

# CHARITIES ACT 2006

---

## EXPLANATORY NOTES

### THE ACT

#### *Commentary on Sections*

#### **Section 28: Annual audit or examination of accounts of charities which are not companies**

111. **Section 28** makes a number of amendments to section 43 of the 1993 Act. At present under section 43 of the 1993 Act a charity which is not a company must have its accounts for a particular financial year professionally audited (that is, audited by a person eligible under the Companies Act 1989 to audit the accounts of a company) if either:
- its gross income or total expenditure exceeded £250,000 in that financial year; or
  - its gross income or total expenditure exceeded £250,000 in either of the two years preceding that financial year.
112. The substitution made by *subsection (2)* of this section removes from the requirement to have an audit any references to the expenditure of a charity, which means that the level of a charity's expenditure is no longer relevant in determining whether or not its accounts must be audited. Nor is there any longer a requirement to consider the income of the charity in the preceding two years before the year in question. New section 43(1) sets the audit requirement at an income level of £500,000 per annum and introduces an additional asset value threshold of £2.8million. The asset value threshold applies only to those charities that are required to prepare a full annual statement of accounts under section 42(1) (i.e. the threshold does not apply to charities which prepare the simpler form of accounts under section 42(3)). This means that the asset threshold would apply at present only to charities with gross income of more than £100,000 per annum.
113. The amendment made by *subsection (3)* to section 43(2) preserves the requirement that a charity's auditor must be a person eligible to audit company accounts. The purpose of the amendment is to apply to auditors of charity accounts the rules on ineligibility on grounds of lack of independence that are contained in Part 2 of the Companies Act 1989.
114. *Subsection (4)* amends section 43(3) of the Charities Act 1993. This section relates to the requirement placed on charities which fall below the audit requirement threshold to have their accounts independently examined. Section 28 of the Deregulation and Contracting Out Act 1994 amended section 43(3) so that the requirement to have an independent examination was placed on charities whose gross income or total expenditure in that year exceeded £10,000. This amendment removes the consideration of expenditure from the requirement to have an independent examination. The accounts of charities with incomes above £10,000 but below the new threshold of £500,000 would be subject to independent examination.
115. *Subsection (5)* provides for the new subsection (3A) to be inserted after section 43(3) of the 1993 Act. This new subsection relates to those charities which would have been required to have an audit under the previous régime but will not be so required under

*These notes refer to the Charities Act 2006 (c.50)  
which received Royal Assent on 8 November 2006*

the new régime - that is, those with incomes above the old threshold of £250,000 but below the new threshold of £500,000. Where those charities do not have their accounts professionally audited the accounts are required to be independently examined by someone with a relevant qualification. For the purposes of the Act a relevant qualification would be membership of a body recognised under section 249D(3) of the Companies Act 1985, which would currently be one of the following bodies:

- Institute of Chartered Accountants in England and Wales;
- Institute of Chartered Accountants of Scotland;
- Institute of Chartered Accountants in Ireland;
- Association of Chartered Certified Accountants;
- Association of Authorised Public Accountants;
- Association of International Accountants;
- Association of Accounting Technicians;
- Chartered Institute of Management Accountants;
- Institute of Chartered Secretaries and Administrators;
- Or;
  - a member of the Chartered Institute of Public Finance and Accountancy, or;
  - a Fellow of the Association of Charity Independent Examiners.

The Minister for the Cabinet Office has the power by order (given by *subsection (6)*) to add a description of person to the list, to remove a description of person from the list, or to alter an entry in the list.

116. Subsection (6) substitutes a new section 43(8) of the 1993 Act for the existing section 43(8). Under this new subsection the Minister for the Cabinet Office retains the power to amend the audit threshold and the requirements for independent examination.