
STATUTORY INSTRUMENTS

2008 No. 629

The Charities (Accounts and Reports) Regulations 2008

PART 1

GENERAL

Citation and commencement

1. These Regulations may be cited as the Charities (Accounts and Reports) Regulations 2008 and come into force on 1st April 2008.

Interpretation

2.—(1) In these Regulations—

“the 1960 Act” means the Charities Act 1960(1);

“the 1985 Act” means the Companies Act 1985(2);

“the 1993 Act” means the Charities Act 1993;

“the 2006 Act” means the Charities Act 2006(3);

“the 2005 Regulations” means the Charities (Accounts and Reports) Regulations 2005(4);

“auditable charity” means a charity the accounts of which for the financial year in question are required to be audited in pursuance of any statutory requirement;

“authorised person” has the meaning given by section 31 of the Financial Services and Markets Act 2000(5);

“charitable subsidiary undertaking” means a subsidiary undertaking that is a charity;

“common deposit fund” means a common deposit fund established by a scheme under section 22A of the Charities Act 1960(6) or section 25 of the 1993 Act;

“common investment fund” has the meaning given by paragraph (2);

“director”—

- (a) in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate;
- (b) in any other case, includes any person occupying the position of a director by whatever name called;

(1) 1960 c. 58. The 1960 Act was repealed in part by the Charities Act 1993 (c. 10). The provisions remaining in force are repealed by the Charities Act 2006, Schedule 9. The relevant entry in Schedule 9 to the 2006 Act has not yet been commenced.

(2) 1985 c. 6.

(3) 2006 c.50.

(4) S.I. 2005/572.

(5) 2000 c. 8. There have been amendments to the Financial Services and Markets Act 2000 which are not relevant for the purposes of these Regulations.

(6) section 22A of the Charities Act 1960 was inserted by section 16 of the Charities Act 1992 (c. 41).

“English National Health Service Charity” has the meaning given by section 43A(7) of the 1993 Act;

“ex gratia payment” means any such application of the property of a charity, or any such waiver by a charity of any entitlement to receive any property, as is capable of being authorised under section 27(1) of the 1993 Act;

“fixed assets” means the assets of a charity which are intended for use or investment on a continuing basis;

“fund” means particular assets of a charity held on trusts which, as respect the purposes for which those assets are held or the powers of the charity trustees to use or apply those assets, are not identical to the trusts on which other assets of the charity are held;

“investment fund” means a common deposit fund or a common investment fund;

“non-charitable subsidiary undertaking” means a subsidiary undertaking that is not a charity;

“parent charity” has the meaning given by paragraph 1 of Schedule 5A to the 1993 Act;

“relevant financial year” means the financial year in respect of which—

- (a) the statement of accounts is prepared;
- (b) the receipt and payments account and statement of assets and liabilities are prepared; or
- (c) group accounts are prepared;

“reserves” means—

- (a) in relation to a charity, those assets in the unrestricted fund of a charity which the charity trustees have, or can make, available to apply for all of any its purposes, once they have provided for—
 - (i) the liabilities of the unrestricted fund; and
 - (ii) any commitments of the charity or other planned expenditure intended to be met from the assets of the unrestricted fund;
- (b) in relation to any body that is not a charity, the net assets or liabilities of the body that are disclosed in the body’s balance sheet for the financial year in question;

“restricted fund” means any fund of a charity other than an unrestricted fund;

“the SORP” means the Statement of Recommended Practice for Accounting and Reporting by Charities, issued by the Commission on 4th March 2005(7);

“special case charity” means—

- (a) a charity which is a registered social landlord within the meaning of the Housing Act 1996(8) and whose registration has been the subject of a notice under section 3(3)(a) of that Act;
- (b) a charity which has during the financial year in question—
 - (i) conducted an institution in relation to which a designation made, or having effect as if made, under section 129 of the Education Reform Act 1988(9) has effect;
 - (ii) received financial support from funds administered by a higher education funding council within the meaning of the Further and Higher Education Act 1992(10) in

(7) Copies of the SORP can be obtained from the Charity Commission’s website: <http://www.charitycommission.gov.uk/investigations/sorp/sorp05docs.asp>. Printed copies can be obtained from CCH on 0870 777 2906 or customerservices@cch.co.uk (quoting product code CCSORP) or via the CCH website: <http://www.cch.co.uk>. There may be a charge for obtaining printed copies of the SORP.

(8) 1996 c. 52. Eligibility for registration as a social landlord is determined in accordance with section 2 of that Act. Section 3(3)(a) of the 1996 Act was amended by the Charities Act 2006 (c.50), Schedule 8, paragraph 184. There are other amendments to the 1996 Act not relevant for the purposes of these Regulations.

(9) 1988 c. 40. Section 129 of the 1988 Act was amended by section 72(1) of the Further and Higher Education Act 1992 (c. 13).

(10) 1992 c. 13.

respect of expenditure incurred or to be incurred by the charity in connection with that institution; and

- (iii) incurred no expenditure for charitable purposes other than the purposes of that institution or any other such institution; and

“subsidiary undertaking” has the meaning given by paragraph 1 of Schedule 5A to the 1993 Act;

“trustee for a charity” means a person other than the charity itself (“A”) or a charity trustee of A who holds title to property belonging to A and includes a custodian trustee and a nominee;

“unrestricted fund” means a fund which is to be used, or applied, in any way determined by the charity trustees of a charity for the furtherance of the objects of the charity;

“Welsh National Health Service Charity” has the meaning given by section 43B(4) of the 1993 Act.

(2) Subject to paragraph (3), in these Regulations, “common investment fund” means a common investment fund established by a scheme under section 22 of the 1960 Act or section 24 of the 1993 Act.

(3) A fund is not a “common investment fund” for the purposes of these Regulations if its trusts provide for property to be transferred to that fund only by or on behalf of a participating charity of which the charity trustees are the trustees appointed to manage the fund.

(4) Where the scheme or schemes regulating an investment fund allocates responsibility for the exercise of a function of a charity trustee to a particular person, “charity trustees”, in relation to that investment fund, includes the person to whom the relevant function has been allocated.

Financial year of a charity which is not a company

3.—(1) The financial year of a charity which is not a company (“relevant charity”) is, for the purposes of the 1993 Act and regulations made under that Act, to be determined in accordance with this regulation.

(2) The first financial year of a relevant charity is the period beginning with the day on which the charity is established and ending with—

- (a) its accounting reference date; or
- (b) such other date, not more than seven days before or after the accounting reference date, as the charity trustees may determine.

(3) Subsequent financial years of a relevant charity—

- (a) begin with the day immediately following the last day of the charity’s previous financial year; and
- (b) end with—
 - (i) its accounting reference date; or
 - (ii) such other date, not more than seven days before or after the accounting reference date, as the charity trustees may determine.

(4) For the purposes of this regulation, the “accounting reference date” of a relevant charity is—

- (a) in relation to the first financial year of the charity, such date, not less than 6 months and not more than 18 months after the date on which the charity was established as the charity trustees may determine;
- (b) in relation to a subsequent financial year of the charity—
 - (i) the date 12 months after the previous accounting reference date of the charity; or

(ii) subject to paragraphs (5) and (7), such other date, not less than 6 months and not more than 18 months after the previous accounting reference date of the charity as the charity trustees may determine.

(5) The charity trustees may only exercise the power in paragraph (4)(b)(ii) in respect of a restricted financial year with the consent of the Commission.

(6) In paragraph (5), “restricted financial year” means a financial year beginning immediately after—

- (a) a financial year in respect of which the charity trustees had exercised the power in paragraph (4)(b)(ii) above or in regulation 6(4)(b) of the 2005 Regulations;
- (b) a financial year (“A”) where A began immediately after a financial year in respect of which the charity trustees had exercised the power in paragraph (4)(b)(ii) above or in regulation 6(4)(b) of the 2005 Regulations.

(7) The charity trustees may exercise their power under paragraph (4)(b)(ii) so as to determine an accounting reference date less, or more, than 12 months from the beginning of the financial year only where they satisfied that there are exceptional reasons to do so.

Application, revocation, savings and transitional provisions

4.—(1) The 2005 Regulations are revoked.

(2) Despite paragraph (1) and subject to paragraphs (3) and (4), the 2005 Regulations continue to apply in respect of a financial year of a charity which began before 1st April 2008.

(3) The duty in regulation 7(5) of the 2005 Regulations continues to apply only in respect of matters of which an auditor became aware of—

- (a) before 1st April 2008; and
- (b) during a financial year ending on or before 31st March 2008.

(4) These Regulations apply in respect of a financial year of a charity which—

- (a) begins on or after 1st April 2008; or
- (b) is a transferred year.

(5) Despite paragraph (4)—

- (a) nothing in these Regulations applies to a charity which is an exempt charity;
- (b) the group accounts provisions do not apply in respect of a transferred year.

(6) In this regulation—

- (a) “accounts determination” means—
 - (i) in relation to an investment fund, a determination that regulation 6 of these Regulations rather than regulation 4 of the 2005 Regulations is to apply to the statement of accounts prepared in respect of the financial year in question;
 - (ii) in relation to any other charity, a determination that regulation 8 of these Regulations rather than regulation 3 of the 2005 Regulations is to apply to the statement of accounts prepared in respect of the financial year in question;
- (b) “group accounts provisions” means—
 - (i) Part 3;
 - (ii) Chapter 3 of Part 4;
 - (iii) in so far as it applies to audits carried out under paragraph 6 of Schedule 5A to the 1993 Act, Chapter 3 of Part 4,

of these Regulations

- (c) “report determination” means—
 - (i) in relation to an investment fund, a determination that regulation 38 of these Regulations rather than regulation 12 of the 2005 Regulations is to apply to the annual report prepared in respect of the financial year in question;
 - (ii) in relation to any other charity, a determination that regulation 40 of these Regulations rather than regulation 11 of the 2005 Regulations is to apply to the annual report prepared in respect of the financial year in question;
 - (d) “transferred year” means a financial year of a charity—
 - (i) which began before 1st April 2008; and
 - (ii) in respect of which the charity trustees may make and make an accounts determination and a report determination.
- (7) The charity trustees of a charity may not make an accounts determination or a report determination in respect of financial year beginning before 1st April 2008 if—
- (a) the charity is a special case charity; or
 - (b) before that date they have—
 - (i) approved the accounts of the charity prepared in respect of that financial year; or
 - (ii) authorised the signature of an annual report prepared in respect of that financial year in accordance with the 2005 Regulations.