



2008 CHAPTER 12

PART 8

CHARITY ACCOUNTS, REPORTS AND RETURNS

Annual audit or examination of charity accounts

65.—(1) Subsection (2) applies to a financial year of a charity if the charity's gross income in that year exceeds £500,000.

(2) If this subsection applies to a financial year of a charity, the accounts of the charity for that year shall be audited by a person who—

- (a) is eligible for appointment as a statutory auditor under Part 42 of the Companies Act 2006 (c. 46); or
- (b) is a member of a body for the time being specified in regulations under section 66 and is under the rules of that body eligible for appointment as auditor of the charity.

(3) If subsection (2) does not apply to a financial year of a charity, the accounts of the charity for that year shall, at the election of the charity trustees, either—

- (a) be examined by an independent examiner, that is to say an independent person who is reasonably believed by the trustees to have the requisite ability and practical experience to carry out a competent examination of the accounts, or
- (b) be audited by such a person as is mentioned in subsection (2).

This is subject to the requirements of subsection (4) where the gross income exceeds £100,000, and to any order under subsection (6).

(4) If subsection (3) applies to the accounts of a charity for a year and the charity's gross income in that year exceeds £100,000, a person qualifies as an

independent examiner for the purposes of paragraph (a) of that subsection if (and only if) that person is an independent person who is—

- (a) a member of one of the bodies listed in subsection (5); or
- (b) a Fellow of the Association of Charity Independent Examiners.

(5) The bodies referred to in subsection (4)(a) are—

- (a) the Institute of Chartered Accountants in England and Wales;
- (b) the Institute of Chartered Accountants of Scotland;
- (c) the Institute of Chartered Accountants in Ireland;
- (d) the Association of Chartered Certified Accountants;
- (e) the Association of Authorised Public Accountants;
- (f) the Association of Accounting Technicians;
- (g) the Association of International Accountants;
- (h) the Chartered Institute of Management Accountants;
- (i) the Institute of Chartered Secretaries and Administrators;
- (j) the Chartered Institute of Public Finance and Accountancy.

(6) Where it appears to the Commission—

- (a) that subsection (2), or (as the case may be) subsection (3), has not been complied with in relation to a financial year of a charity within 10 months from the end of that year, or
- (b) that, although subsection (2) does not apply to a financial year of a charity, it would nevertheless be desirable for the accounts of the charity for that year to be audited by such a person as is mentioned in that subsection,

the Commission may by order require the accounts of the charity for that year to be audited by such a person as is mentioned in that subsection.

(7) If the Commission makes an order under subsection (6) with respect to a charity, then unless—

- (a) the order is made by virtue of paragraph (b) of that subsection, and
- (b) the charity trustees themselves appoint an auditor in accordance with the order,

the auditor shall be a person appointed by the Commission.

(8) The expenses of any audit carried out by an auditor appointed by the Commission under subsection (7), including the auditor's remuneration, shall be recoverable by the Commission—

- (a) from the charity trustees of the charity concerned, who shall be personally liable, jointly and severally, for those expenses; or

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- (b) to the extent that it appears to the Commission not to be practical to seek recovery of those expenses in accordance with paragraph (a), from the funds of the charity.

(9) The Commission may—

- (a) give guidance to charity trustees in connection with the selection of a person for appointment as an independent examiner;
- (b) give such directions as it thinks appropriate with respect to the carrying out of an examination in pursuance of subsection (3)(a);

and any such guidance or directions may either be of general application or apply to a particular charity only.

(10) The Department may by order—

- (a) amend subsection (1), (3) or (4) by substituting a different sum for any sum for the time being specified there;
- (b) amend subsection (4) or (5) by adding or removing a body to or from the list in that subsection or by varying any entry for the time being included in that list.

(11) Nothing in this section applies in relation to the accounts of a charity for a financial year if those accounts are required to be audited in accordance with Part 16 of the Companies Act 2006 (c. 46).