



Charities Act 2011

2011 CHAPTER 25

PART 8 **E+W**

CHARITY ACCOUNTS, REPORTS AND RETURNS

CHAPTER 1 **E+W**

INDIVIDUAL ACCOUNTS

130 Accounting records **E+W**

- (1) The charity trustees of a charity must 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 132(1), those statements of accounts comply with the requirements of regulations under section 132(1).
- (2) The accounting records must 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.

131 Preservation of accounting records **E+W**

- (1) The charity trustees of a charity must preserve any accounting records made for the purposes of section 130 in respect of the charity for at least 6 years from the end of the financial year of the charity in which they are made.

Status: Point in time view as at 01/10/2012.

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- (2) Subsection (3) applies if a charity ceases to exist within the period of 6 years mentioned in subsection (1) as it applies to any accounting records.
- (3) The obligation to preserve the accounting records in accordance with subsection (1) must continue to be discharged by the last charity trustees of the charity, unless the Commission consents in writing to the records being destroyed or otherwise disposed of.

132 Preparation of statement of accounts E+W

- (1) The charity trustees of a charity must (subject to section 133) 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 Minister.
- (2) Regulations under subsection (1) may in particular 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.
- (3) Regulations under subsection (1) may also make provision for determining the financial years of a charity for the purposes of this Act and any regulations made under it.
- (4) But regulations under subsection (1) may not impose on the charity trustees of a charity that is a charitable trust created by any person (“the settlor”) any requirement to disclose, in any statement of accounts prepared by them under subsection (1)—
 - (a) the identities of recipients of grants made out of the funds of the charity, or
 - (b) the amounts of any individual grants so made,
 if the disclosure would fall to be made at a time when the settlor or any spouse or civil partner of the settlor was still alive.

133 Account and statement an option for lower-income charities E+W

If a charity's gross income in any financial year does not exceed £250,000, the charity trustees may, in respect of that year, elect to prepare—

- (a) a receipts and payments account, and
- (b) a statement of assets and liabilities,

instead of a statement of accounts under section 132(1).

134 Preservation of statement of accounts or account and statement E+W

- (1) The charity trustees of a charity must preserve—
 - (a) any statement of accounts prepared by them under section 132(1), or
 - (b) any account and statement prepared by them under section 133,
 for at least 6 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.
- (2) Subsection (3) applies if a charity ceases to exist within the period of 6 years mentioned in subsection (1) as it applies to any statement of accounts or account and statement.
- (3) The obligation to preserve the statement or account and statement in accordance with subsection (1) must continue to be discharged by the last charity trustees of the charity,

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unless the Commission consents in writing to the statement or account and statement being destroyed or otherwise disposed of.

135 Charitable companies **E+W**

Nothing in sections 130 to 134 (preparation and preservation of individual accounts) applies to a charitable company.

136 Exempt charities **E+W**

- (1) Nothing in sections 130 to 134 (preparation and preservation of individual accounts) applies to an exempt charity.
- (2) But the charity trustees of an exempt charity—
 - (a) must keep proper books of account with respect to the affairs of the charity, and
 - (b) if not required by or under the authority of any other Act to prepare periodical statements of account must prepare consecutive statements of account consisting on each occasion of—
 - (i) an income and expenditure account relating to a period of not more than 15 months, and
 - (ii) a balance sheet relating to the end of that period.
- (3) The books of accounts and statements of account relating to an exempt charity must be preserved for a period of at least 6 years unless—
 - (a) the charity ceases to exist, and
 - (b) the Commission consents in writing to their being destroyed or otherwise disposed of.

CHAPTER 2 **E+W**

GROUP ACCOUNTS

137 Accounting records **E+W**

- (1) The charity trustees of a parent charity or of any charity which is a subsidiary undertaking must ensure that the accounting records kept in respect of the charity under—
 - (a) section 130(1) (individual accounts: accounting records), or
 - (b) (as the case may be) section 386 of the Companies Act 2006 (duty to keep accounting records),are such as to enable the charity trustees of the parent charity to ensure that, where any group accounts are prepared by them under section 138(2), those accounts comply with the requirements of regulations under section 142.
- (2) The duty in subsection (1) is in addition to the duty to ensure that the accounting records comply with the requirements of—
 - (a) section 130(1), or
 - (b) section 386 of the Companies Act 2006.

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- (3) Subsection (4) applies if a parent charity has a subsidiary undertaking in relation to which the requirements of—
- (a) section 130(1), or
 - (b) section 386 of the Companies Act 2006,
- do not apply.
- (4) The charity trustees of the parent charity must take reasonable steps to secure that the undertaking keeps such accounting records as to enable the trustees to ensure that, where any group accounts are prepared by them under section 138(2), those accounts comply with the requirements of regulations under section 142.

138 Preparation of group accounts E+W

- (1) This section applies in relation to a financial year of a charity if—
- (a) the charity is a parent charity at the end of that year, and
 - (b) (where it is a company) it is not required to prepare consolidated accounts for that year under section 399 of the Companies Act 2006 (duty to prepare group accounts), whether or not such accounts are in fact prepared.
- (2) The charity trustees of the parent charity must prepare group accounts in respect of that year.
- (3) If the requirement in subsection (2) applies to the charity trustees of a parent charity (other than a parent charity which is a company) in relation to a financial year—
- (a) that requirement so applies in addition to the requirement in section 132(1) (statement of accounts), and
 - (b) the option of preparing the documents mentioned in section 133 (account and statement) is not available in relation to that year (whatever the amount of the charity's gross income for that year).
- (4) If—
- (a) the requirement in subsection (2) applies to the charity trustees of a parent charity in relation to a financial year, and
 - (b) the charity is a company,
- that requirement so applies in addition to the requirement in section 394 of the Companies Act 2006 (duty to prepare individual accounts).
- (5) Subsection (2) is subject to section 139.

139 Exceptions to requirement to prepare group accounts E+W

- (1) The requirement in section 138(2) does not apply to the charity trustees of a parent charity in relation to a financial year if at the end of that year it is itself a subsidiary undertaking in relation to another charity.
- (2) The requirement in section 138(2) does not apply to the charity trustees of a parent charity in relation to a financial year if the aggregate gross income of the group for that year does not exceed such sum as is specified in regulations made by the Minister.
- (3) Regulations made by the Minister may prescribe circumstances in which a subsidiary undertaking may or (as the case may be) must be excluded from group accounts required to be prepared under section 138(2) for a financial year.

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- (4) Where, by virtue of such regulations, each of the subsidiary undertakings which are members of a group is—
- (a) permitted to be excluded from any such group accounts for a financial year, or
 - (b) required to be so excluded,
- the requirement in section 138(2) does not apply to the charity trustees of the parent charity in relation to that year.

140 Preservation of group accounts **E+W**

- (1) The charity trustees of a charity must preserve any group accounts prepared by them under section 138(2) for at least 6 years from the end of the financial year to which the accounts relate.
- (2) Subsection (3) applies if a charity ceases to exist within the period of 6 years mentioned in subsection (1) as it applies to any group accounts.
- (3) The obligation to preserve the accounts in accordance with subsection (1) must continue to be discharged by the last charity trustees of the charity, unless the Commission consents in writing to the accounts being destroyed or otherwise disposed of.

141 “Parent charity”, “subsidiary undertaking” and “group” **E+W**

- (1) This section applies for the purposes of this Part.
- (2) A charity is a parent charity if it is (or is to be treated as) a parent undertaking in relation to one or more other undertakings in accordance with the provisions of section 1162 of, and Schedule 7 to, the Companies Act 2006.
- (3) Each undertaking in relation to which a parent charity is (or is to be treated as) a parent undertaking in accordance with those provisions is a subsidiary undertaking in relation to the parent charity.
- (4) But subsection (3) does not have the result that any of the following is a subsidiary undertaking—
- (a) any special trusts of a charity,
 - (b) any institution which, by virtue of a direction under section 12(1), is to be treated as forming part of a charity for the purposes of this Part, or
 - (c) any charity to which a direction under section 12(2) applies for the purposes of this Part.
- (5) “The group”, in relation to a parent charity, means that charity and its subsidiary undertaking or undertakings, and any reference to the members of the group is to be read accordingly.
- (6) For the purposes of this section and the operation for those purposes of section 1162 of, and Schedule 7 to, the Companies Act 2006 “undertaking” means—
- (a) an undertaking as defined by section 1161(1) of the 2006 Act, or
 - (b) a charity which is not an undertaking as so defined.

142 “Group accounts” **E+W**

- (1) For the purposes of this Part, “group accounts” means consolidated accounts—

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- (a) relating to the group, and
 - (b) complying with such requirements as to their form and contents as may be prescribed by regulations made by the Minister.
- (2) Regulations under subsection (1) may in particular make provision—
- (a) for any such accounts to be prepared in accordance with such methods and principles as are specified or referred to in the regulations;
 - (b) for dealing with cases where the financial years of the members of the group do not all coincide;
 - (c) as to any information to be provided by way of notes to the accounts.
- (3) Regulations under subsection (1) may also make provision—
- (a) for determining the financial years of subsidiary undertakings for the purposes of this Part;
 - (b) for imposing on the charity trustees of a parent charity requirements with respect to securing that such financial years coincide with that of the charity.

143 Exempt charities **E+W**

Nothing in sections 137 to 142 (preparation and preservation of group accounts) applies to an exempt charity.

CHAPTER 3 **E+W**

AUDIT OR EXAMINATION OF ACCOUNTS

Audit or examination of individual accounts

144 Audit of accounts of larger charities **E+W**

- (1) Subsection (2) 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 £3.26 million.
- “The accounts threshold” means the sum for the time being specified in section 133 (account and statement an option for lower-income charities).
- (2) If this subsection applies to a financial year of a charity, the accounts of the charity for that year must be audited by a person who—
- (a) is eligible for appointment as a statutory auditor under Part 42 of the Companies Act 2006, or
 - (b) is a member of a body for the time being specified in regulations under section 154 and is under the rules of that body eligible for appointment as auditor of the charity.

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145 Examination of accounts an option for lower-income charities **E+W**

- (1) If section 144(2) does not apply to a financial year of a charity but its gross income in that year exceeds £25,000, the accounts of the charity for that year must, at the election of the charity trustees, be—
 - (a) examined by an independent examiner, that is, 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) audited by a person within section 144(2)(a) or (b).
- (2) Subsection (1) is subject to—
 - (a) subsection (3), and
 - (b) any order under section 146(1).
- (3) If subsection (1) 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 subsection (1)(a) if (and only if) the person is independent and—
 - (a) a member of one of the bodies listed in subsection (4), or
 - (b) a Fellow of the Association of Charity Independent Examiners.
- (4) The bodies referred to in subsection (3)(a) are—
 - (a) the Institute of Chartered Accountants in England and Wales;
 - (b) the Institute of Chartered Accountants of Scotland;
 - (c) the Institute of Chartered Accountants in Ireland;
 - (d) the Association of Chartered Certified Accountants;
 - (e) the Association of Authorised Public Accountants;
 - (f) the Association of Accounting Technicians;
 - (g) the Association of International Accountants;
 - (h) the Chartered Institute of Management Accountants;
 - (i) the Institute of Chartered Secretaries and Administrators;
 - (j) the Chartered Institute of Public Finance and Accountancy.
- (5) The Commission 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 it thinks appropriate with respect to the carrying out of an examination in pursuance of subsection (1)(a);and any such guidance or directions may either be of general application or apply to a particular charity only.
- (6) The Minister may by order—
 - (a) amend subsection (3) 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;
 - (b) amend subsection (4) by adding or removing a body to or from the list in that subsection or by varying any entry for the time being included in that list.

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146 Commission's powers to order audit **E+W**

- (1) The Commission may by order require the accounts of a charity for a financial year to be audited by a person within section 144(2)(a) or (b) if it appears to the Commission that—
 - (a) section 144(2), or (as the case may be) section 145(1), has not been complied with in relation to that year within 10 months from the end of that year, or
 - (b) although section 144(2) does not apply to that year, it would nevertheless be desirable for the accounts of the charity for that year to be audited by a person within section 144(2)(a) or (b).
- (2) If the Commission makes an order under subsection (1) with respect to a charity, the auditor must be a person appointed by the Commission unless—
 - (a) the order is made by virtue of subsection (1)(b), and
 - (b) the charity trustees themselves appoint an auditor in accordance with the order.
- (3) The expenses of any audit carried out by an auditor appointed by the Commission under subsection (2), including the auditor's remuneration, are recoverable by the Commission—
 - (a) from the charity trustees of the charity concerned, who are personally liable, jointly and severally, for those expenses, or
 - (b) to the extent that it appears to the Commission not to be practical to seek recovery of those expenses in accordance with paragraph (a), from the funds of the charity.

147 Accounts required to be audited under Companies Act **E+W**

- (1) Nothing in sections 144 to 146 applies in relation to the accounts of a charitable company for a financial year if those accounts are required to be audited in accordance with Part 16 of the Companies Act 2006 ("Part 16 accounts").
- (2) In the case of a charitable company, the Commission may by order require that the condition and Part 16 accounts of the company for such period as the Commission thinks fit are to be investigated and audited by an auditor who—
 - (a) is eligible for appointment as a statutory auditor under Part 42 of the Companies Act 2006, and
 - (b) is appointed by the Commission.
- (3) An auditor acting under subsection (2)—
 - (a) has a right of access to all books, accounts and documents relating to the company which are in the possession or control of the charity trustees or to which the charity trustees have access;
 - (b) is entitled to require from any charity trustee, past or present, and from any past or present officer or employee of the company such information and explanation as the auditor thinks necessary for the performance of the auditor's duties;
 - (c) must at the conclusion or during the progress of the audit make such reports to the Commission about the audit or about the accounts or affairs of the company as the auditor thinks the case requires, and must send a copy of any such report to the charity trustees.
- (4) The expenses of any audit under subsection (2) including the remuneration of the auditor, are to be paid by the Commission.

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- (5) If any person fails to afford an auditor any facility to which the auditor is entitled under subsection (3), the Commission may by order give to that person or to the charity trustees for the time being such directions as the Commission thinks appropriate for securing that the default is made good.

148 NHS charities: general **E+W**

Nothing in sections 144 to 146 applies in relation to a financial year of a charity where, at any time in the year, it is—

- (a) an English NHS charity (as defined in section 149), or
- (b) a Welsh NHS charity (as defined in section 150).

149 Audit or examination of English NHS charity accounts **E+W**

- (1) This section applies in relation to a financial year of a charity where, at any time in the year, it is an English NHS charity.
- (2) If section 144(1)(a) or (b) is satisfied in relation to that financial year of the charity, the accounts of the charity for that year must be audited by a person appointed by the Audit Commission.
- (3) In any other case, the accounts of the charity for that financial year must, at the election of the Audit Commission, be—
- (a) audited by a person appointed by the Audit Commission, or
 - (b) examined by a person so appointed.
- (4) Section 3 of the Audit Commission Act 1998 applies in relation to any appointment under subsection (2) or (3)(a).
- (5) The Charity Commission may give such directions as it thinks appropriate with respect to the carrying out of an examination in pursuance of subsection (3)(b); and any such directions may either be of general application or apply to a particular charity only.
- (6) The Comptroller and Auditor General may at any time examine and inspect—
- (a) the accounts of the charity for the financial year,
 - (b) any records relating to those accounts, and
 - (c) any report of a person appointed under subsection (2) or (3) to audit or examine those accounts.
- (7) In this section, “English NHS charity” means a charitable trust, the trustees of which are—
- (a) a Strategic Health Authority,
 - (b) a Primary Care Trust,
 - ^[F1](ba) the National Health Service Commissioning Board,
 - (bb) a clinical commissioning group,
 - (bc) trustees for the National Health Service Commissioning Board appointed in pursuance of paragraph 11 of Schedule A1 to the National Health Service Act 2006, or
 - (bd) trustees for a clinical commissioning group appointed in pursuance of paragraph 15 of Schedule 1A to that Act,]

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- (c) a National Health Service trust all or most of whose hospitals, establishments and facilities are situated in England,
 - (d) trustees appointed in pursuance of paragraph 10 of Schedule 4 to the National Health Service Act 2006 for a National Health Service trust falling within paragraph (c),
 - (e) special trustees appointed in pursuance of section 29(1) of the National Health Service Reorganisation Act 1973, section 95(1) of the National Health Service Act 1977 and section 212(1) of the National Health Service Act 2006 for such a National Health Service trust, or
 - (f) trustees for a Primary Care Trust appointed in pursuance of paragraph 12 of Schedule 3 to the National Health Service Act 2006.
- (8) In this Chapter “the Audit Commission” means the Audit Commission for Local Authorities and the National Health Service in England.

Textual Amendments

- F1** S. 149(7)(ba)-(bd) inserted (1.10.2012) by Health and Social Care Act 2012 (c. 7), s. 306(4), Sch. 5 para. 184(c); S.I. 2012/1831, art. 2(2)

150 Audit or examination of Welsh NHS charity accounts **E+W**

- (1) This section applies in relation to a financial year of a charity where, at any time in the year, it is a Welsh NHS charity.
- (2) If section 144(1)(a) or (b) is satisfied in relation to that financial year of the charity, the accounts of the charity for that year must be audited by the Auditor General for Wales.
- (3) In any other case, the accounts of the charity for that financial year must, at the election of the Auditor General for Wales, be audited or examined by the Auditor General for Wales.
- (4) In this section “Welsh NHS charity” means a charitable trust, the trustees of which are—
 - (a) a Local Health Board,
 - (b) a National Health Service trust all or most of whose hospitals, establishments and facilities are situated in Wales,
 - (c) trustees appointed in pursuance of paragraph 10 of Schedule 3 to the National Health Service (Wales) Act 2006 for a National Health Service trust falling within paragraph (b), or
 - (d) special trustees appointed in pursuance of section 29(1) of the National Health Service Reorganisation Act 1973, section 95(1) of the National Health Service Act 1977 and section 160(1) of the National Health Service (Wales) Act 2006 for such a National Health Service trust.
- (5) References in this Act to an auditor or an examiner have effect in relation to this section as references to the Auditor General for Wales acting under this section as an auditor or examiner.

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Audit or examination of group accounts

151 Audit of accounts of larger groups **E+W**

- (1) This section applies where group accounts are prepared for a financial year of a parent charity under section 138(2) and—
 - (a) the aggregate gross income of the group in that year exceeds the relevant income threshold (see section 176(1)), or
 - (b) the aggregate gross income of the group in that year exceeds the relevant income threshold and at the end of the year the aggregate value of the assets of the group (before deduction of liabilities) exceeds the relevant assets threshold (see section 176(2)).
- (2) This section also applies where—
 - (a) group accounts are prepared for a financial year of a parent charity under section 138(2), and
 - (b) the appropriate audit provision applies in relation to the parent charity's own accounts for that year.
- (3) In this section “the appropriate audit provision”, in relation to a financial year of a parent charity, means—
 - (a) (subject to paragraph (b), (c) or (d)) section 144(2) (audit of accounts of larger charities);
 - (b) if section 149 (audit or examination of English NHS charity accounts) applies in relation to that year, section 149(2);
 - (c) if section 150 (audit or examination of Welsh NHS charity accounts) applies in relation to that year, section 150(2);
 - (d) if the parent charity is a company—
 - (i) section 144(2), or
 - (ii) (as the case may be) Part 16 of the Companies Act 2006.
- (4) If this section applies in relation to a financial year of a parent charity by virtue of subsection (1) or (2), the group accounts for that year must be audited—
 - (a) (subject to paragraph (b) or (c)) by a person within section 144(2)(a) or (b);
 - (b) if section 149 applies in relation to that year, by a person appointed by the Audit Commission;
 - (c) if section 150 applies in relation to that year, by the Auditor General for Wales.
- (5) If this section applies in relation to a financial year of a parent charity by virtue of subsection (1)—
 - (a) (subject to paragraph (b)) the appropriate audit provision applies in relation to the parent charity's own accounts for that year (whether or not it would otherwise so apply);
 - (b) if the parent charity is a company and its own accounts for that year are not required to be audited in accordance with Part 16 of the Companies Act 2006, section 144(2) applies in relation to those accounts (whether or not it would otherwise so apply).
- (6) Subsections (4) and (6) of section 149 apply in relation to any appointment under subsection (4)(b) as they apply in relation to an appointment under section 149(2).

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- (7) References in this Act to an auditor have effect in relation to subsection (4)(c) as references to the Auditor General for Wales acting under subsection (4)(c) as an auditor.

152 Examination of accounts an option for smaller groups E+W

- (1) This section applies if—
- (a) group accounts are prepared for a financial year of a parent charity under section 138(2), and
 - (b) section 151 (audit of accounts of larger groups) does not apply in relation to that year.

- (2) If—
- (a) this section applies in relation to a financial year of a parent charity,
 - (b) the aggregate gross income of the group in that year exceeds the sum specified in section 145(1), and
 - (c) subsection (6) or (7) (NHS charity: group accounts) does not apply in relation to it,

the group accounts for that year must, at the election of the charity trustees of the parent charity, be examined by an independent examiner (as defined in section 145(1) (a)) or audited by a person within section 144(2)(a) or (b).

- (3) Subsection (2) is subject to—
- (a) subsection (4), and
 - (b) any order under section 153(1).
- (4) If subsection (2) applies to the group accounts for a year and the aggregate gross income of the group in that year exceeds the sum specified in section 145(3), a person qualifies as an independent examiner for the purposes of subsection (2) if (and only if) the person is independent and meets the requirements of section 145(3)(a) or (b).

- (5) The Commission may—
- (a) give guidance to charity trustees of a parent charity in connection with the selection of a person for appointment as an independent examiner;
 - (b) give such directions as it thinks appropriate with respect to the carrying out of an examination in pursuance of subsection (2);

and any such guidance or directions may either be of general application or apply to a particular charity only.

- (6) If—
- (a) this section applies in relation to a financial year of a parent charity, and
 - (b) section 149 (audit or examination of English NHS charity accounts) also applies in relation to that year,

the group accounts for that year must at the election of the Audit Commission be audited by a person appointed by the Audit Commission or examined by a person so appointed.

Subsections (4) to (6) of section 149 apply for the purposes of this subsection as they apply for the purposes of section 149(3).

- (7) If—
- (a) this section applies in relation to a financial year of a parent charity, and

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(b) section 150 (audit or examination of Welsh NHS charity accounts) also applies in relation to that year,

the group accounts for that year must, at the election of the Auditor General for Wales, be audited or examined by the Auditor General for Wales.

References in this Act to an auditor or an examiner have effect in relation to this subsection as references to the Auditor General for Wales acting under this subsection as an auditor or examiner.

- (8) If the group accounts for a financial year of a parent charity are to be examined or audited in accordance with subsection (2), section 145(1) applies in relation to the parent charity's own accounts for that year (whether or not it would otherwise so apply).
- (9) Nothing in subsection (6) or (7) affects the operation of section 149(3) to (6) or (as the case may be) section 150(3) in relation to the parent charity's own accounts for the financial year in question.

153 Commission's powers to order audit of group accounts **E+W**

- (1) The Commission may by order require the group accounts of a parent charity for a financial year to be audited by a person within section 144(2)(a) or (b) if it appears to the Commission that—
- (a) section 151(4)(a), or (as the case may be) section 152(2), has not been complied with in relation to that year within 10 months from the end of that year, or
 - (b) although section 151(4)(a) does not apply to that year, it would nevertheless be desirable for the group accounts for that year to be audited by a person within section 144(2)(a) or (b).

But this subsection does not apply if section 149 or 150 (audit or examination of NHS charity accounts) applies in relation to the parent charity for that year.

- (2) If the Commission makes an order under subsection (1) with respect to group accounts, the auditor must be a person appointed by the Commission unless—
- (a) the order is made by virtue of subsection (1)(b), and
 - (b) the charity trustees of the parent charity themselves appoint an auditor in accordance with the order.
- (3) The expenses of any audit carried out by an auditor appointed by the Commission under subsection (2), including the auditor's remuneration, are recoverable by the Commission—
- (a) from the charity trustees of the parent charity, who are personally liable, jointly and severally, for those expenses, or
 - (b) to the extent that it appears to the Commission not to be practical to seek recovery of those expenses in accordance with paragraph (a), from the funds of the parent charity.

Regulations relating to audits and examinations

154 Regulations relating to audits and examinations **E+W**

- (1) The Minister may by regulations make provision—

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- (a) specifying one or more bodies for the purposes of section 144(2)(b);
 - (b) with respect to the duties of an auditor carrying out an audit of individual or group accounts, including provision with respect to the making by the auditor of a report on—
 - (i) the statement of accounts prepared for the financial year in question under section 132(1),
 - (ii) the account and statement so prepared under section 133,
 - (iii) the accounts so prepared under section 394 of the Companies Act 2006 (duty to prepare individual accounts), or
 - (iv) group accounts so prepared under section 138(2),
 as the case may be;
 - (c) with respect to the making of a report in respect of an examination of individual or group accounts by the independent examiner or examiner who has carried out the examination;
 - (d) conferring on an auditor or on an independent examiner or examiner a right of access with respect to books, documents and other records (however kept) which relate to—
 - (i) the charity (if the audit or examination is of individual accounts), or
 - (ii) any member of the group (if the audit or examination is of group accounts);
 - (e) entitling an auditor or an independent examiner or examiner to require information and explanations from—
 - (i) past or present charity trustees or trustees for, or past or present officers or employees of, the charity (if the audit or examination is of individual accounts), or
 - (ii) past or present charity trustees or trustees for, or past or present officers or employees of, any member of the group (if the audit or examination is of group accounts);
 - (f) enabling the Commission, in circumstances specified in the regulations, to dispense with the requirements of section 144(2), 145(1), 151(4)(a) or 152(2)
 - (i) in the case of a particular charity, or
 - (ii) in the case of any particular financial year of a charity.
- (2) Regulations under subsection (1)(e) may in particular make, in relation to audits or examinations of group accounts, provision corresponding or similar to any provision made by section 499 or 500 of the Companies Act 2006 in connection with the rights exercisable by an auditor of a company in relation to a subsidiary undertaking of the company.
- (3) In this section—
- “audit of individual or group accounts” means an audit under—
 - (a) section 144, 145, 146, 149 or 150 (individual accounts), or
 - (b) section 151, 152 or 153 (group accounts);
 - “examination of individual or group accounts” means an examination under—
 - (a) section 145, 149 or 150 (individual accounts), or
 - (b) section 152 (group accounts);

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and the references in this section and section 155 to an audit or examination of individual accounts and to an audit or examination of group accounts are to be read accordingly.

155 Power of Commission to direct compliance with certain regulations **E+W**

If any person fails to afford an auditor or an independent examiner or examiner any facility to which the auditor, independent examiner or examiner is entitled by virtue of section 154(1)(d) or (e), the Commission, for securing that the default is made good, may by order give such directions as it thinks appropriate—

- (a) to that person,
- (b) if the audit or examination is of individual accounts, to the charity trustees for the time being of the charity concerned, or
- (c) if the audit or examination is of group accounts, to the charity trustees for the time being of such member of the group as the Commission thinks appropriate.

Duty of auditors etc. to report matters to Commission

156 Duty of auditors etc. to report matters to Commission **E+W**

- (1) This section applies to a person (“P”) who—
 - (a) is acting as an auditor or independent examiner appointed by or in relation to a charity under sections 144 to 146 (audit or examination of individual accounts),
 - (b) is acting as an auditor or examiner appointed under section 149(2) or (3) (audit or examination of English NHS charity accounts), or
 - (c) is the Auditor General for Wales acting under section 150(2) or (3) (audit or examination of Welsh NHS charity accounts).
- (2) If, in the course of acting in the capacity mentioned in subsection (1), P 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 P 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 the provisions mentioned in subsection (3),

P must immediately make a written report on the matter to the Commission.
- (3) The provisions are—
 - (a) sections 46, 47 and 50 (inquiries by Commission);
 - (b) sections 76 and 79 to 82 (Commission's powers to act for protection of charities).
- (4) If, in the course of acting in the capacity mentioned in subsection (1), P becomes aware of any matter—
 - (a) which does not appear to P to be one that P is required to report under subsection (2), but
 - (b) which P has reasonable cause to believe is likely to be relevant for the purposes of the exercise by the Commission of any of its functions,

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

- (5) Where the duty or power under subsection (2) or (4) has arisen in relation to P when acting in the capacity mentioned in subsection (1), the duty or power is not affected by P's subsequently ceasing to act in that capacity.
- (6) Where P makes a report as required or authorised by subsection (2) or (4), no duty to which P is subject is to be regarded as contravened merely because of any information or opinion contained in the report.

157 Meaning of “connected institution or body” in s.156(2) E+W

- (1) In section 156(2) “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 as such.
- (2) Sections 351 and 352 (meaning of controlled institution and substantial interest) apply for the purposes of subsection (1).

158 Application of duty in relation to auditors etc. of group accounts E+W

- (1) Subsections (2) to (6) of section 156 (duty of auditors etc. of individual accounts to report matters to Commission) apply in relation to a person appointed to audit, or report on, any group accounts under sections 151 to 153 as they apply in relation to the person referred to in section 156 as “P”.
- (2) In section 156(2)(a), as it applies in accordance with subsection (1), the reference to the charity or any connected institution or body is to be read as a reference to the parent charity or any of its subsidiary undertakings.

159 Application of duty in relation to Companies Act auditors E+W

- (1) Sections 156(2) to (6) and 157 (duty of auditors etc. of individual accounts to report matters to Commission) apply in relation to a person acting as a Companies Act auditor of a charitable company as they apply in relation to the person referred to in section 156 as “P”, but reading any reference to P's acting in the capacity mentioned in section 156(1) as a reference to the person acting as a Companies Act auditor.
- (2) In subsection (1), “Companies Act auditor” means an auditor appointed under Chapter 2 of Part 16 of the Companies Act 2006 (appointment of auditors).

Exempt and excepted charities

160 Exempt charities E+W

- (1) Nothing in sections 144 to 155 (audit or examination of accounts) applies to an exempt charity.
- (2) Sections 156(2) to (6) and 157 (duty of auditors etc. of individual accounts to report matters to Commission) 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 the person referred to in section 156 as “P”, but reading—

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- (a) any reference to P's acting in the capacity mentioned in section 156(1) as a reference to the person acting as a person so appointed, and
 - (b) any reference to the Commission or to any of its functions as a reference to the charity's principal regulator or to any of the latter's functions as principal regulator in relation to the charity.
- (3) Nothing in section 158 (duty of auditors etc. in relation to group accounts) applies to an exempt charity.

161 Excepted charities **E+W**

- (1) Nothing in sections 144 to 146 (audit or examination of individual accounts) applies to any charity which—
- (a) falls within section 30(2)(d) (whether or not it also falls within section 30(2)(b) or (c)), and
 - (b) is not registered.
- (2) Except in accordance with subsections (3) and (4), nothing in—
- (a) section 154 or 155 (regulations relating to audits and examinations), or
 - (b) section 156 or 157 (duty of auditors etc. to report matters to Commission),
- applies to a charity mentioned in subsection (1).
- (3) Sections 154 to 157 apply to a charity mentioned in subsection (1) which is also—
- (a) an English NHS charity (as defined in section 149), or
 - (b) a Welsh NHS charity (as defined in section 150).
- (4) Sections 156 and 157 apply in accordance with section 160(2) to a charity mentioned in subsection (1) which is also an exempt charity.

CHAPTER 4 **E+W**

ANNUAL REPORTS AND RETURNS AND PUBLIC ACCESS TO ACCOUNTS ETC.

Annual reports etc.

162 Charity trustees to prepare annual reports **E+W**

- (1) The charity trustees of a charity must 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 Minister.
- (2) Regulations under subsection (1) may in particular make provision—
- (a) for any such report as is mentioned in subsection (1)(a) to be prepared in accordance with such principles as are specified or referred to in the regulations;
 - (b) enabling the Commission to dispense with any requirement prescribed by virtue of subsection (1)(b)—
 - (i) in the case of a particular charity or a particular class of charities, or

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- (ii) in the case of a particular financial year of a charity or of any class of charities.

163 Transmission of annual reports to Commission in certain cases E+W

- (1) Where a charity's gross income in any financial year exceeds £25,000, a copy of the annual report required to be prepared under section 162 in respect of that year must be transmitted to the Commission by the charity trustees within—
- (a) 10 months from the end of that year, or
 - (b) such longer period as the Commission may for any special reason allow in the case of that report.
- (2) Where a charity's gross income in any financial year does not exceed £25,000, a copy of the annual report required to be prepared under section 162 in respect of that year must, if the Commission so requests, be transmitted to it by the charity trustees—
- (a) in the case of a request made before the end of 7 months from the end of the financial year to which the report relates, within 10 months from the end of that year, and
 - (b) in the case of a request not so made, within 3 months from the date of the request,
- or, in either case, within such longer period as the Commission may for any special reason allow in the case of that report.
- (3) In the case of a charity which is constituted as a CIO—
- (a) the requirement imposed by subsection (1) applies whatever the charity's gross income is, and
 - (b) subsection (2) does not apply.

164 Documents to be transmitted with annual report E+W

- (1) Subject to subsection (3), any copy of an annual report transmitted to the Commission under section 163 must have attached to it—
- (a) a copy of the statement of accounts prepared for the financial year in question under section 132(1), or
 - (b) (as the case may be) a copy of the account and statement so prepared under section 133,
- and a copy of the relevant auditor's or examiner's report.
- (2) In subsection (1), “the relevant auditor's or examiner's report” means—
- (a) if the accounts of the charity for that year have been audited under section 144, 145, 146, 149 or 150, the report made by the auditor on that statement of accounts or (as the case may be) on that account and statement;
 - (b) if the accounts of the charity for that year have been examined under section 145, 149 or 150, the report made by the person carrying out the examination.
- (3) Subsections (1) and (2) do not apply to a charitable company, and any copy of an annual report transmitted by the charity trustees of a charitable company under section 163 must have attached to it—
- (a) a copy of the company's annual accounts prepared for the financial year in question under Part 15 of the Companies Act 2006, and

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(b) a copy of the relevant auditor's or examiner's report.

(4) In subsection (3), “the relevant auditor's or examiner's report” means—

- (a) if the accounts of the company for that year have been audited under Part 16 of the Companies Act 2006, the report made by the auditor on those accounts;
- (b) if the accounts of the company for that year have been audited under section 144, 145 or 146, the report made by the auditor on those accounts;
- (c) if the accounts of the company for that year have been examined under section 145, the report made by the person carrying out the examination.

165 Preservation of annual reports etc. E+W

- (1) Any copy of an annual report transmitted to the Commission under section 163, together with the documents attached to it, is to be kept by the Commission for such period as it thinks fit.
- (2) The charity trustees of a charity must preserve for at least 6 years from the end of the financial year to which it relates an annual report prepared by them under section 162(1) if they have not been required to transmit a copy of it to the Commission.
- (3) Subsection (4) applies if a charity ceases to exist within the period of 6 years mentioned in subsection (2) as it applies to any annual report.
- (4) The obligation to preserve the annual report in accordance with subsection (2) must continue to be discharged by the last charity trustees of the charity, unless the Commission consents in writing to the annual report being destroyed or otherwise disposed of.

166 Annual reports and group accounts E+W

- (1) This section applies where group accounts are prepared for a financial year of a parent charity under section 138(2).
- (2) The annual report prepared by the charity trustees of the parent charity in respect of that year under section 162 must include—
 - (a) such a report by the trustees on the activities of the charity's subsidiary undertakings during that year, and
 - (b) such other information relating to any of those undertakings, as may be prescribed by regulations made by the Minister.
- (3) Regulations under subsection (2) may in particular make provision—
 - (a) for any such report as is mentioned in subsection (2)(a) to be prepared in accordance with such principles as are specified or referred to in the regulations;
 - (b) enabling the Commission to dispense with any requirement prescribed by virtue of subsection (2)(b) in the case of—
 - (i) a particular subsidiary undertaking, or
 - (ii) a particular class of subsidiary undertakings.
- (4) Section 163 (transmission of annual report to Commission in certain cases) applies in relation to the annual report referred to in subsection (2) as if any reference to

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the charity's gross income in the financial year in question were a reference to the aggregate gross income of the group in that year.

- (5) When transmitted to the Commission in accordance with subsection (4), the copy of the annual report must have attached to it both a copy of the group accounts prepared for that year under section 138(2) and—
- (a) a copy of the report made by the auditor on those accounts, or
 - (b) if those accounts have been examined under section 152, a copy of the report made by the person carrying out the examination.
- (6) The requirements in this section are in addition to those in sections 162 to 165.

167 Exempt charities **E+W**

Nothing in sections 162 to 166 (annual reports etc.) applies to any exempt charity.

168 Excepted charities **E+W**

- (1) Nothing in sections 162 to 165 (annual reports etc.) applies to any charity which—
- (a) falls within section 30(2)(d) (whether or not it also falls within section 30(2)(b) or (c)), and
 - (b) is not registered.
- (2) Except in accordance with subsection (5), nothing in sections 162 to 165 applies to any charity which—
- (a) falls within section 30(2)(b) or (c) but does not fall within section 30(2)(d), and
 - (b) is not registered.
- (3) If requested to do so by the Commission, the charity trustees of any such charity as is mentioned in subsection (2) must prepare an annual report in respect of such financial year of the charity as is specified in the Commission's request.
- (4) Any report prepared under subsection (3) must 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 162(1) in relation to annual reports prepared under section 162(1).
- (5) The following provisions apply in relation to any report required to be prepared under subsection (3) as if it were an annual report required to be prepared under section 162(1)—
- (a) section 163(1) (transmission of annual report in certain cases), with the omission of the words preceding “a copy of the annual report”, and
 - (b) sections 164 (documents to be transmitted with annual report) and 165(1) (preservation of annual reports etc.).
- (6) Subsections (7) and (8) apply where—
- (a) a charity is required to prepare an annual report in respect of a financial year by virtue of subsection (3),
 - (b) the charity is a parent charity at the end of the year, and

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- (c) group accounts are prepared for that year under section 138(2) by the charity trustees of the charity.
- (7) When transmitted to the Commission in accordance with subsection (5), the copy of the annual report must have attached to it both a copy of the group accounts and—
 - (a) a copy of the report made by the auditor on those accounts, or
 - (b) if those accounts have been examined under section 152, a copy of the report made by the person carrying out the examination.
- (8) The requirement in subsection (7) is in addition to that in subsection (4).

Annual returns

169 Annual returns by registered charities E+W

- (1) Subject to subsection (2), every registered charity must 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 Commission.
- (2) Subsection (1) does not apply in relation to any financial year of a charity in which the charity's gross income does not exceed £10,000 (but this subsection does not apply if the charity is constituted as a CIO).
- (3) Any such return must be transmitted to the Commission by the date by which the charity trustees are, by virtue of section 163(1), required to transmit to the Commission the annual report required to be prepared in respect of the financial year in question.
- (4) The Commission may dispense with the requirements of subsection (1)—
 - (a) in the case of a particular charity or a particular class of charities, or
 - (b) in the case of a particular financial year of a charity or of any class of charities.

Availability of documents to public

170 Public inspection of annual reports etc. kept by Commission E+W

Any document kept by the Commission in pursuance of section 165(1) (preservation of annual reports etc.) must be open to public inspection at all reasonable times—

- (a) during the period for which it is so kept, or
- (b) if the Commission so determines, during such lesser period as it may specify.

171 Supply by charity trustees of copy of most recent annual report E+W

- (1) This section applies if an annual report has been prepared in respect of any financial year of a charity in pursuance of section 162(1) or 168(3).
- (2) If the charity trustees of a charity—
 - (a) are requested in writing by any person to provide that person with a copy of its most recent annual report, and
 - (b) are paid by that person such reasonable fee (if any) as they may require in respect of the costs of complying with the request,they must comply with the request within the period of 2 months beginning with the date on which it is made.

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- (3) The reference in subsection (2) to a charity's most recent annual report is a reference to the annual report prepared in pursuance of section 162(1) or 168(3) in respect of the last financial year of the charity in respect of which an annual report has been so prepared.

172 Supply by charity trustees of copy of most recent accounts E+W

- (1) If the charity trustees of a charity—
- (a) are requested in writing by any person to provide that person with a copy of the charity's most recent accounts, and
 - (b) are paid by that person such reasonable fee (if any) as they may require in respect of the costs of complying with the request,
- they must comply with the request within the period of 2 months beginning with the date on which it is made.
- (2) The reference in subsection (1) to a charity's most recent accounts is—
- (a) in the case of a charity other than one falling within paragraph (b) or (c), a reference to—
 - (i) the statement of accounts prepared in pursuance of section 132(1), or
 - (ii) the account and statement prepared in pursuance of section 133,
 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;
 - (b) in the case of a charitable company, a reference to the most recent annual accounts of the company prepared under Part 16 of the Companies Act 2006 in relation to which any of the following conditions is satisfied—
 - (i) they have been audited,
 - (ii) they have been examined by an independent examiner under section 145(1)(a), or
 - (iii) they relate to a year in respect of which the company is exempt from audit under Part 16 of the Companies Act 2006 and neither section 144(2) nor section 145(1) applied to them, and
 - (c) 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.
- (3) In subsection (1), the reference to a charity's most recent accounts includes, in relation to a charity whose charity trustees have prepared any group accounts under section 138(2), the group accounts most recently prepared by them.

Offences

173 Offences of failing to supply certain documents E+W

- (1) If any requirement within subsection (2) is not complied with, each person who immediately before the specified date for compliance was a charity trustee of the charity is guilty of an offence.
- (2) A requirement is within this subsection if it is imposed—

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- (a) by section 163 or by virtue of section 166(4) (requirements to transmit annual report to Commission), taken with sections 164, 166(5) and 168(7) (documents to be supplied with annual report), as applicable,
 - (b) by section 169(3) (requirement to transmit annual return to Commission),
 - (c) by section 171(2) (supply by charity trustees of copy of most recent annual report), or
 - (d) by section 172(1) or by virtue of section 172(3) (supply by charity trustees of copy of most recent accounts);
- and in subsection (1) “the specified date for compliance” means the date for compliance specified in the section in question.
- (3) It is a defence, where a person is charged with an offence under subsection (1), to prove that the person took all reasonable steps for securing that the requirement in question would be complied with in time.
 - (4) A person guilty of an offence under subsection (1) is liable on summary conviction to—
 - (a) a fine not exceeding level 4 on the standard scale, and
 - (b) for continued contravention, a daily default fine not exceeding 10% of level 4 on the standard scale for so long as the person in question remains a charity trustee of the charity.

CHAPTER 5 **E+W**

POWERS TO SET FINANCIAL THRESHOLDS

174 Powers to alter certain sums specified in this Part **E+W**

- (1) The Minister may by order amend any provision listed in subsection (2)—
 - (a) by substituting a different sum for the sum for the time being specified in that provision, or
 - (b) if the provision specifies more than one sum, by substituting a different sum for any sum specified in that provision.
- (2) The provisions are—
 - section 133 (gross income in connection with option to prepare account and statement instead of statement of accounts);
 - section 144(1)(a) or (b) (gross income and value of assets in connection with requirements as to audit of larger charities);
 - section 145(1) (gross income in connection with option to have accounts examined instead of audited);
 - section 145(3) (gross income in connection with requirements as to qualifications of independent examiner);
 - section 163(1) or (2) (gross income in connection with requirements to transmit annual report to Commission);
 - section 169(2) (gross income in connection with requirement to prepare annual return).

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175 Aggregate gross income of group **E+W**

The Minister may by regulations make provision for determining for the purposes of this Part the amount of the aggregate gross income for a financial year of a group consisting of a parent charity and its subsidiary undertaking or undertakings.

176 Larger groups: “relevant income threshold” and “relevant assets threshold” **E+W**

- (1) The reference to the relevant income threshold in paragraph (a) or (b) of section 151(1) is a reference to the sum prescribed as the relevant income threshold for the purposes of that paragraph.
- (2) The reference to the relevant assets threshold in paragraph (b) of section 151(1) is a reference to the sum prescribed as the relevant assets threshold for the purposes of that paragraph.
- (3) “Prescribed” means prescribed by regulations made by the Minister.

Status:

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