



# Charities Act 2011

## 2011 CHAPTER 25

### PART 8

#### CHARITY ACCOUNTS, REPORTS AND RETURNS

### CHAPTER 3

#### AUDIT OR EXAMINATION OF ACCOUNTS

#### *Audit or examination of individual accounts*

#### **144 Audit of accounts of larger charities**

- (1) Subsection (2) applies to a financial year of a charity if—
- (a) the charity's gross income in that year exceeds £500,000, or
  - (b) the charity's gross income in that year exceeds the accounts threshold and at the end of the year the aggregate value of its assets (before deduction of liabilities) exceeds £3.26 million.
- “The accounts threshold” means the sum for the time being specified in section 133 (account and statement an option for lower-income charities).
- (2) If this subsection applies to a financial year of a charity, the accounts of the charity for that year must be audited by a person who—
- (a) is eligible for appointment as a statutory auditor under Part 42 of the Companies Act 2006, or
  - (b) is a member of a body for the time being specified in regulations under section 154 and is under the rules of that body eligible for appointment as auditor of the charity.

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## **145 Examination of accounts an option for lower-income charities**

- (1) If section 144(2) does not apply to a financial year of a charity but its gross income in that year exceeds £25,000, the accounts of the charity for that year must, at the election of the charity trustees, be—
  - (a) examined by an independent examiner, that is, an independent person who is reasonably believed by the trustees to have the requisite ability and practical experience to carry out a competent examination of the accounts, or
  - (b) audited by a person within section 144(2)(a) or (b).
- (2) Subsection (1) is subject to—
  - (a) subsection (3), and
  - (b) any order under section 146(1).
- (3) If subsection (1) applies to the accounts of a charity for a year and the charity's gross income in that year exceeds £250,000, a person qualifies as an independent examiner for the purposes of subsection (1)(a) if (and only if) the person is independent and—
  - (a) a member of one of the bodies listed in subsection (4), or
  - (b) a Fellow of the Association of Charity Independent Examiners.
- (4) The bodies referred to in subsection (3)(a) are—
  - (a) the Institute of Chartered Accountants in England and Wales;
  - (b) the Institute of Chartered Accountants of Scotland;
  - (c) the Institute of Chartered Accountants in Ireland;
  - (d) the Association of Chartered Certified Accountants;
  - (e) the Association of Authorised Public Accountants;
  - (f) the Association of Accounting Technicians;
  - (g) the Association of International Accountants;
  - (h) the Chartered Institute of Management Accountants;
  - (i) the Institute of Chartered Secretaries and Administrators;
  - (j) the Chartered Institute of Public Finance and Accountancy.
- (5) The Commission may—
  - (a) give guidance to charity trustees in connection with the selection of a person for appointment as an independent examiner;
  - (b) give such directions as it thinks appropriate with respect to the carrying out of an examination in pursuance of subsection (1)(a);and any such guidance or directions may either be of general application or apply to a particular charity only.
- (6) The Minister may by order—
  - (a) amend subsection (3) by adding or removing a description of person to or from the list in that subsection or by varying any entry for the time being included in that list;
  - (b) amend subsection (4) by adding or removing a body to or from the list in that subsection or by varying any entry for the time being included in that list.

## **146 Commission’s powers to order audit**

- (1) The Commission may by order require the accounts of a charity for a financial year to be audited by a person within section 144(2)(a) or (b) if it appears to the Commission that—
  - (a) section 144(2), or (as the case may be) section 145(1), has not been complied with in relation to that year within 10 months from the end of that year, or
  - (b) although section 144(2) does not apply to that year, it would nevertheless be desirable for the accounts of the charity for that year to be audited by a person within section 144(2)(a) or (b).
- (2) If the Commission makes an order under subsection (1) with respect to a charity, the auditor must be a person appointed by the Commission unless—
  - (a) the order is made by virtue of subsection (1)(b), and
  - (b) the charity trustees themselves appoint an auditor in accordance with the order.
- (3) The expenses of any audit carried out by an auditor appointed by the Commission under subsection (2), including the auditor’s remuneration, are recoverable by the Commission—
  - (a) from the charity trustees of the charity concerned, who are personally liable, jointly and severally, for those expenses, or
  - (b) to the extent that it appears to the Commission not to be practical to seek recovery of those expenses in accordance with paragraph (a), from the funds of the charity.

## **147 Accounts required to be audited under Companies Act**

- (1) Nothing in sections 144 to 146 applies in relation to the accounts of a charitable company for a financial year if those accounts are required to be audited in accordance with Part 16 of the Companies Act 2006 (“Part 16 accounts”).
- (2) In the case of a charitable company, the Commission may by order require that the condition and Part 16 accounts of the company for such period as the Commission thinks fit are to be investigated and audited by an auditor who—
  - (a) is eligible for appointment as a statutory auditor under Part 42 of the Companies Act 2006, and
  - (b) is appointed by the Commission.
- (3) An auditor acting under subsection (2)—
  - (a) has a right of access to all books, accounts and documents relating to the company which are in the possession or control of the charity trustees or to which the charity trustees have access;
  - (b) is entitled to require from any charity trustee, past or present, and from any past or present officer or employee of the company such information and explanation as the auditor thinks necessary for the performance of the auditor’s duties;
  - (c) must at the conclusion or during the progress of the audit make such reports to the Commission about the audit or about the accounts or affairs of the company as the auditor thinks the case requires, and must send a copy of any such report to the charity trustees.
- (4) The expenses of any audit under subsection (2) including the remuneration of the auditor, are to be paid by the Commission.

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- (5) If any person fails to afford an auditor any facility to which the auditor is entitled under subsection (3), the Commission may by order give to that person or to the charity trustees for the time being such directions as the Commission thinks appropriate for securing that the default is made good.

#### **148 NHS charities: general**

Nothing in sections 144 to 146 applies in relation to a financial year of a charity where, at any time in the year, it is—

- (a) an English NHS charity (as defined in section 149), or
- (b) a Welsh NHS charity (as defined in section 150).

#### **149 Audit or examination of English NHS charity accounts**

- (1) This section applies in relation to a financial year of a charity where, at any time in the year, it is an English NHS charity.
- (2) If section 144(1)(a) or (b) is satisfied in relation to that financial year of the charity, the accounts of the charity for that year must be audited by a person appointed by the Audit Commission.
- (3) In any other case, the accounts of the charity for that financial year must, at the election of the Audit Commission, be—
  - (a) audited by a person appointed by the Audit Commission, or
  - (b) examined by a person so appointed.
- (4) Section 3 of the Audit Commission Act 1998 applies in relation to any appointment under subsection (2) or (3)(a).
- (5) The Charity Commission may give such directions as it thinks appropriate with respect to the carrying out of an examination in pursuance of subsection (3)(b); and any such directions may either be of general application or apply to a particular charity only.
- (6) The Comptroller and Auditor General may at any time examine and inspect—
  - (a) the accounts of the charity for the financial year,
  - (b) any records relating to those accounts, and
  - (c) any report of a person appointed under subsection (2) or (3) to audit or examine those accounts.
- (7) In this section, “English NHS charity” means a charitable trust, the trustees of which are—
  - (a) a Strategic Health Authority,
  - (b) a Primary Care Trust,
  - (c) a National Health Service trust all or most of whose hospitals, establishments and facilities are situated in England,
  - (d) trustees appointed in pursuance of paragraph 10 of Schedule 4 to the National Health Service Act 2006 for a National Health Service trust falling within paragraph (c),
  - (e) special trustees appointed in pursuance of section 29(1) of the National Health Service Reorganisation Act 1973, section 95(1) of the National Health Service Act 1977 and section 212(1) of the National Health Service Act 2006 for such a National Health Service trust, or

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- (f) trustees for a Primary Care Trust appointed in pursuance of paragraph 12 of Schedule 3 to the National Health Service Act 2006.
- (8) In this Chapter “the Audit Commission” means the Audit Commission for Local Authorities and the National Health Service in England.

## **150 Audit or examination of Welsh NHS charity accounts**

- (1) This section applies in relation to a financial year of a charity where, at any time in the year, it is a Welsh NHS charity.
- (2) If section 144(1)(a) or (b) is satisfied in relation to that financial year of the charity, the accounts of the charity for that year must be audited by the Auditor General for Wales.
- (3) In any other case, the accounts of the charity for that financial year must, at the election of the Auditor General for Wales, be audited or examined by the Auditor General for Wales.
- (4) In this section “Welsh NHS charity” means a charitable trust, the trustees of which are—
  - (a) a Local Health Board,
  - (b) a National Health Service trust all or most of whose hospitals, establishments and facilities are situated in Wales,
  - (c) trustees appointed in pursuance of paragraph 10 of Schedule 3 to the National Health Service (Wales) Act 2006 for a National Health Service trust falling within paragraph (b), or
  - (d) special trustees appointed in pursuance of section 29(1) of the National Health Service Reorganisation Act 1973, section 95(1) of the National Health Service Act 1977 and section 160(1) of the National Health Service (Wales) Act 2006 for such a National Health Service trust.
- (5) References in this Act to an auditor or an examiner have effect in relation to this section as references to the Auditor General for Wales acting under this section as an auditor or examiner.