



# Charities Act 2006

## 2006 CHAPTER 50

### PART 4

#### MISCELLANEOUS AND GENERAL

##### *Miscellaneous*

#### **72 Disclosure of information to and by Northern Ireland regulator**

- (1) This section applies if a body (referred to in this section as “the Northern Ireland regulator”) is established to exercise functions in Northern Ireland which are similar in nature to the functions exercised in England and Wales by the Charity Commission.
- (2) The Minister may by regulations authorise relevant public authorities to disclose information to the Northern Ireland regulator for the purpose of enabling or assisting the Northern Ireland regulator to discharge any of its functions.
- (3) If the regulations authorise the disclosure of Revenue and Customs information, they must contain provision in relation to that disclosure which corresponds to the provision made in relation to the disclosure of such information by section 10(2) to (4) of the 1993 Act (as substituted by paragraph 104 of Schedule 8 to this Act).
- (4) In the case of information disclosed to the Northern Ireland regulator pursuant to regulations made under this section, any power of the Northern Ireland regulator to disclose the information is exercisable subject to any express restriction subject to which the information was disclosed to the Northern Ireland regulator.
- (5) Subsection (4) does not apply in relation to Revenue and Customs information disclosed to the Northern Ireland regulator pursuant to regulations made under this section; but any such information may not be further disclosed except with the consent of the Commissioners for Her Majesty’s Revenue and Customs.
- (6) Any person specified, or of a description specified, in regulations made under this section who discloses information in contravention of subsection (5) is guilty of an offence and liable—

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- (a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum, or both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or both.
- (7) It is a defence for a person charged with an offence under subsection (5) of disclosing information to prove that he reasonably believed—
- (a) that the disclosure was lawful, or
  - (b) that the information had already and lawfully been made available to the public.
- (8) In the application of this section to Scotland or Northern Ireland, the reference to 12 months in subsection (6) is to be read as a reference to 6 months.
- (9) In this section—
- “relevant public authority” means—
- (a) any government department (other than a Northern Ireland department),
  - (b) any local authority in England, Wales or Scotland,
  - (c) any person who is a constable in England and Wales or Scotland,
  - (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), except a body or person whose functions are exercisable only or mainly in or as regards Northern Ireland and relate only or mainly to transferred matters;
- “Revenue and Customs information” means information held as mentioned in section 18(1) of the Commissioners for Revenue and Customs Act 2005 (c. 11);
- “transferred matter” has the same meaning as in the Northern Ireland Act 1998 (c. 47).

### **73 Report on operation of this Act**

- (1) The Minister must, before the end of the period of five years beginning with the day on which this Act is passed, appoint a person to review generally the operation of this Act.
- (2) The review must address, in particular, the following matters—
  - (a) the effect of the Act on—
    - (i) excepted charities,
    - (ii) public confidence in charities,
    - (iii) the level of charitable donations, and
    - (iv) the willingness of individuals to volunteer,
  - (b) the status of the Charity Commission as a government department, and
  - (c) any other matters the Minister considers appropriate.
- (3) After the person appointed under subsection (1) has completed his review, he must compile a report of his conclusions.
- (4) The Minister must lay before Parliament a copy of the report mentioned in subsection (3).
- (5) For the purposes of this section a charity is an excepted charity if —

- (a) it falls within paragraph (b) or (c) of section 3A(2) of the 1993 Act (as amended by section 9 of this Act), or
- (b) it does not fall within either of those paragraphs but, immediately before the appointed day (within the meaning of section 10 of this Act), it fell within section 3(5)(b) or (5B)(b) of the 1993 Act.

### *General*

## **74 Orders and regulations**

- (1) Any power of a relevant Minister to make an order or regulations under this Act is exercisable by statutory instrument.
- (2) Any such power—
  - (a) may be exercised so as to make different provision for different cases or descriptions of case or different purposes or areas, and
  - (b) includes power to make such incidental, supplementary, consequential, transitory, transitional or saving provision as the relevant Minister considers appropriate.
- (3) Subject to subsection (4), orders or regulations made by a relevant Minister under this Act are to be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) Subsection (3) does not apply to—
  - (a) any order under section 11,
  - (b) any regulations under section 13(4)(b) which amend any provision of an Act,
  - (c) any regulations under section 72,
  - (d) any order under section 75(4) which amends or repeals any provision of an Act or an Act of the Scottish Parliament,
  - (e) any order under section 76 or 77, or
  - (f) any order under section 79(2).
- (5) No order or regulations within subsection (4)(a), (b), (c), (d) or (e) may be made by a relevant Minister (whether alone or with other provisions) unless a draft of the order or regulations has been laid before, and approved by resolution of, each House of Parliament.
- (6) If a draft of an instrument containing an order under section 11 would, apart from this subsection, be treated for the purposes of the Standing Orders of either House of Parliament as a hybrid instrument, it is to proceed in that House as if it were not such an instrument.
- (7) In this section “relevant Minister” means the Secretary of State or the Minister for the Cabinet Office.

## **75 Amendments, repeals, revocations and transitional provisions**

- (1) Schedule 8 contains minor and consequential amendments.
- (2) Schedule 9 makes provision for the repeal and revocation of enactments (including enactments which are spent).

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- (3) Schedule 10 contains transitional provisions and savings.
- (4) A relevant Minister may by order make—
  - (a) such supplementary, incidental or consequential provision, or
  - (b) such transitory, transitional or saving provision,
 as he considers appropriate for the general purposes, or any particular purposes, of this Act or in consequence of, or for giving full effect to, any provision made by this Act.
- (5) An order under subsection (4) may amend, repeal, revoke or otherwise modify any enactment (including an enactment restating, with or without modifications, an enactment amended by this Act).
- (6) In this section “relevant Minister” means the Secretary of State or the Minister for the Cabinet Office.

## **76 Pre-consolidation amendments**

- (1) The Minister may by order make such amendments of the enactments relating to charities as in his opinion facilitate, or are otherwise desirable in connection with, the consolidation of the whole or part of those enactments.
- (2) An order under this section shall not come into force unless—
  - (a) a single Act, or
  - (b) a group of two or more Acts,
 is passed consolidating the whole or part of the enactments relating to charities (with or without any other enactments).
- (3) If such an Act or group of Acts is passed, the order shall (by virtue of this subsection) come into force immediately before the Act or group of Acts comes into force.
- (4) Once an order under this section has come into force, no further order may be made under this section.
- (5) In this section—
  - “amendments” includes repeals, revocations and modifications, and
  - “the enactments relating to charities” means—
    - (a) the Charities Act 1992 (c. 41), the Charities Act 1993 (c. 10) and this Act,
    - (b) any other enactment relating to institutions which fall within section 1(1) of this Act, and
    - (c) any other enactment, so far as forming part of the law of England and Wales, which makes provision relating to bodies or other institutions which are charities under the law of Scotland or Northern Ireland,
 and section 78(2)(a) (definition of “charity”) does not apply for the purposes of this section.

## **77 Amendments reflecting changes in company law audit provisions**

- (1) The Minister may by order make such amendments of the 1993 Act or this Act as he considers appropriate—
  - (a) in consequence of, or in connection with, any changes made or to be made by any enactment to the provisions of company law relating to the accounts of

charitable companies or to the auditing of, or preparation of reports in respect of, such accounts;

- (b) for the purposes of, or in connection with, applying provisions of Schedule 5A to the 1993 Act (group accounts) to charitable companies that are not required to produce group accounts under company law.

(2) In this section—

- “accounts” includes group accounts;
- “amendments” includes repeals and modifications;
- “charitable companies” means companies which are charities;
- “company law” means the enactments relating to companies.

## **78 Interpretation**

(1) In this Act—

- “the 1992 Act” means the Charities Act 1992 (c. 41);
- “the 1993 Act” means the Charities Act 1993 (c. 10).

(2) In this Act—

- (a) “charity” has the meaning given by section 1(1);
- (b) “charitable purposes” has (in accordance with section 2(6)) the meaning given by section 2(1); and
- (c) “charity trustees” has the same meaning as in the 1993 Act;

but (subject to subsection (3) below) the exclusions contained in section 96(2) of the 1993 Act (ecclesiastical corporations etc.) have effect in relation to references to a charity in this Act as they have effect in relation to such references in that Act.

(3) Those exclusions do not have effect in relation to references in section 1 or any reference to the law relating to charities in England and Wales.

(4) In this Act “enactment” includes—

- (a) any provision of subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)),
- (b) a provision of a Measure of the Church Assembly or of the General Synod of the Church of England, and
- (c) (in the context of section 6(5) or 75(5)) any provision made by or under an Act of the Scottish Parliament or Northern Ireland legislation,

and references to enactments include enactments passed or made after the passing of this Act.

(5) In this Act “institution” means an institution whether incorporated or not, and includes a trust or undertaking.

(6) In this Act “the Minister” means the Minister for the Cabinet Office.

(7) Subsections (2) to (5) apply except where the context otherwise requires.

## **79 Commencement**

(1) The following provisions come into force on the day on which this Act is passed—

- (a) section 13(4) and (5),
- (b) section 74,

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- (c) section 75(4) and (5),
  - (d) section 78,
  - (e) section 77,
  - (f) this section and section 80, and
  - (g) the following provisions of Schedule 8—
    - paragraph 90(2),
    - paragraph 104 so far as it confers power to make regulations, and
    - paragraph 174(d),
 and section 75(1) so far as relating to those provisions.
- (2) Otherwise, this Act comes into force on such day as the Minister may by order appoint.
- (3) An order under subsection (2)—
- (a) may appoint different days for different purposes or different areas;
  - (b) make such provision as the Minister considers necessary or expedient for transitory, transitional or saving purposes in connection with the coming into force of any provision of this Act.

## **80 Short title and extent**

- (1) This Act may be cited as the Charities Act 2006.
- (2) Subject to subsections (3) to (7), this Act extends to England and Wales only.
- (3) The following provisions extend also to Scotland—
- (a) sections 1 to 3 and 5,
  - (b) section 6(5),
  - (c) sections 72 and 74,
  - (d) section 75(2) and (3) and Schedules 9 and 10 so far as relating to the Recreational Charities Act 1958 (c. 17), and
  - (e) section 75(4) and (5), sections 76 to 79 and this section.
- (4) But the provisions referred to in subsection (3)(a) and (d) affect the law of Scotland only so far as they affect the construction of references to charities or charitable purposes in enactments which relate to matters falling within Section A1 of Part 2 of Schedule 5 to the Scotland Act 1998 (c. 46) (reserved matters: fiscal policy etc.); and so far as they so affect the law of Scotland—
- (a) references in sections 1(1) and 2(1) to the law of England and Wales are to be read as references to the law of Scotland, and
  - (b) the reference in section 1(1) to the High Court is to be read as a reference to the Court of Session.
- (5) The following provisions extend also to Northern Ireland—
- (a) sections 1 to 3 and 5,
  - (b) section 6(5),
  - (c) section 23,
  - (d) sections 72 and 74,
  - (e) section 75(2) and (3) and Schedules 9 and 10 so far as relating to the Recreational Charities Act 1958 (c. 17), and
  - (f) section 75(4) and (5), sections 76 to 79 and this section.

- (6) But the provisions referred to in subsection (5)(a) and (e) affect the law of Northern Ireland only so far as they affect the construction of references to charities or charitable purposes in enactments which relate to matters falling within paragraph 9 of Schedule 2 to the Northern Ireland Act 1998 (c. 47) (excepted matters: taxes and duties); and so far as they so affect the law of Northern Ireland—
- (a) references in sections 1(1) and 2(1) to the law of England and Wales are to be read as references to the law of Northern Ireland, and
  - (b) the reference in section 1(1) to the High Court is to be read as a reference to the High Court in Northern Ireland.
- (7) Any amendment, repeal or revocation made by this Act has the same extent as the enactment to which it relates.
- (8) But subsection (7) does not apply to any amendment or repeal made in the Recreational Charities Act 1958 by a provision referred to in subsection (3) or (5).
- (9) Subsection (7) also does not apply to—
- (a) the amendments made by section 32 in the Companies Act 1985 (c. 6), or
  - (b) those made by Schedule 8 in the Police, Factories, &c. (Miscellaneous Provisions) Act 1916 (c. 31), or
  - (c) the repeal made in that Act by Schedule 9,
- which extend to England and Wales only.