



# Charities Act 2006

## 2006 CHAPTER 50

### PART 2

#### REGULATION OF CHARITIES

#### CHAPTER 5

##### ASSISTANCE AND SUPERVISION OF CHARITIES BY COURT AND COMMISSION

##### *Powers of entry etc.*

#### **26 Power to enter premises and seize documents etc.**

(1) After section 31 of the 1993 Act insert—

##### **“31A Power to enter premises**

(1) A justice of the peace may issue a warrant under this section if satisfied, on information given on oath by a member of the Commission’s staff, that there are reasonable grounds for believing that each of the conditions in subsection (2) below is satisfied.

(2) The conditions are—

- (a) that an inquiry has been instituted under section 8 above;
- (b) that there is on the premises to be specified in the warrant any document or information relevant to that inquiry which the Commission could require to be produced or furnished under section 9(1) above; and
- (c) that, if the Commission were to make an order requiring the document or information to be so produced or furnished—
  - (i) the order would not be complied with, or

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- (ii) the document or information would be removed, tampered with, concealed or destroyed.
- (3) A warrant under this section is a warrant authorising the member of the Commission's staff who is named in it—
- (a) to enter and search the premises specified in it;
  - (b) to take such other persons with him as the Commission considers are needed to assist him in doing anything that he is authorised to do under the warrant;
  - (c) to take possession of any documents which appear to fall within subsection (2)(b) above, or to take any other steps which appear to be necessary for preserving, or preventing interference with, any such documents;
  - (d) to take possession of any computer disk or other electronic storage device which appears to contain information falling within subsection (2)(b), or information contained in a document so falling, or to take any other steps which appear to be necessary for preserving, or preventing interference with, any such information;
  - (e) to take copies of, or extracts from, any documents or information falling within paragraph (c) or (d);
  - (f) to require any person on the premises to provide an explanation of any such document or information or to state where any such documents or information may be found;
  - (g) to require any such person to give him such assistance as he may reasonably require for the taking of copies or extracts as mentioned in paragraph (e) above.
- (4) Entry and search under such a warrant must be at a reasonable hour and within one month of the date of its issue.
- (5) The member of the Commission's staff who is authorised under such a warrant ("the authorised person") must, if required to do so, produce—
- (a) the warrant, and
  - (b) documentary evidence that he is a member of the Commission's staff, for inspection by the occupier of the premises or anyone acting on his behalf.
- (6) The authorised person must make a written record of—
- (a) the date and time of his entry on the premises;
  - (b) the number of persons (if any) who accompanied him onto the premises, and the names of any such persons;
  - (c) the period for which he (and any such persons) remained on the premises;
  - (d) what he (and any such persons) did while on the premises; and
  - (e) any document or device of which he took possession while there.
- (7) If required to do so, the authorised person must give a copy of the record to the occupier of the premises or someone acting on his behalf.
- (8) Unless it is not reasonably practicable to do so, the authorised person must comply with the following requirements before leaving the premises, namely—
- (a) the requirements of subsection (6), and

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- (b) any requirement made under subsection (7) before he leaves the premises.
- (9) Where possession of any document or device is taken under this section—
- (a) the document may be retained for so long as the Commission considers that it is necessary to retain it (rather than a copy of it) for the purposes of the relevant inquiry under section 8 above, or
  - (b) the device may be retained for so long as the Commission considers that it is necessary to retain it for the purposes of that inquiry, as the case may be.
- (10) Once it appears to the Commission that the retention of any document or device has ceased to be so necessary, it shall arrange for the document or device to be returned as soon as is reasonably practicable—
- (a) to the person from whose possession it was taken, or
  - (b) to any of the charity trustees of the charity to which it belonged or related.
- (11) A person who intentionally obstructs the exercise of any rights conferred by a warrant under this section is guilty of an offence and liable on summary conviction—
- (a) to imprisonment for a term not exceeding 51 weeks, or
  - (b) to a fine not exceeding level 5 on the standard scale, or to both.”
- (2) In Part 1 of Schedule 1 to the Criminal Justice and Police Act 2001 (c. 16) (powers of seizure to which section 50 applies), after paragraph 56 insert—

*“Charities Act 1993 (c. 10)*

- 56A The power of seizure conferred by section 31A(3) of the Charities Act 1993 (seizure of material for the purposes of an inquiry under section 8 of that Act).”