



Charities Act 2006

2006 CHAPTER 50

PART 2

REGULATION OF CHARITIES

CHAPTER 6

AUDIT OR EXAMINATION OF ACCOUNTS WHERE CHARITY IS NOT A COMPANY

28 Annual audit or examination of accounts of charities which are not companies

(1) Section 43 of the 1993 Act (annual audit or examination of accounts of charities which are not companies) is amended as follows.

(2) For subsection (1) substitute—

“(1) Subsection (2) below applies to a financial year of a charity if—

- (a) the charity's gross income in that year exceeds £500,000; or
- (b) the charity's gross income in that year exceeds the accounts threshold and at the end of the year the aggregate value of its assets (before deduction of liabilities) exceeds £2.8 million.

“The accounts threshold” means £100,000 or such other sum as is for the time being specified in section 42(3) above.”

(3) In subsection (2) (accounts required to be audited) for paragraph (a) substitute—

“(a) would be eligible for appointment as auditor of the charity under Part 2 of the Companies Act 1989 if the charity were a company, or”.

(4) In subsection (3) (independent examinations instead of audits)—

- (a) for the words from “and its gross income” to “subsection (4) below” substitute “ but its gross income in that year exceeds £10,000, ”; and

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- (b) at the end insert— “ This is subject to the requirements of subsection (3A) below where the gross income exceeds £250,000, and to any order under subsection (4) below. ”
- (5) After subsection (3) insert—
- “(3A) If subsection (3) above applies to the accounts of a charity for a year and the charity's gross income in that year exceeds £250,000, a person qualifies as an independent examiner for the purposes of paragraph (a) of that subsection if (and only if) he is an independent person who is—
- (a) a member of a body for the time being specified in section 249D(3) of the Companies Act 1985 (reporting accountants);
 - (b) a member of the Chartered Institute of Public Finance and Accountancy; or
 - (c) a Fellow of the Association of Charity Independent Examiners.”
- (6) For subsection (8) substitute—
- “(8) The Minister may by order—
- (a) amend subsection (1)(a) or (b), (3) or (3A) above by substituting a different sum for any sum for the time being specified there;
 - (b) amend subsection (3A) by adding or removing a description of person to or from the list in that subsection or by varying any entry for the time being included in that list.”

Commencement Information

II S. 28 in force at 27.2.2007 by S.I. 2007/309, art. 2, Sch.

29 Duty of auditor etc. of charity which is not a company to report matters to Commission

- (1) After section 44 of the 1993 Act insert—

“44A Duty of auditors etc. to report matters to Commission

- (1) This section applies to—
- (a) a person acting as an auditor or independent examiner appointed by or in relation to a charity under section 43 above,
 - (b) a person acting as an auditor or examiner appointed under section 43A(2) or (3) above, and
 - (c) the Auditor General for Wales acting under section 43B(2) or (3) above.
- (2) If, in the course of acting in the capacity mentioned in subsection (1) above, a person to whom this section applies becomes aware of a matter—
- (a) which relates to the activities or affairs of the charity or of any connected institution or body, and
 - (b) which he has reasonable cause to believe is likely to be of material significance for the purposes of the exercise by the Commission of its functions under section 8 or 18 above,

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he must immediately make a written report on the matter to the Commission.

(3) If, in the course of acting in the capacity mentioned in subsection (1) above, a person to whom this section applies becomes aware of any matter—

(a) which does not appear to him to be one that he is required to report under subsection (2) above, but

(b) which he has reasonable cause to believe is likely to be relevant for the purposes of the exercise by the Commission of any of its functions,

he may make a report on the matter to the Commission.

(4) Where the duty or power under subsection (2) or (3) above has arisen in relation to a person acting in the capacity mentioned in subsection (1), the duty or power is not affected by his subsequently ceasing to act in that capacity.

(5) Where a person makes a report as required or authorised by subsection (2) or (3), no duty to which he is subject is to be regarded as contravened merely because of any information or opinion contained in the report.

(6) In this section “connected institution or body”, in relation to a charity, means—

(a) an institution which is controlled by, or

(b) a body corporate in which a substantial interest is held by,

the charity or any one or more of the charity trustees acting in his or their capacity as such.

(7) Paragraphs 3 and 4 of Schedule 5 to this Act apply for the purposes of subsection (6) above as they apply for the purposes of provisions of that Schedule.”

(2) In section 46 of the 1993 Act (special provisions as respects accounts and annual reports of exempt and excepted charities)—

(a) in subsection (1) for “sections 41 to 45” substitute “ sections 41 to 44 or section 45 ”; and

(b) after subsection (2) insert—

“(2A) Section 44A(2) to (7) above shall apply in relation to a person appointed to audit, or report on, the accounts of an exempt charity which is not a company as they apply in relation to a person such as is mentioned in section 44A(1).

(2B) But section 44A(2) to (7) so apply with the following modifications—

(a) any reference to a person acting in the capacity mentioned in section 44A(1) is to be read as a reference to his acting as a person appointed as mentioned in subsection (2A) above; and

(b) any reference to the Commission or to any of its functions is to be read as a reference to the charity's principal regulator or to any of that person's functions in relation to the charity as such.”

Commencement Information

I2 S. 29(1) in force at 1.4.2008 by S.I. 2008/945, art. 2, Sch. 1 (with arts. 4, 5)

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30 Group accounts

(1) After section 49 of the 1993 Act insert—

“49A Group accounts

The provisions of Schedule 5A to this Act shall have effect with respect to—

- (a) the preparation and auditing of accounts in respect of groups consisting of parent charities and their subsidiary undertakings (within the meaning of that Schedule), and
- (b) other matters relating to such groups.”

(2) Schedule 6 (which inserts the new Schedule 5A into the 1993 Act) has effect.

Commencement Information

I3 S. 30(1) in force at 1.4.2008 by S.I. 2008/945, art. 2, Sch. 1 (with arts. 4, 5)

I4 S. 30(2) in force at 27.2.2007 for specified purposes by S.I. 2007/309, art. 2, Sch.

I5 S. 30(2) in force at 1.4.2008 in so far as not already in force by S.I. 2008/945, art. 2, Sch. 1 (with arts. 4, 5)

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