Charities Act 2011

2011 CHAPTER 25

PART 8

CHARITY ACCOUNTS, REPORTS AND RETURNS

CHAPTER 4

ANNUAL REPORTS AND RETURNS AND PUBLIC ACCESS TO ACCOUNTS ETC.

Annual reports etc.

162 Charity trustees to prepare annual reports

(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

(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

(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

(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

(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.

(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

(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 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

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

168 Excepted charities

(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

(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

(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

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

(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.

(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

(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

(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—

(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.