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STATUTORY INSTRUMENTS

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**2008 No. 629**

**The Charities (Accounts and Reports) Regulations 2008**

**PART 1**

**GENERAL**

**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;

“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;

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- (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 The 1960 Act was repealed in part by the Charities Act 1993 (c. 10). The provisions remaining in force are repealed by the Charities Act 2006, Schedule 9.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).

“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 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

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(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](mailto: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.

“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.