



# Charities Act 2011

## 2011 CHAPTER 25

### PART 5

#### INFORMATION POWERS

##### *Disclosure of information*

#### **54 Disclosure to Commission: general**

- (1) A 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.
- (2) Subsection (1) is subject to section 55.
- (3) In this section “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).

#### **55 Disclosure to Commission: Revenue and Customs information**

- (1) Revenue and Customs information may be disclosed under section 54(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 tax exemption has at any time been made;

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- (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.
- (2) In subsection (1)(d) “subsidiary undertaking of a charity” means an undertaking (as defined by section 1161(1) of the Companies Act 2006) in relation to which—
- (a) a charity is (or is to be treated as) a parent undertaking in accordance with the provisions of section 1162 of, and Schedule 7 to, the Companies Act 2006, 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.
- (3) For the purposes of the references to a parent undertaking—
- (a) in subsection (2), and
  - (b) in section 1162 of, and Schedule 7 to, the Companies Act 2006 as they apply for the purposes of subsection (2),
- “undertaking” includes a charity which is not an undertaking as defined by section 1161(1) of that Act.
- (4) In this section “Revenue and Customs information” means information held as mentioned in section 18(1) of the Commissioners for Revenue and Customs Act 2005.
- (5) For the purposes of subsection (1)(c), “claim for tax exemption” means—
- (a) a claim for exemption under section 505(1) of the Income and Corporation Taxes Act 1988,
  - (b) a claim for exemption under Part 10 of the Income Tax Act 2007, or
  - (c) a claim for exemption under Part 11 of the Corporation Tax Act 2010, if it is not—
    - (i) a claim for exemption under section 475, 476 or 477 (reliefs for eligible bodies and scientific research organisations), or
    - (ii) a claim made by virtue of section 490 or 491 (application of exemptions to eligible bodies and scientific research organisations).

## **56 Disclosure by Commission: general**

- (1) The Commission may disclose to any relevant public authority any information received by the Commission in connection with any of the Commission’s functions if—
- (a) the disclosure is made for the purpose of enabling or assisting the relevant public authority to discharge any of its functions, or
  - (b) the information so disclosed is otherwise relevant to the discharge of any of the functions of the relevant public authority.
- (2) Subsection (1) is subject to subsection (3) and section 57(1) and (2).
- (3) In the case of information disclosed to the Commission under section 54(1), the Commission’s power to disclose the information under subsection (1) is exercisable subject to any express restriction subject to which the information was disclosed to the Commission.
- (4) In this section “relevant public authority” has the same meaning as in section 54, except that it also includes any body or person within section 54(3)(d) in a country or territory outside the United Kingdom.

## **57 Disclosure by Commission: Revenue and Customs information**

- (1) Section 56(3) does not apply in relation to Revenue and Customs information disclosed to the Commission under section 54(1).
- (2) But any such information may not be further disclosed (whether under section 56(1) or otherwise) except with the consent of the Commissioners for Her Majesty's Revenue and Customs.
- (3) It is an offence for a responsible person to disclose information in contravention of subsection (2).
- (4) A person guilty of an offence under subsection (3) is 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 2 years or to a fine, or both.
- (5) It is a defence, where a responsible person is charged with an offence under subsection (3) of disclosing information, to prove that that person 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 Northern Ireland, the reference to 12 months in subsection (4) is to be read as a reference to 6 months.
- (7) In this section “Revenue and Customs information” means information held as mentioned in section 18(1) of the Commissioners for Revenue and Customs Act 2005.
- (8) 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—
    - (i) the Commission, or
    - (ii) a member of the staff of the Commission, or
  - (d) a member of a committee established by the Commission.

## **58 Disclosure to and by principal regulators of exempt charities**

- (1) Sections 54 to 57 apply with the modifications in subsections (2) to (4) 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 55 has effect as if for subsections (1) and (2) there were substituted—
  - “(1) Revenue and Customs information may be disclosed under section 54(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.
- (2) In subsection (1)(b) “subsidiary undertaking of the exempt charity” means an undertaking (as defined by section 1161(1) of the Companies Act 2006) 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 1162 of, and Schedule 7 to, the Companies Act 2006, 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 57 has effect as if for the definition of “responsible person” in subsection (8) there were substituted a definition specified by regulations under section 25 (meaning of “principal regulator”).
- (5) Regulations under section 25 may also make such amendments or other modifications of any enactment as the Minister 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 as principal regulator.
- (6) In subsection (5) “disclosure provisions” means provisions having effect for authorising, or otherwise in connection with, the disclosure of information by or to the principal regulator concerned.
- (7) In subsection (5) “enactment” includes—
- (a) any provision of subordinate legislation (within the meaning of the Interpretation Act 1978), and
  - (b) a provision of a Measure of the Church Assembly or of the General Synod of the Church of England,
- and references to enactments include enactments whenever passed or made.

## **59 Disclosure: supplementary**

Nothing in sections 54 to 57 (or in those sections as applied by section 58(1) to (4)) 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.