



# Charities Act 1993 (repealed)

## 1993 CHAPTER 10

### 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.
- (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

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*Status: Point in time view as at 01/12/2006.*

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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.

### **[<sup>F1</sup>10 Disclosure of information to Commission**

- (1) Any relevant public authority may disclose information to the Commission if the disclosure is made for the purpose of enabling or assisting the Commission to discharge any of its functions.

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- (2) But Revenue and Customs information may be disclosed under subsection (1) only if it relates to an institution, undertaking or body falling within one (or more) of the following paragraphs—
- (a) a charity;
  - (b) an institution which is established for charitable, benevolent or philanthropic purposes;
  - (c) an institution by or in respect of which a claim for exemption has at any time been made under section 505(1) of the Income and Corporation Taxes Act 1988;
  - (d) a subsidiary undertaking of a charity;
  - (e) a body entered in the Scottish Charity Register which is managed or controlled wholly or mainly in or from England or Wales.
- (3) In subsection (2)(d) above “subsidiary undertaking of a charity” means an undertaking (as defined by section 259(1) of the Companies Act 1985) in relation to which—
- (a) a charity is (or is to be treated as) a parent undertaking in accordance with the provisions of section 258 of, and Schedule 10A to, the Companies Act 1985, or
  - (b) two or more charities would, if they were a single charity, be (or be treated as) a parent undertaking in accordance with those provisions.
- (4) For the purposes of the references to a parent undertaking—
- (a) in subsection (3) above, and
  - (b) in section 258 of, and Schedule 10A to, the Companies Act 1985 as they apply for the purposes of that subsection,
- “undertaking” includes a charity which is not an undertaking as defined by section 259(1) of that Act.

#### Textual Amendments

- F1** Ss. 10-10C substituted for s. 10 (27.2.2007 except for the insertion of s. 10B and references to s. 10B, 8.11.2006 for specified purposes, 1.6.2010 for the insertion of s. 10B for specified purposes, 1.8.2011 for the insertion of s. 10B for further specified purposes) by [Charities Act 2006 \(c. 50\)](#), s. 79(1)(g), [Sch. 8 para. 104](#) (with [Sch. 10 para. 20](#)); [S.I. 2007/309](#), art. 2, [Sch.](#) (with art. 5); [S.I. 2010/503](#), art. 2, [Sch. 1](#) (with [Sch. 2](#)); [S.I. 2011/1728](#), art. 2, [Sch. 1](#) (with [Sch. 2](#))

## 10A Disclosure of information by Commission

- (1) Subject to subsections (2) and (3) below, the Commission may disclose to any relevant public authority any information received by the Commission in connection with any of the Commission's functions—
- (a) if the disclosure is made for the purpose of enabling or assisting the relevant public authority to discharge any of its functions, or
  - (b) if the information so disclosed is otherwise relevant to the discharge of any of the functions of the relevant public authority.
- (2) In the case of information disclosed to the Commission under section 10(1) above, the Commission's power to disclose the information under subsection (1) above is exercisable subject to any express restriction subject to which the information was disclosed to the Commission.

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- (3) Subsection (2) above does not apply in relation to Revenue and Customs information disclosed to the Commission under section 10(1) above; but any such information may not be further disclosed (whether under subsection (1) above or otherwise) except with the consent of the Commissioners for Her Majesty's Revenue and Customs.
- (4) Any responsible person who discloses information in contravention of subsection (3) above is guilty of an offence and liable—
- (a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum, or both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or both.
- (5) It is a defence for a responsible person charged with an offence under subsection (4) above of disclosing information to prove that he reasonably believed—
- (a) that the disclosure was lawful, or
  - (b) that the information had already and lawfully been made available to the public.
- (6) In the application of this section to Scotland or Northern Ireland, the reference to 12 months in subsection (4) is to be read as a reference to 6 months.
- (7) In this section “responsible person” means a person who is or was—
- (a) a member of the Commission,
  - (b) a member of the staff of the Commission,
  - (c) a person acting on behalf of the Commission or a member of the staff of the Commission, or
  - (d) a member of a committee established by the Commission.

#### Textual Amendments

- F1** Ss. 10-10C substituted for s. 10 (27.2.2007 except for the insertion of s. 10B and references to s. 10B, 8.11.2006 for specified purposes, 1.6.2010 for the insertion of s. 10B for specified purposes, 1.8.2011 for the insertion of s. 10B for further specified purposes) by [Charities Act 2006 \(c. 50\), s. 79\(1\)\(g\)](#), [Sch. 8 para. 104](#) (with [Sch. 10 para. 20](#)); [S.I. 2007/309, art. 2, Sch.](#) (with [art. 5](#)); [S.I. 2010/503, art. 2, Sch. 1](#) (with [Sch. 2](#)); [S.I. 2011/1728, art. 2, Sch. 1](#) (with [Sch. 2](#))

### 10B Disclosure to and by principal regulators of exempt charities

- (1) Sections 10 and 10A above apply with the modifications in subsections (2) to (4) below in relation to the disclosure of information to or by the principal regulator of an exempt charity.
- (2) References in those sections to the Commission or to any of its functions are to be read as references to the principal regulator of an exempt charity or to any of the functions of that body or person as principal regulator in relation to the charity.
- (3) Section 10 above has effect as if for subsections (2) and (3) there were substituted—
- “(2) But Revenue and Customs information may be disclosed under subsection (1) only if it relates to—
- (a) the exempt charity in relation to which the principal regulator has functions as such, or

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- (b) a subsidiary undertaking of the exempt charity.
- (3) In subsection (2)(b) above “subsidiary undertaking of the exempt charity” means an undertaking (as defined by section 259(1) of the Companies Act 1985) in relation to which—
- (a) the exempt charity is (or is to be treated as) a parent undertaking in accordance with the provisions of section 258 of, and Schedule 10A to, the Companies Act 1985, or
- (b) the exempt charity and one or more other charities would, if they were a single charity, be (or be treated as) a parent undertaking in accordance with those provisions.”
- (4) Section 10A above has effect as if for the definition of “responsible person” in subsection (7) there were substituted a definition specified by regulations under section 13(4)(b) of the Charities Act 2006 (regulations prescribing principal regulators).
- (5) Regulations under section 13(4)(b) of that Act may also make such amendments or other modifications of any enactment as the Secretary of State considers appropriate for securing that any disclosure provisions that would otherwise apply in relation to the principal regulator of an exempt charity do not apply in relation to that body or person in its or his capacity as principal regulator.
- (6) In subsection (5) above “disclosure provisions” means provisions having effect for authorising, or otherwise in connection with, the disclosure of information by or to the principal regulator concerned.

#### Textual Amendments

- F1** Ss. 10-10C substituted for s. 10 (27.2.2007 except for the insertion of s. 10B and references to s. 10B, 8.11.2006 for specified purposes, 1.6.2010 for the insertion of s. 10B for specified purposes, 1.8.2011 for the insertion of s. 10B for further specified purposes) by [Charities Act 2006 \(c. 50\)](#), s. 79(1)(g), [Sch. 8 para. 104](#) (with [Sch. 10 para. 20](#)); [S.I. 2007/309, art. 2, Sch.](#) (with [art. 5](#)); [S.I. 2010/503, art. 2, Sch. 1](#) (with [Sch. 2](#)); [S.I. 2011/1728, art. 2, Sch. 1](#) (with [Sch. 2](#))

#### 10C Disclosure of information: supplementary

- (1) In sections 10 and 10A above “relevant public authority” means—
- (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).
- (2) In section 10A above “relevant public authority” also includes any body or person within subsection (1)(d) above in a country or territory outside the United Kingdom.
- (3) In sections 10 to 10B above and this section—
- “enactment” has the same meaning as in the Charities Act 2006;
- “Revenue and Customs information” means information held as mentioned in section 18(1) of the Commissioners for Revenue and Customs Act 2005.

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- (4) Nothing in sections 10 and 10A above (or in those sections as applied by section 10B(1) to (4) above) authorises the making of a disclosure which—
  - (a) contravenes the Data Protection Act 1998, or
  - (b) is prohibited by Part 1 of the Regulation of Investigatory Powers Act 2000.]

**Textual Amendments**

**F1** Ss. 10-10C substituted for s. 10 (27.2.2007 except for the insertion of s. 10B and references to s. 10B, 8.11.2006 for specified purposes, 1.6.2010 for the insertion of s. 10B for specified purposes, 1.8.2011 for the insertion of s. 10B for further specified purposes) by [Charities Act 2006 \(c. 50\)](#), [s. 79\(1\)\(g\)](#), [Sch. 8 para. 104](#) (with [Sch. 10 para. 20](#)); [S.I. 2007/309, art. 2](#), [Sch. \(with art. 5\)](#); [S.I. 2010/503, art. 2](#), [Sch. 1 \(with Sch. 2\)](#); [S.I. 2011/1728, art. 2](#), [Sch. 1 \(with Sch. 2\)](#)

**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.

**F2**<sup>12</sup> .....

**Textual Amendments**

**F2** S. 12 repealed (1.3.2000) by [1998 c. 29, s. 74\(2\)](#), [Sch. 16 Pt. I](#); [S.I. 2000/183, art. 2\(1\)](#)

**Status:**

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**Changes to legislation:**

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