
STATUTORY INSTRUMENTS

1992 No. 2165 (S.216)

**CHARITIES
REGULATION OF CHARITIES, SCOTLAND**

The Charities Accounts (Scotland) Regulations 1992

Made - - - - *8th September 1992*
Laid before Parliament *9th September 1992*
Coming into force - - *30th September 1992*

The Secretary of State, in exercise of the powers conferred on him by sections 4(4)(a) and 5(3) and (5) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990⁽¹⁾, and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Charities Accounts (Scotland) Regulations 1992 and shall come into force on 30th September 1992.

Interpretation

2. In these Regulations:

“the Act” means the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990;

“designated fund” means a fund which has been allocated or designated for specific purposes by a recognised body;

“founding deed” means the trust deed of a recognised body or other document constituting the body;

“gross income” in relation to a recognised body means the total of its income from all sources that is required in terms of the Schedules to these Regulations to be recorded in the income and expenditure account;

“gross expenditure” in relation to a recognised body means the total of its expenditure on all purposes that is required in terms of the Schedules to these Regulations to be recorded in the income and expenditure account;

“gross receipts” in relation to a recognised body means the total of the sums received from all sources after deducting the proceeds, if any, of the sale of investments and the sale of assets and receipts in respect of a permanent endowment fund;

“permanent endowment fund” means a fund which must be held permanently although its constituent assets may change from time to time;

“record” means a record kept either in documentary form or, where kept by means of a computer or in other non-documentary form, the information comprised in such computer or in such other non-documentary form produced in a form in which it is tangible and legible;

“trustees”, in relation to any recognised body, means the persons in management or control of that body;

and any other expression used in these Regulations which is also used in Part I of the Act will have the same meaning in these Regulations as it has in that Part.

Alternative statement of accounts for each financial year

3. The class of recognised body to which section 5(3) of the Act applies (bodies which may elect in respect of any financial year to have a different statement of accounts from that required by section 5(2) of the Act) is any recognised body the gross receipts of which in the financial year in question do not exceed £25,000 per annum and the founding deed of which contains no requirement that its statement of accounts shall be audited.

Form and content of statement of accounts

4.—(1) A recognised body shall ensure that there shall be shown:—

- (a) in the statement of accounts:—
 - (i) the duration of the financial year to which they relate and the immediately preceding financial year; and
 - (ii) in respect of every item stated in them the corresponding amount for the financial year immediately preceding that to which they relate;
- (b) in respect of the balance sheet and income and expenditure account of such recognised body which has not elected in terms of section 5(3) of the Act the information referred to in Part 1 of Schedule 1 to these Regulations;
- (c) in respect of the statement of balances and receipts and payments account of such recognised body which has elected in terms of section 5(3) of the Act the information referred to in Part 2 of Schedule 1 to these Regulations; and
- (d) in respect of the report the information referred to in Part 3 of Schedule 1 to these Regulations.

(2) A recognised body shall ensure that the report shall be approved by the trustees and signed by one of their number on their behalf and as authorised by them; and every copy of the report which is circulated, published or issued shall state the name of the person who signed the report.

Additional information by way of notes to the accounts

5. A recognised body shall ensure that there shall be shown:—

- (a) in the case of such recognised body that has not elected in terms of section 5(3) of the Act in respect of its balance sheet and income and expenditure account the additional information to be provided by way of notes to the accounts referred to in Part 1 of Schedule 2 to these Regulations; and

- (b) in the case of such recognised body that has elected in terms of section 5(3) of the Act in respect of its statement of balances and receipts and payments account the additional information to be provided by way of notes to the accounts referred to in Part 2 of Schedule 2 to these Regulations.

Approval of accounts

6. The balance sheet and income and expenditure account and notes thereon or the statement of balances and receipts and payments account and notes thereon as appropriate of a recognised body shall be approved by the trustees and signed by one of their number on their behalf and as authorised by them; the signature shall be on the balance sheet or statement of balances as appropriate; and every copy of the balance sheet or statement of balances as appropriate of the body which is circulated, published or issued shall state the date of approval and the name of the person who signed the balance sheet or statement of balances.

Audit

7.—(1) Where in any financial year or in either of the two immediately preceding financial years a recognised body which satisfies either of the following conditions—

- (a) the gross income exceeds £100,000 per annum; or
- (b) the gross expenditure exceeds £100,000 per annum,

or such other recognised body which is either required in terms of its founding deed or elects to submit its accounts to audit, the accounts and notes thereon shall be audited by a person eligible for appointment as a company auditor under the provisions of section 25 of the Companies Act 1989(2).

(2) In respect of any recognised body to which regulation 7(1) above applies:—

- (a) an auditor shall be appointed in respect of each financial year who will hold office for that year and may not be removed in respect of that year unless he becomes no longer eligible or competent for such an appointment; and any auditor so removed may submit a statement to the trustees setting out his observations on the circumstances of such removal and such statement shall be included in the report for the year in question; and
- (b) the appointment or removal of an auditor shall be made or effected by the trustees, except in the case where other provision is made in the recognised body's founding deed in which case the appointment or removal shall be made or effected in accordance with such other provision.

(3) An auditor of such a recognised body to which regulation 7(1) above applies who is appointed in terms of paragraph (2)(a) above may resign his office by depositing a notice in writing to that effect with the Trustees and:—

- (a) his term of office shall terminate on the date on which the notice is deposited or such later date as may be specified therein;
- (b) the notice of resignation shall contain a statement as to any circumstances connected with his resignation which he considers should be stated in the report; and
- (c) these circumstances or a statement that there are no such circumstances shall be stated in the report for the year in question.

(4) Any auditor of such a recognised body to which regulation 7(1) above applies shall have the right of access at all times to the records of that body and shall be entitled to require such information and explanations from the present or former trustees as he thinks necessary for the performance of his duties.

(5) The report of an auditor which shall be annexed to the balance sheet and income and expenditure account shall state—

- (a) whether in his opinion the balance sheet and income and expenditure account have been properly prepared;
- (b) without prejudice to the foregoing, whether in his opinion, a true and fair view is given:—
 - (i) in the balance sheet, of the state of affairs at the end of the financial year; and
 - (ii) in the income and expenditure account, of the surplus or deficit for the financial year.

(6) An auditor shall consider whether the information given in the report is consistent with the accounts; and if he is of the opinion that it is not he shall state that fact in his report.

(7) In addition to preparing his report an auditor:—

- (a) shall carry out such investigations as will enable him to form an opinion as to whether—
 - (i) proper accounting records have been kept by the body; and
 - (ii) the accounts of the body are in agreement with the accounting records;
- (b) if he is of the opinion that proper accounting records have not been kept or if the accounts of the body are not in agreement with the accounting records, shall state that fact in his report;
- (c) if he fails to obtain all the information and explanations, which, to the best of his knowledge and belief, is or are necessary for the purposes of his audit, shall so state in his report; and
- (d) shall consider whether the accounts comply with the relevant statutory requirements or terms of the body's founding deed, or both, and make a statement to that effect in his report.

8.—(1) In the case of a recognised body to which regulation 7(1) above does not apply its balance sheet and income and expenditure account and notes thereon or its statement of balances and its receipts and payments account and notes thereon shall be subject to examination by an independent examiner; and an independent examiner shall be 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.

(2) In respect of any recognised body to which regulation 8(1) above applies:—

- (a) an independent examiner shall be appointed in respect of each financial year who will hold office for that year and may not be removed in respect of that year unless he becomes no longer competent for such an appointment; and any independent examiner so removed may submit a statement to the trustees setting out his observations on the circumstances of such removal and such statement shall be included in the report for the year in question; and
- (b) the appointment or removal of an independent examiner shall be made or effected by the trustees except in the case where other provision is made in the recognised body's founding deed in which case the appointment or removal shall be made or effected in accordance with such other provision.

(3) An independent examiner appointed in terms of paragraph (2) above may resign his office by depositing a notice in writing to that effect with the Trustees and:—

- (a) his term of office shall terminate on the date on which the notice is deposited or such later date as may be specified therein;
- (b) the notice of resignation shall contain a statement as to any circumstances connected with his resignation which he considers should be stated in the report; and
- (c) these circumstances or a statement that there are no such circumstances shall be stated in the report for the financial year in question.

(4) Any independent examiner of such a recognised body to which regulation 8(1) above applies shall have a right of access at all times to the records of the body and shall be entitled to require such information and explanations from the present or former trustees as he thinks necessary for the performance of his duties.

(5) The report of an independent examiner which shall be annexed to the balance sheet and income and expenditure account or statement of balances and receipts and payment account as appropriate shall state whether, according to the best of his knowledge and belief and in accordance with the information and explanations given to him, the balance sheet and income and expenditure account and notes thereon, or the statement of balances and receipts and payments account and notes thereon, have been properly prepared from the records of such a recognised body as is described in paragraph (1) above, are in agreement therewith and comply with the terms of these Regulations and the body's founding deed, or both.

(6) An independent examiner shall consider whether the information given in the report is consistent with the accounts; and if he is of the opinion that it is not he shall state that fact in his report.

(7) In addition to preparing his report an independent examiner:—

- (a) shall be required to carry out such investigations as will enable him to form an opinion as to whether—
 - (i) proper accounting records adequate for the purposes of the body have been kept; and
 - (ii) the accounts of the body are in agreement with the accounting records;
- (b) if he is of the opinion that proper accounting records have not been kept or if the accounts of the body are not in agreement with the accounting records, shall state that fact in his report; and
- (c) if he fails to obtain all the information and explanations, which, to the best of his knowledge and belief, is or are necessary for the purposes of his examination, shall so state in his report.

Keeping of records

9.—(1) The accounting records of a recognised body shall be stored at the headquarters office of the body or such other place as the trustees may determine except that they may not be stored at a place outside Great Britain.

(2) The trustees may appoint a person to store the accounting records where no such person has been appointed by the founding deed of the body; and where a recognised body has been wound up or ceased to be active without appointing such person, and where no person has been appointed in terms of the founding deed of the body, the trustees at the winding up of the body or on the body's ceasing to be active shall store the accounting records at an address which shall immediately be notified to the Lord Advocate.

St. Andrew's House,
Edinburgh
8th September 1992

Hector Monro
Parliamentary Under Secretary of State, Scottish
Office

SCHEDULE 1

Regulation 4

ACCOUNTS, NOTES TO THE ACCOUNTS AND THE REPORT

PART 1

Information to be shown in the Balance Sheet and Income and Expenditure Account

1. The balance sheet shall:—

- (a) classify the assets into fixed assets, investments, including investment properties, and current assets; and classify the liabilities into current liabilities being amounts falling due within one year of the balance sheet date and long term liabilities being those falling due after more than one year after the balance sheet date, in such a way as will enable the user to gain a proper appreciation of their spread and character;
- (b) analyse the total amount of assets less liabilities between its major funds; and
- (c) indicate, wherever possible, which assets and liabilities form part of endowment and other restricted funds.

2. The income and expenditure account shall set out the aggregate income and expenditure and any appropriations therefrom for the financial year in sufficient detail as may reasonably enable the user to gain a proper appreciation of the transactions and the surplus or deficit for that year; and in particular the following, if any, shall be shown separately:—

- (a) realised gains on investments;
- (b) realised gains on the disposal of fixed assets;
- (c) income from investments other than land and buildings;
- (d) rents from land and buildings;
- (e) gross income from fund raising activities;
- (f) legacies but excluding any amounts provided to form part of a permanent endowment fund;
- (g) grants received and receivable but excluding any amounts provided to form part of a permanent endowment fund;
- (h) donations (excluding legacies) received and receivable but excluding any amounts provided to form part of a permanent endowment fund;
- (i) gross income from trading activities;
- (j) other material income;
- (k) realised losses on investments;
- (l) realised losses on the disposal of fixed assets;
- (m) expenses of fund raising activities;
- (n) publicity expenses;
- (o) administrative costs detailing material items;
- (p) the remuneration of the auditor or independent examiner in respect of—
 - (i) audit services; and
 - (ii) other services such as taxation advice, consultancy, financial advice and accountancy;
- (q) grants and donations made relating directly to charitable activities;
- (r) other expenditure relating directly to charitable activities;

- (s) gross expenditure on trading activities; and
- (t) other material expenditure.

PART 2

Information to be shown in the Statement of Balances and Receipts and Payments Account

1. The statement of balances shall—
 - (a) reconcile the cash and bank balances at the beginning and end of the financial year with the surplus or deficit shown by the receipts and payments account;
 - (b) summarise the changes in the holding of investments and other assets including gifted assets during the financial year;
 - (c) distinguish between the major funds, the investments and other assets; and
 - (d) state an estimate of the liabilities at the end of the financial year showing separately any contingent liabilities.
2. The receipts and payments account shall set out the aggregate receipts and payments for the financial year in sufficient detail as may reasonably enable the user to gain a proper appreciation of the transactions and the excess of receipts over payments or payments over receipts for that year; and in particular the following, if any, shall be shown separately:—
 - (a) proceeds of sale of investments;
 - (b) proceeds of sale of assets;
 - (c) income from investments other than land and buildings;
 - (d) rents from land and buildings;
 - (e) proceeds from fund raising activities;
 - (f) legacies;
 - (g) grants received;
 - (h) donations (excluding legacies) received;
 - (i) gross trading receipts;
 - (j) other material receipts;
 - (k) purchases of investments;
 - (l) purchases of other assets;
 - (m) expenses of fund raising activities;
 - (n) publicity expenses;
 - (o) administrative costs detailing material items;
 - (p) gross trading payments;
 - (q) the remuneration of the auditor or independent examiner in respect of—
 - (i) audit services; and
 - (ii) other services such as taxation advice, consultancy, financial advice and accountancy;
 - (r) grants and donations relating directly to charitable activities;
 - (s) other payments relating directly to charitable activities; and
 - (t) other material payments.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

PART 3

Information to be shown in the Report

The report shall contain, so far as it is applicable,—

- (a) Details of the legal and administrative arrangements including the nature of the founding document, the names and designations of those who are or have been, at any time during the financial year, trustees, and the manner of their appointment, the principal address of the body and details of any restrictions in the way the body may operate;
- (b) an explanation of the objectives and organisational structure of the body;
- (c) a review of the financial position and an explanation of the salient features of the statement of accounts;
- (d) a review of the development, activities and achievements during the year;
- (e) any other information necessary, for a proper appreciation of the financial position taking into account future plans and commitments;
- (f) particulars of any connected body including the address and nature of the relationship; and
- (g) particulars of any material transactions between connected bodies.

SCHEDULE 2

Regulation 5

PART 1

Additional information to be provided by way of Notes to the Accounts

In respect of the balance sheet and income and expenditure account—

- (a) a statement of the accounting policies adopted by the recognised body in determining the amounts to be included in the balance sheet and income and expenditure account including such policies with respect to but not restricted to such matters as fixed assets, the use of designated funds, legacies, grants payable and receivable, investments and income therefrom;
- (b) the nature and purpose of each of the major funds;
- (c) details of the movements on permanent endowment funds to be shown;
- (d) except where provided in the statement of accounts and as required in paragraph (c) above a reconciliation of the total opening funds to the total closing funds, by major fund, summarising the income and expenditure of each fund and detailing any movements between them during the financial year;
- (e) details of any grant or grants paid which exceeds or exceed in aggregate the greater of £1,000 or 2percent; of the gross income from all sources for the financial year; separate disclosure shall not be required where the grant or grants is or are made for the benefit of an individual; and grants made for the benefit of individuals should be aggregated and the total, number and range of grants shown;
- (f) particulars of all material commitments showing separately those in respect of specific charitable and other purposes;
- (g) any guarantees given or other contingent liabilities and the conditions under which such liabilities might arise;
- (h) any loans or other liabilities secured on the assets;

- (i) the aggregate amount, if any, of any remuneration or reimbursement of expenses paid to the trustees and the aggregate amount, if any of any consideration paid to or receivable by third parties for making available the services of the trustees unless disclosed in the statement of accounts;
- (j) the total emoluments paid to employees and the average number of employees during the financial year;
- (k) such other information as may reasonably assist the user to understand the statement of accounts; and
- (l) in respect of those bodies who satisfy any two of the following conditions:—
 - (i) the gross income from all sources exceeds £2,000,000 per annum;
 - (ii) the number of its employees exceeds 50; or
 - (iii) the balance sheet total exceeds £975,000a financial statement analysing cash flows under the headings of operating activities, returns on investments and servicing of finance, taxation, investing activities and financing.

PART 2

Additional information to be provided by way of Notes to the Accounts

In respect of the statement of balances and receipts and payments account—

- (a) the nature and purpose of each of the major funds;
- (b) except where provided in the statement of accounts, a reconciliation of the total opening funds to the total closing funds, by major fund, summarising the receipts and payments of each fund and detailing any movements between them during the financial year;
- (c) details of any grant or grants paid which exceeds or exceed in aggregate 2percent; of the gross receipts from all sources for the financial year; separate disclosure shall not be required where the grant or grants is or are made for the benefit of an individual; and grants made for the benefit of individuals should be aggregated and the total, number and range of grants shown;
- (d) the aggregate amount, if any, of any remuneration or reimbursement of expenses paid to the trustees and the aggregate amount, if any, of any consideration paid to or receivable by third parties for making available the services of the trustees unless disclosed in the statement of accounts; and
- (e) such other information as may reasonably assist the user to understand the statement of accounts.

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EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe the form and content of the statement of accounts of a Scottish charity, the additional information to be provided with them by way of notes, the procedures for their approval, the requirements for their audit or examination, the keeping of their records and the alternative statement of accounts for a charity whose gross income in a year does not exceed £25,000.

Regulation 3 specifies that a Scottish charity, the gross annual receipts of which do not exceed £25,000 and the founding deed of which does not require an audit, may select the alternative statement of accounts.

Regulation 4 and Schedule 1 specify what information is to be shown in the accounts including the figures for the preceding period.

Regulation 5 and Schedule 2 specify what additional information is required in the form of notes to the accounts.

Regulation 6 specifies how the accounts are to be approved.

Regulation 7 specifies how Scottish charities which are required or elect to audit their accounts shall do so.

Regulation 8 specifies how Scottish charities which are not subject to the requirements of Regulation 7 shall arrange for independent examination of their accounts.

Regulation 9 specifies where and by whom the accounting records of a Scottish charity are to be kept.