) Where any information disclosed to the Charity Commissioners under subsection (1) or (2) above is so disclosed subject to any express restriction on the disclosure of the information by the Commissioners, the Commissioners' power of disclosure under subsection (4) above shall, in relation to the information, be exercisable by them subject to any such restriction.
- (6) This section applies to the following bodies and persons—
  - (a) any government department (including a Northern Ireland department);
  - (b) any local authority;
  - (c) any constable; and
  - (d) any other body or person discharging functions of a public nature (including a body or person discharging regulatory functions in relation to any description of activities).

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- (7) In subsection (6)(d) above the reference to any such body or person as is there mentioned shall, in relation to a disclosure by the Charity Commissioners under subsection (4) above, be construed as including a reference to any such body or person in a country or territory outside the United Kingdom.
- (8) Nothing in this section shall be construed as affecting any power of disclosure exercisable apart from this section.
- (9) In this section “enactment” includes an enactment comprised in subordinate legislation (within the meaning of the <sup>M1</sup>Interpretation Act 1978).

#### Marginal Citations

M1 1978 c. 30.

### 11 Supply of false or misleading information to Commissioners, etc.

- (1) Any person who knowingly or recklessly provides the Commissioners with information which is false or misleading in a material particular shall be guilty of an offence if the information—
- (a) is provided in purported compliance with a requirement imposed by or under this Act; or
  - (b) is provided otherwise than as mentioned in paragraph (a) above but in circumstances in which the person providing the information intends, or could reasonably be expected to know, that it would be used by the Commissioners for the purpose of discharging their functions under this Act.
- (2) Any person who wilfully alters, suppresses, conceals or destroys any document which he is or is liable to be required, by or under this Act, to produce to the Commissioners shall be guilty of an offence.
- (3) Any person guilty of an offence under this section shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or both.
- (4) In this section references to the Commissioners include references to any person conducting an inquiry under section 8 above.

### 12 Data protection.

An order under section 30 of the <sup>M2</sup>Data Protection Act 1984 (exemption from subject access provisions of data held for the purpose of discharging designated functions in connection with the regulation of financial services etc.) may designate for the purposes of that section, as if they were functions conferred by or under such an enactment as is there mentioned, any functions of the Commissioners appearing to the Secretary of State to be—

- (a) connected with the protection of charities against misconduct or mismanagement (whether by trustees or other persons) in their administration; or
- (b) connected with the protection of the property of charities from loss or misapplication or with the recovery of such property.

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**Marginal Citations**

M2 1984 c. 35.

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**Changes to legislation:**

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