



# Charities Act 2011

## 2011 CHAPTER 25

### PART 2

#### THE CHARITY COMMISSION AND THE OFFICIAL CUSTODIAN FOR CHARITIES

##### *The Commission*

#### **13 The Charity Commission**

- (1) There continues to be a body corporate known as the Charity Commission for England and Wales (in this Act referred to as “the Commission”).
- (2) In Welsh the Commission is known as “Comisiwn Elusennau Cymru a Lloegr”.
- (3) The functions of the Commission are performed on behalf of the Crown.
- (4) In the exercise of its functions the Commission is not subject to the direction or control of any Minister of the Crown or of another government department.
- (5) But subsection (4) does not affect—
  - (a) any provision made by or under any enactment;
  - (b) any administrative controls exercised over the Commission’s expenditure by the Treasury.
- (6) Schedule 1 contains provisions relating to the Commission.

#### **14 The Commission’s objectives**

The Commission has the following objectives—

1. *The public confidence objective*

The public confidence objective is to increase public trust and confidence in charities.

2. *The public benefit objective*

---

*Status: This is the original version (as it was originally enacted).*

---

The public benefit objective is to promote awareness and understanding of the operation of the public benefit requirement.

3. *The compliance objective*

The compliance objective is to promote compliance by charity trustees with their legal obligations in exercising control and management of the administration of their charities.

4. *The charitable resources objective*

The charitable resources objective is to promote the effective use of charitable resources.

5. *The accountability objective*

The accountability objective is to enhance the accountability of charities to donors, beneficiaries and the general public.

## 15 The Commission's general functions

- (1) The Commission has the following general functions—
1. Determining whether institutions are or are not charities.
  2. Encouraging and facilitating the better administration of charities.
  3. Identifying and investigating apparent misconduct or mismanagement in the administration of charities and taking remedial or protective action in connection with misconduct or mismanagement in the administration of charities.
  4. Determining whether public collections certificates should be issued, and remain in force, in respect of public charitable collections.
  5. Obtaining, evaluating and disseminating information in connection with the performance of any of the Commission's functions or meeting any of its objectives.
  6. Giving information or advice, or making proposals, to any Minister of the Crown on matters relating to any of the Commission's functions or meeting any of its objectives.
- (2) The Commission may, in connection with its second general function, give such advice or guidance with respect to the administration of charities as it considers appropriate.
- (3) Any advice or guidance so given may relate to—
- (a) charities generally,
  - (b) any class of charities, or
  - (c) any particular charity,
- and may take such form, and be given in such manner, as the Commission considers appropriate.
- (4) The Commission's fifth general function includes (among other things) the maintenance of an accurate and up-to-date register of charities under sections 29 (the register) and 34 (removal of charities from register).
- (5) The Commission's sixth general function includes (among other things) complying, so far as is reasonably practicable, with any request made by a Minister of the Crown for information or advice on any matter relating to any of its functions.

- (6) In this section “public charitable collection” and “public collections certificate” have the same meaning as in Chapter 1 of Part 3 of the Charities Act 2006.

## **16 The Commission’s general duties**

The Commission has the following general duties—

1. So far as is reasonably practicable the Commission must, in performing its functions, act in a way—
  - (a) which is compatible with its objectives, and
  - (b) which it considers most appropriate for the purpose of meeting those objectives.
2. So far as is reasonably practicable the Commission must, in performing its functions, act in a way which is compatible with the encouragement of—
  - (a) all forms of charitable giving, and
  - (b) voluntary participation in charity work.
3. In performing its functions the Commission must have regard to the need to use its resources in the most efficient, effective and economic way.
4. In performing its functions the Commission must, so far as relevant, have regard to the principles of best regulatory practice (including the principles under which regulatory activities should be proportionate, accountable, consistent, transparent and targeted only at cases in which action is needed).
5. In performing its functions the Commission must, in appropriate cases, have regard to the desirability of facilitating innovation by or on behalf of charities.
6. In managing its affairs the Commission must have regard to such generally accepted principles of good corporate governance as it is reasonable to regard as applicable to it.

## **17 Guidance as to operation of public benefit requirement**

- (1) The Commission must issue guidance in pursuance of its public benefit objective (see paragraph 2 of section 14).
- (2) The Commission may from time to time revise any guidance issued under this section.
- (3) The Commission must carry out such public and other consultation as it considers appropriate—
  - (a) before issuing any guidance under this section, or
  - (b) (unless it considers that it is unnecessary to do so) before revising any guidance under this section.
- (4) The Commission must publish any guidance issued or revised under this section in such manner as it considers appropriate.
- (5) The charity trustees of a charity must have regard to any such guidance when exercising any powers or duties to which the guidance is relevant.

## **18 Supply by Commission of copies of documents**

The Commission must, at the request of any person, provide that person with copies of, or extracts from, any document in the Commission’s possession which is for the time being open to or available for inspection under any provision of this Act.

## **19 Fees and other amounts payable to Commission**

- (1) The Minister may by regulations require the payment to the Commission of such fees as may be prescribed by the regulations in respect of—
  - (a) the discharge by the Commission of such functions under the enactments relating to charities as may be so prescribed;
  - (b) the inspection of the register of charities or of other material kept by the Commission under those enactments, or the provision of copies of or extracts from documents so kept.
- (2) Regulations under this section may—
  - (a) confer, or provide for the conferring of, exemptions from liability to pay a prescribed fee;
  - (b) provide for the remission or refunding of a prescribed fee (in whole or in part) in circumstances prescribed by the regulations.
- (3) The Commission may impose charges of such amounts as it considers reasonable in respect of the supply of any publications produced by it.
- (4) Any fees and other payments received by the Commission by virtue of this section are to be paid into the Consolidated Fund.

## **20 Incidental powers**

- (1) The Commission may do anything which is calculated to facilitate, or is conducive or incidental to, the performance of any of its functions or general duties.
- (2) But nothing in this Act authorises the Commission—
  - (a) to exercise functions corresponding to those of a charity trustee in relation to a charity, or
  - (b) otherwise to be directly involved in the administration of a charity.
- (3) Subsection (2) does not affect the operation of section 84 or 85 (power of Commission to direct specified action to be taken or to direct application of charity property).

### *The official custodian*

## **21 The official custodian for charities**

- (1) There continues to be an officer known as the official custodian for charities (in this Act referred to as “the official custodian”).
- (2) The official custodian’s function is to act as trustee for charities in the cases provided for by this Act.
- (3) The official custodian is such individual as the Commission may from time to time designate.
- (4) The official custodian’s duties must be performed in accordance with such general or special directions as may be given by the Commission.
- (5) Schedule 2 contains provisions relating to the official custodian.