



Charities and Trustee Investment (Scotland) Act 2005

2005 asp 10

^{F1}PART 1

CHARITIES

CHAPTER 6

CHARITY ACCOUNTS

Duty to keep accounts etc.

44 Accounts

- (1) A charity must—
 - (a) keep proper accounting records,
 - (b) prepare for each financial year of the charity a statement of account, including a report on its activities in the financial year,
 - (c) have the statement of account independently examined or audited, and
 - (d) after such examination or audit, send a copy of the statement of account to OSCR,in accordance with regulations under subsection (4).
- (2) Accounting records kept in pursuance of subsection (1)(a) must be preserved by the charity for 6 years from the end of the financial year in which they are made.
- (3) Subsection (2) is without prejudice to any other enactment or rule of law.
- (4) The Scottish Ministers may by regulations make provision about the matters referred to in subsection (1) including—
 - (a) the meaning of “financial year”,
 - (b) the information to be contained in the accounting records and statement of account,

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- (c) the manner in which that information is to be presented,
 - (d) the keeping and preservation of the accounting records,
 - (e) the methods and principles according to which, and the time by which, the statement of account is to be prepared,
 - (f) the time by which the copy statement of account is to be sent to OSCR,
 - (g) examination or audit of the statement of account,
 - (h) such other matters in relation to the accounts of a charity as the Scottish Ministers think necessary or expedient.
- (5) Regulations under subsection (4) may make different provision in relation to different types of charity, including provision exempting charities of a particular type from some or all of the requirements of this section.

Commencement Information

- I1** S. 44 in force at 1.1.2006 for specified purposes by [S.S.I. 2005/644](#), art. 2(1), [Sch. 1](#)
- I2** S. 44 in force at 1.4.2006 in so far as not already in force by [S.S.I. 2006/189](#), art. 2(1), [Sch. Pt. 1](#)

45 Failure to provide statement of account

- (1) This section applies where a charity fails, within such period as is specified in regulations under section 44(4), to send a copy of a statement of account to OSCR in pursuance of subsection (1)(d) of that section.
- (2) OSCR may, after notifying the charity of its intention to do so, appoint a suitably qualified person (an “appointed person”) to prepare such a statement of account.
- (3) An appointed person is entitled—
- (a) on giving reasonable notice, to enter premises occupied by the charity at all reasonable times,
 - (b) to have access to, and take possession of, any document appearing to the appointed person to relate to the financial affairs of the charity, and
 - (c) to require any charity trustee, or agent or employee, of the charity to give the person such assistance, information or explanation as the appointed person may reasonably require.
- (4) The charity trustees of the charity are personally liable jointly and severally for—
- (a) any costs incurred by OSCR in relation to the appointment of the appointed person, and
 - (b) the expenses of the appointed person in performing that person's functions under this section.
- (5) The appointed person must—
- (a) send to OSCR the statement of account prepared in pursuance of subsection (2),
 - (b) submit to OSCR a report on the affairs and accounting records of the charity, and
 - (c) send a copy of the statement of account and report to each person appearing to the appointed person to be a charity trustee of the charity.

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- (6) A person who, without reasonable excuse, refuses or fails to comply with a requirement of an appointed person under subsection (3) is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Commencement Information

I3 S. 45 in force at 1.4.2006 by [S.S.I. 2006/189](#), art. 2(1), [Sch. Pt. 1](#)

Changes to legislation:

There are outstanding changes not yet made by the legislation.gov.uk editorial team to Charities and Trustee Investment (Scotland) Act 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations.

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Changes and effects yet to be applied to :

- s. 45 heading substituted by [2023 asp 5 s. 12\(3\)](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Pt. 1 Ch. 7A inserted by [2023 asp 5 s. 13\(2\)](#)
- s. 2(1A) inserted by [2023 asp 5 sch. para. 1\(2\)](#)
- s. 3(3)(aa) inserted by [2023 asp 5 s. 2\(2\)\(a\)](#)
- s. 3(6)(c) and word inserted by [2023 asp 5 sch. para. 3\(2\)\(b\)](#)
- s. 5(2)(aa) inserted by [2023 asp 5 s. 18\(3\)\(a\)](#)
- s. 5(3) inserted by [2023 asp 5 sch. para. 4\(2\)](#)
- s. 5(4)(5) inserted by [2023 asp 5 s. 18\(3\)\(b\)](#)
- s. 10(3) inserted by [2023 asp 5 sch. para. 6\(3\)\(b\)](#)
- s. 11(3A)(3B) inserted by [2023 asp 5 sch. para. 5\(2\)\(b\)](#)
- s. 11(4)(a) words in s. 11(4) renumbered as s. 11(4)(a) by [2023 asp 5 sch. para. 5\(2\)\(c\)\(i\)](#)
- s. 11(4)(b) and word inserted by [2023 asp 5 sch. para. 5\(2\)\(c\)\(ii\)](#)
- s. 11(5) inserted by [2023 asp 5 sch. para. 5\(2\)\(d\)](#)
- s. 12(2A) inserted by [2023 asp 5 sch. para. 6\(4\)\(b\)](#)
- s. 12(3A) inserted by [2023 asp 5 sch. para. 4\(3\)](#)
- s. 12(3B) inserted by [2023 asp 5 sch. para. 6\(4\)\(d\)](#)
- s. 12(6) inserted by [2023 asp 5 sch. para. 6\(4\)\(g\)](#)
- s. 17(1)(ba) inserted by [2023 asp 5 s. 3\(2\)](#)
- s. 19(1)-(1D) substituted for s. 19(1) by [2023 asp 5 sch. para. 9\(2\)](#)
- s. 23(1A) inserted by [2023 asp 5 sch. para. 10\(3\)](#)
- s. 24A inserted by [2023 asp 5 sch. para. 11\(3\)](#)
- s. 25(1)(ba)(bb) inserted by [2023 asp 5 sch. para. 11\(4\)\(a\)](#)
- s. 25(3)(4) inserted by [2023 asp 5 sch. para. 11\(4\)\(b\)](#)
- s. 28(2A) inserted by [2023 asp 5 s. 15\(3\)](#)
- s. 28(4A) inserted by [2023 asp 5 s. 15\(4\)](#)
- s. 29(2A) inserted by [2023 asp 5 s. 16\(2\)\(c\)](#)
- s. 30A inserted by [2023 asp 5 s. 18\(4\)](#)
- s. 30B inserted by [2023 asp 5 s. 17\(3\)](#)
- s. 32(2)(a) words in s. 32(2) renumbered as s. 32(2)(a) by [2023 asp 5 s. 17\(5\)\(a\)](#)
- s. 32(2)(a) words inserted by [2023 asp 5 s. 17\(5\)\(b\)](#)
- s. 32(2)(b) words in s. 32(2) renumbered as s. 32(2)(b) by [2023 asp 5 s. 17\(5\)\(c\)](#)
- s. 32(2)(b) words inserted by [2023 asp 5 s. 17\(5\)\(d\)](#)
- s. 33(1)(a)(ib) inserted by [2023 asp 5 s. 17\(7\)](#)
- s. 33(1)(a)(ia) inserted by [2023 asp 5 s. 18\(5\)](#)
- s. 42(6)-(10) substituted for s. 42(6)(7) by [2023 asp 5 s. 14\(2\)](#)
- s. 44(1)(ca) inserted by [2023 asp 5 s. 10\(2\)\(a\)\(i\)](#)
- s. 44(2A) inserted by [2023 asp 5 sch. para. 12\(3\)](#)
- s. 44(4A) inserted by [2023 asp 5 s. 10\(2\)\(b\)](#)
- s. 45A inserted by [2023 asp 5 s. 12\(4\)](#)
- s. 45B and cross-heading inserted by [2023 asp 5 s. 10\(3\)](#)
- s. 48A and cross-heading inserted by [2023 asp 5 sch. para. 15\(2\)](#)
- s. 52(3A)(3B) inserted by [2023 asp 5 sch. para. 16\(2\)](#)
- s. 64(1) words in s. 64 renumbered as s. 64(1) by [2023 asp 5 sch. para. 18\(2\)\(a\)](#)

- s. 64(2) inserted by 2023 asp 5 sch. para. 18(2)(b)
- s. 66A and cross-heading inserted by 2023 asp 5 s. 3(3)
- s. 69(2)(a)(ai) inserted by 2023 asp 5 s. 4(2)(a)(i)
- s. 69(2)(b)(i) words in s. 69(2)(b) renumbered as s. 69(2)(b)(i) by 2023 asp 5 s. 5(2)(a)(i)
- s. 69(2)(b)(i) words inserted by 2023 asp 5 s. 5(2)(a)(ii)
- s. 69(2)(b)(ii) inserted by 2023 asp 5 s. 5(2)(a)(iii)
- s. 69(2)(f)-(i) inserted by 2023 asp 5 s. 5(2)(d)
- s. 69(2)(da)(db) inserted by 2023 asp 5 s. 5(2)(c)
- s. 69(2A) inserted by 2023 asp 5 s. 5(3)(b)
- s. 69(3A) inserted by 2023 asp 5 s. 5(3)(c)
- s. 69(7) inserted by 2023 asp 5 s. 5(3)(e)
- s. 69A inserted by 2023 asp 5 s. 4(3)
- s. 69B inserted by 2023 asp 5 s. 6(2)
- s. 70(4)-(6) inserted by 2023 asp 5 s. 5(4)(b)
- s. 70A(5A) inserted by 2023 asp 5 s. 8(6)
- s. 70A(9) inserted by 2023 asp 5 s. 8(10)
- s. 70ZA70ZB inserted by 2023 asp 5 s. 7(3)
- s. 71(ib)(ic) inserted by 2023 asp 5 s. 18(6)
- s. 71(id) inserted by 2023 asp 5 s. 17(9)
- s. 71(mb) inserted by 2023 asp 5 s. 12(5)
- s. 71(pa) inserted by 2023 asp 5 s. 6(5)
- s. 71(pb) inserted by 2023 asp 5 s. 9(2)
- s. 71(pc) inserted by 2023 asp 5 s. 7(4)
- s. 72(2)(ba) inserted by 2023 asp 5 s. 16(3)(a)(ii)
- s. 72(2)(bb) inserted by 2023 asp 5 s. 9(3)
- s. 72(4) inserted by 2023 asp 5 s. 16(3)(b)
- s. 74(1A) inserted by 2023 asp 5 s. 9(5)
- s. 100(5A)-(5E) inserted by 2023 asp 5 sch. para. 20(2)
- s. 103(5)(ba) inserted by 2023 asp 5 s. 18(8)(b)
- s. 103(5)(bb) inserted by 2023 asp 5 s. 14(3)
- s. 103(5)(ca) inserted by 2023 asp 5 s. 5(5)
- s. 103(5)(cb) inserted by 2023 asp 5 s. 4(4)
- s. 103(5)(za) inserted by 2023 asp 5 s. 18(8)(a)