



# Charities Act 2011

## 2011 CHAPTER 25

### PART 8

#### CHARITY ACCOUNTS, REPORTS AND RETURNS

### CHAPTER 3

#### AUDIT OR EXAMINATION OF ACCOUNTS

#### *Duty of auditors etc. to report matters to Commission*

#### **156 Duty of auditors etc. to report matters to Commission**

- (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—

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*Status: This is the original version (as it was originally enacted).*

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- (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,
- 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)**

- (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**

- (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**

- (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).