
STATUTORY INSTRUMENTS

2008 No. 629

The Charities (Accounts and Reports) Regulations 2008

PART 4

SCRUTINY OF ACCOUNTS

CHAPTER 6

MISCELLANEOUS

Audit and independent examination: supplementary provisions

33.—(1) Any person carrying out an audit or examination of the accounts of a charity under sections 43, 43A or 43B of or paragraph 6 of Schedule 5A to the 1993 Act has a right of access to any books, documents and other records (however kept) which relate to the charity concerned and which the person concerned considers it necessary to inspect for the purpose of carrying out the audit or examination.

(2) Such a person is entitled to require, in the case of the charity concerned, such information and explanations from past or present charity trustees of, or trustees for, the charity, or from past or present officers or employees of the charity, as he considers it necessary to obtain for the purposes of carrying out the audit or examination.

(3) An auditor carrying out an audit of the group accounts of a parent charity under paragraph 6 of Schedule 5A to the 1993 Act also has—

- (a) a right of access to any books, documents and other records (however kept) which relate to any of the subsidiary undertakings included in group accounts and which the auditor considers it necessary to inspect for the purpose of carrying out the audit;
- (b) the right to require, in the case of any such subsidiary undertaking, such information and explanations from—
 - (i) in the case of a subsidiary undertaking which is a charity, past or present charity trustees of, or trustees for, that charity;
 - (ii) in the case of any subsidiary undertaking which is not a charity from the subsidiary undertaking itself and from past or present officers or employees of that undertaking;as he considers it necessary to obtain for the purposes of carrying out the audit;
- (c) the right to require the charity trustees of the parent charity to take all such steps as are reasonably open to them to obtain from any such subsidiary undertaking such information and explanations as he may reasonably require for the purposes of carrying out the audit.

(4) For the purposes of this regulation, “officer” includes any auditor or other person appointed to scrutinise the accounts of any such undertaking.

Dispensations from audit or examination requirements

34.—(1) The Commission may—

- (a) in the circumstances specified in paragraph (2), dispense with the requirements of section 43(2) or (3) of the 1993 Act in the case of a particular charity;
 - (b) in the circumstances specified in paragraph (3) dispense with those requirements in respect of a particular financial year of a charity;
 - (c) in the circumstances specified in paragraph (4) dispense with the requirements in paragraph 6(4)(a) of Schedule 5A to the 1993 Act in the case of a particular charity;
 - (d) in the circumstances specified in paragraph (5) dispense with those requirements in respect of a particular financial year of a charity.
- (2) The circumstances specified for the purposes of paragraph (1)(a) are where the Commission is satisfied that the accounts of the charity concerned—
- (a) are required to be audited in accordance with any statutory provision contained in or having effect under an Act of Parliament which imposes requirements which, in the opinion of the Commission, are sufficiently similar to the requirements of section 43(2) for those requirements to be dispensed with;
 - (b) have been audited by the Comptroller and Auditor General or the Auditor General for Wales.
- (3) The circumstances specified for the purposes of paragraph (1)(b) are where the Commission—
- (a) is satisfied that the accounts of the charity concerned for the financial year in question have been, or will be, audited or examined in accordance with requirements or arrangements which, in the opinion of the Commission, are sufficiently similar to the relevant requirements of section 43 of the 1993 Act applicable to that financial year of that charity for those requirements to be dispensed with;
 - (b) considers that, although the financial year in question of the charity concerned is one to which section 43(2) of the 1993 Act applies, there are exceptional circumstances which justify the examination of the accounts by an independent examiner instead of their audit in accordance with that subsection.
- (4) The circumstances specified for the purposes of paragraph (1)(c) are where the Commission is satisfied that the group accounts of the parent charity concerned—
- (a) are required to be audited in accordance with any statutory provision contained in or having effect under an Act of Parliament which imposes requirements which, in the opinion of the Commission, are sufficiently similar to the requirements of paragraph 6(4)(a) of Schedule 5A for those requirements to be dispensed with;
 - (b) have been audited by the Comptroller and Auditor General or the Auditor General for Wales.
- (5) The circumstances specified for the purpose of paragraph (1)(d) are where the Commission is satisfied that the group accounts of the parent charity concerned for the financial year in question have been, or will be, audited in accordance with requirements or arrangements which, in the opinion of the Commission, are sufficiently similar to the requirements of paragraph 6(4)(a) of Schedule 5A for those requirements to be dispensed with.
- (6) The Commission must make it a condition of a dispensation granted under this regulation that the charity trustees send to the Commission any report made to the trustees with respect to the accounts of that charity for the relevant financial year of which it requests a copy.
- (7) The Commission must make it a condition of a dispensation granted under paragraph (3)(b) that the charity trustees comply with the requirements of section 43(3) of the 1993 Act as if they were able to make and had in fact made an election under that section that the accounts of the charity for the relevant financial year be examined by an independent examiner.

(8) The Commission may revoke a dispensation granted under this regulation if the charity trustees fail to comply with a condition imposed under paragraph (6) or (7).

Ceasing to hold office

35.—(1) Where an auditor appointed by charity trustees or under section 43A(2) or (3)(a) ceases for any reason to hold office he must send—

- (a) to the charity trustees—
 - (i) a statement of any circumstances connected with his ceasing to hold office which he considers should be brought to their attention; or
 - (ii) if he considers that there are no such circumstances, a statement that there are none;
- (b) a copy of any statement sent to the charity trustees under sub-paragraph (a)(i) to the Commission.

Auditors appointed by the Commission

36.—(1) Subject to paragraph (2), in the case of an auditor appointed by the Commission, any report required by any of the provisions of this Part to be made to the charity trustees must instead be made to the Commission.

(2) This regulation does not apply in the case of an English or Welsh National Health Service Charity.