



2008 CHAPTER 12

PART 5

INFORMATION POWERS

General power to institute inquiries

22.—(1) The Commission may institute inquiries with regard to charities or a particular charity or class of charities, either generally or for particular purposes.

(2) The Commission may either conduct such an inquiry or appoint a person to conduct it and make a report to the Commission.

(3) For the purposes of any such inquiry the Commission, or a person appointed by the Commission to conduct it, may (subject to the provisions of this section) direct any person (P)—

- (a) to furnish accounts and statements in writing with respect to any matter in question at the inquiry, being a matter on which P has or can reasonably obtain information, or to return answers in writing to any questions or inquiries addressed to P on any such matter, and to verify any such accounts, statements or answers by statutory declaration;
- (b) to furnish copies of documents in P's custody or under P's control which relate to any matter in question at the inquiry, and to verify any such copies by statutory declaration;
- (c) to attend at a specified time and place and give evidence or produce any such documents.

(4) For the purposes of any such inquiry evidence may be taken on oath, and the person conducting the inquiry may for that purpose administer oaths, or may instead of administering an oath require P to make and subscribe a declaration of the truth of the matters about which P is examined.

(5) The Commission may pay to P the necessary expenses of attending to give evidence or produce documents for the purpose of an inquiry under this section, and P shall not be required in obedience to a direction under paragraph (c) of subsection (3) to go more than 10 miles from P's place of residence unless those expenses are paid or tendered to P.

(6) Where an inquiry has been held under this section, the Commission may either—

- (a) cause the report of the person conducting the inquiry, or such other statement of the results of the inquiry as the Commission thinks fit, to be printed and published, or
- (b) publish any such report or statement in some other way which is calculated in the Commission's opinion to bring it to the attention of persons who may wish to make representations to the Commission about the action to be taken.

Power to call for documents and search records

23.—(1) The Commission may by order—

- (a) require any person who has possession of any information which relates to any charity and is relevant to the discharge of the Commission's functions or of the functions of the official custodian to furnish that information to the Commission;
- (b) require any person who has custody or control of any document which relates to any charity and is relevant to the discharge of the Commission's functions or of the functions of the official custodian—
 - (i) to furnish the Commission with a copy of or extract from the document, or
 - (ii) (unless the document forms part of the records or other documents of a court or of a public or local authority) to transmit the document itself to the Commission for its inspection.

(2) Any member of staff of the Commission, if so authorised by it, shall be entitled without payment to inspect and take copies of or extracts from the records or other documents of any court, or of any public registry or office of records, for any purpose connected with the discharge of the functions of the Commission or of the official custodian.

(3) The Commission shall be entitled without payment to keep any copy or extract furnished to it under subsection (1), and where a document transmitted to the Commission under that subsection for it to inspect relates only to one or more charities and is not held by any person entitled as trustee or otherwise to the custody of it, the Commission may keep it or may deliver it to the charity trustees or to any other person who may be so entitled.

(4) The rights conferred by subsection (2) shall, in relation to information recorded otherwise than in legible form, include the right to require the information to be made available in legible form for inspection or for a copy or extract to be made of or from it.

(5) In subsection (2) the reference to a member of the staff of the Commission includes the official custodian even if the official custodian is not a member of the staff of the Commission.

Disclosure of information by and to the Commission

24.—(1) The Commission may disclose any information to any public body or office-holder (in Northern Ireland, in any other part of the United Kingdom or in a country or territory outside the United Kingdom)—

- (a) for any purpose connected with the exercise of the Commission's functions, or
- (b) for the purpose of enabling or assisting the public body or office-holder to exercise any functions.

(2) Any person to whom this subsection applies may disclose any information to the Commission for the purpose of enabling or assisting it to exercise any functions.

(3) Subsection (2) applies to—

- (a) any Northern Ireland authority,
- (b) the Northern Ireland Assembly Commission,
- (c) any district council,
- (d) any constable, and
- (e) any other public authority whose functions are exercisable only or mainly in or as regards Northern Ireland and relate only or mainly to transferred matters.

(4) In subsection (3)(a) “Northern Ireland authority” means the First Minister, the deputy First Minister, a Northern Ireland Minister or a Northern Ireland department.

(5) A power to disclose information under subsection (1) or (2) is subject to any express restriction imposed by or under any other statutory provision.

(6) Where any information disclosed to the Commission under or for the purposes of any statutory provision is so disclosed subject to any express restriction on the disclosure of the information by the Commission, the Commission's power of disclosure under subsection (1) shall, in relation to the information, be exercisable subject to any such restriction.

Supply of false or misleading information to Commission, etc.

25.—(1) Any person who knowingly or recklessly provides the Commission with information which is false or misleading in a material particular is guilty of an offence if the information—

- (a) is provided in purported compliance with a requirement imposed by or under this Act; or
- (b) is provided otherwise than as mentioned in paragraph (a) but in circumstances in which the person providing the information intends, or could reasonably be expected to know, that it would be used by the Commission for the purpose of discharging its functions under this Act.

(2) Any person who wilfully alters, suppresses, conceals or destroys any document which that person is or is liable to be required, by or under this Act, to produce to the Commission is guilty of an offence.

(3) Any person guilty of an offence under this section is liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine, or both.

(4) In this section references to the Commission include references to any person conducting an inquiry under section 22.