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SCOTTISH STATUTORY INSTRUMENTS

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**2006 No. 218**

**The Charities Accounts (Scotland) Regulations 2006**

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Charities Accounts (Scotland) Regulations 2006 and shall come into force on 17th May 2006.

(2) In these Regulations—

“the 2005 Act” means the Charities and Trustee Investment (Scotland) Act 2005;

“annual report” means a report on the activities of the charity in a financial year as referred to in section 44(1)(b) of the 2005 Act;

“charity” unless the context otherwise requires, has the same meaning as in the 2005 Act;

“connected charities” means charities having common or related charitable purposes, or charities which have common control or unity of administration;

“consolidated adjustments” means the transactions between a parent body which is a charity and a subsidiary undertaking or between subsidiary undertakings;

“designated funds” means that part of the unrestricted funds, which the charity trustees set aside to be used for a particular purpose;

“expendable endowment funds” means funds which the charity trustees have the option, in certain circumstances, to spend as if it were income;

“financial year” has the meaning given in regulation 3;

“further and higher education institution” means a body listed in Schedule 2 of the Further and Higher Education (Scotland) Act 2005(1);

“gross income” means the total recorded income of the charity in all unrestricted and restricted funds but not including resources received as capital funds;

“independent examiner” has the meaning given in regulation 11;

“OSCR” has the meaning given in section 1 of the 2005 Act;

“permanent endowment funds” means funds which the charity trustees are prohibited from spending as income;

“registered social landlord” means a body registered in the register maintained under section 57 of the Housing (Scotland) Act 2001(2);

“reserves” means that part of the income of a charity that is freely available, excluding permanent endowment funds, expendable endowment funds, restricted funds and income funds which can only be realised by disposing of fixed assets held for charity use and programme related investments;

“subsidiary undertaking” means an undertaking which has a parent body which is a charity and that parent body either—

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(1) 2005 asp 6.

(2) 2001 asp 10.

- (a) exercises, or has the power to exercise dominant influence or control over the undertaking, or
  - (b) is managed on a unified basis with the undertaking;
- “the SORP” means the Statement of Recommended Practice for Accounting and Reporting by Charities, issued by the Charity Commissioners for England and Wales on 4th March 2005;
- “unrestricted funds” means funds which are to be used or applied in any way the charity trustees determine, for the furtherance of the purposes of the charity and “restricted funds” means any other funds of the charity.

### **Application of Regulations**

2. These Regulations apply to all charities with a financial year which begins on or after 1st April 2006.

### **Financial year**

3.—(1) The financial year of a charity shall, for the purposes of these Regulations and the 2005 Act, be determined in accordance with the following provisions of this regulation.

- (2) The first financial year shall be the period beginning with—
  - (a) the date immediately after the date of the end of its previous financial year in the case of the following—
    - (i) a body which is entered in the Register on 1st April 2006,
    - (ii) a company incorporated on or before 1st April 2006, which is entered in the Register after 1st April 2006,
    - (iii) a charity established under the law of a country or territory other than Scotland on or before 1st April 2006,
  - (b) the date on which a body is entered in the Register, in the case of a body which is entered in the Register after 1st April 2006, with the exception of a company or body referred to in sub-paragraphs (a)(ii), (c) or (d),
  - (c) the date on which a body is incorporated, in the case of a company incorporated after 1st April 2006, which is entered in the Register after 1st April 2006, or
  - (d) the date on which a charity is established under the law of a country or territory other than Scotland, in the case of a charity established under that law after 1st April 2006,  
and ending with the accounting reference date of the charity, or 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 charity begin with the day immediately following the end of the previous financial year of the charity and end with its accounting reference date or such other date, not more than seven days before or after the accounting reference date, as the charity trustees may determine.

- (4) The accounting reference date of a charity shall, for the purposes of this regulation, be—
  - (a) in the first financial year of a body which is entered in the Register after 1st April 2006, such date, not less than 6 months nor more than 18 months, as the charity trustees may determine, after—
    - (i) the date on which a body is entered in the Register, with the exception of a body which is a company or a body which is a charity established under the law of a country or territory other than Scotland,

- (ii) the date on which a body is incorporated, in the case of a company incorporated after 1st April 2006,
  - (iii) the date on which a charity is established, in the case of a charity established under the law of a country or territory other than Scotland, which is established under that law after 1st April 2006; and
- (b) in any subsequent financial year of any charity and in the first financial year of the following—
- (i) a body entered in the Register on 1st April 2006,
  - (ii) a company incorporated on or before 1st April 2006, which is entered in the Register after 1st April 2006, and
  - (iii) a charity established under the law of a country or territory other than Scotland, which is established under that law on or before 1st April 2006,
- the date 12 months after the previous accounting reference date of the charity or such other date, 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 specify a new accounting reference date of the charity, having effect in relation to—
- (a) the charity’s current financial year and subsequent financial years; or
  - (b) the charity’s previous financial years and subsequent financial years.
- (6) The “previous financial year” of a charity means that immediately preceding its current financial year.
- (7) A charity shall not have three financial years exceeding 12 months in any five year period.
- (8) Where a charity is removed from the Register, its financial year is such period beginning on a day determined in accordance with paragraphs (2) or (3) and ending on the day upon which the charity is removed from the Register.

#### **Accounting records**

- 4.—(1) The charity trustees shall, for the purpose of these regulations and the 2005 Act, ensure that accounting records are kept in respect of the charity which are sufficient to show and explain the transactions of the charity and which—
- (a) disclose at any time, the financial position of the charity at that time; and
  - (b) enable them to ensure that any statement of account prepared under regulation 8 or 9 complies with the requirements of those regulations.
- (2) The accounting records shall in particular contain—
- (a) entries showing from day to day all sums of money received and expended by the charity, and the matters in respect of which the receipt and expenditure takes place; and
  - (b) a record of the assets and liabilities of the charity.

#### **Submission of statement of account to OSCR**

- 5.—(1) A charity must send to OSCR, as required by section 44 of the 2005 Act, a copy of the statement of account not more than 9 months after the end of its financial year.
- (2) Where a charity is removed from the Register, the body must send to OSCR a copy of the statement account within a period of not more than 9 months from the date of removal from the Register.

### **Consolidated accounts**

6.—(1) Where a charity with one or more subsidiary undertakings, has a combined gross income after the removal of consolidated adjustments of £500,000 or more in a financial year, the charity shall prepare consolidated accounts in accordance with the methods and principles in the SORP.

(2) Subject to paragraphs (3) and (4), a charity which has prepared consolidated accounts in accordance with paragraph (1), and its subsidiary undertakings which are charities shall also prepare a statement of account in accordance with regulation 8 or 9.

(3) Where a charity with one or more subsidiary undertakings prepares consolidated accounts in accordance with paragraph (1), it may prepare a consolidated annual report, which shall—

- (a) be prepared in accordance with regulation 8 or 9 depending on the level of the combined gross income of the charity and its subsidiary undertakings; and
- (b) contain the information required by regulation 8 or 9 for each charity.

(4) A charity which is a subsidiary undertaking which has had a consolidated annual report prepared shall not be required to prepare a separate annual report as may otherwise be required by regulation 8(1)(e) or 9(1)(d), provided its statement of account specifies—

- (a) that a consolidated annual report has been prepared, and
- (b) where the consolidated annual report can be obtained.

### **Connected charities**

7.—(1) Connected charities may prepare accounts collated into a single document to send to OSCR.

(2) Where connected charities prepare accounts collated into a single document, the document shall contain the information required by regulation 8 or 9 for each charity, depending on which regulation the charity with the highest gross income in the financial year is required to follow.

(3) Where connected charities prepare accounts in accordance with paragraphs (1) and (2), the charities shall not also be required to prepare and send to OSCR separate accounts for each charity in accordance with regulation 8 or 9.

(4) Where connected charities prepare accounts collated into a single document, the accounts shall be audited in accordance with regulation 10 or independently examined in accordance with regulation 11, depending on which regulation the charity with the highest gross income is required to follow.

### **Statement of account - Fully accrued accounts**

8.—(1) Subject to regulation 14(4), a charity with a gross income of £100,000 or more in a financial year shall prepare a statement of account for that financial year which shall consist of—

- (a) a statement of financial activities which shows the total incoming resources and application of the resources, together with any movements in the total resources, of the charity during the financial year in respect of which the statement is prepared;
- (b) a balance sheet which shows the state of affairs of the charity as at the end of the financial year in respect of which the statement is prepared;
- (c) a cash flow statement, if appropriate;
- (d) notes to the accounts; and
- (e) an annual report.

(2) The balance sheet and the annual report shall be signed by one of the charity trustees on behalf of all the charity trustees as authorised by them and shall specify the date on which the statement

of account of which the balance sheet and the annual report forms part was approved by the charity trustees.

(3) The statement of account shall be prepared in accordance with the principles set out in Schedule 1.

### **Statement of account - Receipts and payments accounts**

**9.**—(1) Subject to regulation 14(4) and to paragraph (4), a charity with a gross income of less than £100,000 in a financial year shall prepare a statement of account for that financial year consisting of—

- (a) a receipts and payment account;
- (b) a statement of balances as at the last day of the financial year;
- (c) notes to the accounts; and
- (d) an annual report containing the information listed in Schedule 2.

(2) The statement of balances and the annual report shall be signed by one of the charity trustees on behalf of all the charity trustees as authorised by them and shall specify the date on which the statement of account of which the statement of balances and the annual report forms part was approved by the charity trustees.

(3) The statement of account shall contain the information listed in Schedule 3.

(4) Where—

- (a) the constitution of the charity;
- (b) any other enactment; or
- (c) a decision of the charity trustees,

requires the charity to prepare fully accrued accounts, the charity shall, instead of the accounts referred to in paragraph (1), prepare a statement of account in accordance with regulation 8.

### **Annual audit of statement of account**

**10.**—(1) This regulation applies where a charity has—

- (a) prepared a statement of account in accordance with regulation 8 and has gross income in a financial year of £500,000 or more;
- (b) prepared a statement of account in accordance with regulation 8 and the aggregate value of its assets (before deduction of liabilities) in a financial year exceeds £2.8 million;
- (c) prepared a statement of account in accordance with regulation 8 and has gross income in a financial year of less than £500,000 and one of the following requires the charity to have its statement of account audited—
  - (i) the constitution of the charity;
  - (ii) any other enactment; or
  - (iii) a decision of the charity trustees; or
- (d) prepared a statement of account in accordance with regulation 9 and has gross income in a financial year of less than £100,000, and one of the following requires the charity to have its statement of account audited—
  - (i) the constitution of the charity;
  - (ii) any other enactment; or
  - (iii) a decision of the charity trustees.

(2) The statement of account must be audited by an auditor who is eligible to act as an auditor in terms of section 25 of the Companies Act 1989(3) or by the Auditor General for Scotland.

(3) The duties of an auditor carrying out an audit of the statement of account of a charity under section 44(1)(c) of the 2005 Act shall be those specified in the following provisions of this regulation.

(4) The auditor shall make a report on the statement of account to the charity trustees which—

- (a) states the name and address of the auditor and the name of the charity concerned;
- (b) is signed by the auditor or, where the office of auditor is held by a body corporate or partnership, in its name by a person authorised to sign on its behalf and states that the auditor is a person who is eligible to act as an auditor in terms of section 25 of the Companies Act 1989;
- (c) states the date of the report and specifies the financial year in respect of which the accounts to which it relates have been prepared;
- (d) specifies that it is a report in respect of an audit carried out under section 44(1)(c) of the 2005 Act;
- (e) states whether in the opinion of the auditor—
  - (i) where regulation 8 applies, the statement of account complies with the requirements of regulation 8, gives a true and fair view of the state of affairs of the charity at the end of the financial year in question and of the incoming resources and application of the resources of the charity in that financial year;
  - (ii) where regulation 9 applies (other than regulation 9(4)), the statement of account complies with the requirements of regulation 9(1), (2) and (3) and properly presents the receipts and payments of the charity for the financial year in question, and its statement of balances at the end of that financial year;
- (f) where the auditor has formed the opinion—
  - (i) that accounting records have not been kept in respect of the charity in accordance with section 44(1)(a) of the 2005 Act and regulation 4 above;
  - (ii) that the statement of account does not accord with those records;
  - (iii) that any information contained in the statement of account is inconsistent in any material respect with any report of the charity trustees prepared under section 44(1)(b) of the 2005 in respect of the financial year in question; or
  - (iv) that any information or explanation to which he is entitled under regulation 13 below has not been afforded to them,

contains a statement of that opinion and of their grounds for forming it.

(5) The auditor shall, in preparing the auditor's report for the purposes of paragraph (4), carry out such investigations as will enable the auditor to form an opinion as to the matters specified in sub-paragraph (e) and (f) of that paragraph.

(6) Where an auditor appointed by charity trustees ceases for any reason to hold office the auditor shall send to the charity trustees a statement of any circumstances connected with the auditor ceasing to hold office which the auditor considers should be brought to the charity trustees' attention or, if the auditor considers that there are no such circumstances, a statement that there are none.

(7) The auditor shall send a copy of any statement sent to the charity trustees under paragraph (6) (except a statement that there are no such circumstances) to OSCR.

## **Independent examination of statement of account**

**11.**—(1) A charity with a gross income in a financial year of less than £500,000, which is required to prepare a statement of account in accordance with regulation 8 or 9 and which is not required to have its statement of account audited in accordance with regulation 10, must have its statement of account for that year examined by an independent examiner who is reasonably believed by the charity trustees to have the requisite ability and practical experience to carry out a competent examination of the accounts.

(2) If the charity prepares a statement of account in accordance with regulation 8, the independent examiner must also be—

- (a) a member of—
    - (i) the Institute of Chartered Accountants in England and Wales,
    - (ii) the Institute of Chartered Accountants of Scotland,
    - (iii) the Institute of Chartered Accountants in Ireland,
    - (iv) the Association of Chartered Certified Accountants,
    - (v) the Association of Authorised Public Accountants,
    - (vi) the Association of Accounting Technicians,
    - (vii) the Association of International Accountants,
    - (viii) the Chartered Institute of Management Accountants,
    - (ix) the Institute of Chartered Secretaries and Administrators,
    - (x) the Chartered Institute of Public Finance or Accountancy,
  - (b) a full member of the Association of Charity Independent Examiners, or
  - (c) the Auditor General for Scotland.
- (3) The independent examiner, shall make a report to the charity trustees which—
- (a) states the name and address of the independent examiner and the name of the charity concerned;
  - (b) is signed by the independent examiner and specifies any relevant professional qualifications or professional body of which the independent examiner is a member;
  - (c) is dated and specifies the financial year in respect of which the accounts to which it relates have been prepared;
  - (d) specifies that it is a report in respect of an examination carried out under section 44(1)(c) of the 2005 Act;
  - (e) states whether or not any matter has come to the attention of the independent examiner in connection with the examination which gives the independent examiner reasonable cause to believe that in any material respect—
    - (i) accounting records have not been kept in respect of the charity in accordance with section 44(1)(a) of the 2005 Act and regulation 4, above;
    - (ii) the accounts do not accord with those records;
    - (iii) in the case of an examination of a statement of account which has been prepared under regulation 8 above, the statement of account does not comply with any of the requirements of regulation 8; or
    - (iv) in the case of an examination of account which has been prepared under regulation 9 above, the receipts and payments account and statement of balances do not comply with any of the requirements of regulation 9;

- (f) states whether or not any matter has come to the independent examiner's attention in connection with the examination to which, in the independent examiner's opinion, attention should be drawn in the report in order to enable a proper understanding of the accounts to be reached; and
- (g) contains a statement as to any of the following matters that has become apparent to the independent examiner during the course of the examination, namely, that—
  - (i) there has been any material expenditure or action which appears not to be in accordance with the purposes of the charity; or
  - (ii) any information or explanation to which they are entitled under regulation 13 below, has not been afforded to them;
  - (iii) in the case of an examination of accounts, a statement of which has been prepared under regulation 8 or 9 above, any information contained in the statement of account is inconsistent in any material respect with any report of the charity trustees prepared under section 44(1)(b) of the 2005 Act in respect of the financial year in question.

#### **Audit exemption for charities which are companies**

**12.** Where a charity which is a company has prepared an accountant's report in terms of sections 249A, 249B, 249C and 249D of the Companies Act 1985<sup>(4)</sup>, it is not required to have its statement of account audited under regulation 10 or independently examined under regulation 11 of these Regulations, if it has sent a copy of that accountant's report to OSCR.

#### **Access to information for auditors and independent examiners**

**13.—**(1) An auditor or independent examiner carrying out an audit or examination of the accounts of a charity in accordance with these Regulations may require a charity trustee or an employee of a charity to produce any books, documents and other records (however kept) which relate to the charity concerned and which the auditor or independent examiner in question considers it necessary to inspect for the purposes of carrying out the audit or, as the case may be, examination.

(2) Such an auditor or independent examiner may require, in the case of the charity concerned, such information from past or present charity trustees for the charity, or from past or present employees of the charity, as they consider it necessary to obtain for the purposes of carrying out the audit or, as the case may be, examination.

#### **Special case charities**

**14.—**(1) This regulation applies to charity which is a further and higher education institution or a registered social landlord.

(2) The statement of account of a charity to which this regulation applies shall consist of an income and expenditure account, a balance sheet and notes to the accounts as at the end of the financial year in respect of which the statement of account is prepared.

(3) The statement of account shall be prepared in accordance with the methods and principles in the respective statements of recommended practice of the charities to which this regulation applies, namely—

- (a) the Statement of Recommended Practice: Accounting for Further and Higher Education issued by the Further and Higher Education SORP Board on the 24th July 2003, and

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(4) 1985 c. 6. Sections 249A, 249B, 249C and 249D were inserted by regulation 2 of S.I.1994/1935.



- (b) the Statement of Recommended Practice: Accounting by Registered Social Landlords, issued by the board of the National Housing Association, the Welsh Federation of Housing Associations and the Scottish Federation of Housing Associations on 12th May 2005.
- (4) A charity which prepares a statement of account in accordance with paragraphs (2) and (3), is not required to prepare a statement of account in accordance with either regulation 8 or 9.
- (5) For the purposes of regulation 10 and 11, a statement of account to which this regulation applies is deemed to have been prepared under regulation 8 or 9.

St Andrew's House,  
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