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STATUTORY INSTRUMENTS

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**2008 No. 629**

**The Charities (Accounts and Reports) Regulations 2008**

**PART 4**

**SCRUTINY OF ACCOUNTS**

**CHAPTER 1**

**GENERAL**

**Duties of auditors: general**

- 20.** The duties of an auditor carrying out an audit of the accounts of a charity are—
- (a) in the case of an audit carried out under section 43 of the 1993 Act, specified—
    - (i) where the auditor is carrying out an audit of a statement of accounts prepared under section 42(1) of the 1993 Act, in regulation 24;
    - (ii) where the auditor is carrying out an audit of individual accounts of a company that is a charity prepared under Part 7 of the 1985 Act, in regulation 25;
    - (iii) where the auditor is carrying out an audit of a receipts and payments account and a statement of assets and liabilities prepared under section 42(3) of the 1993 Act, in regulation 26;
  - (b) in the case of an audit carried out under section 43A of the 1993 Act, specified in regulation 27;
  - (c) in the case of an audit carried out under section 43B of the 1993 Act, specified in regulation 28.

**21.** The duties of an auditor carrying out an audit of the group accounts of a parent charity under paragraph 6 of Schedule 5A to the 1993 Act, specified in regulation 30.

**Duties of examiners: general**

**22.** The duties of an independent examiner with respect to the making of a report in respect of an examination carried out by him under section 43 of the 1993 Act are specified in regulation 31.

**23.** The duties of an examiner with respect to the making of a report in respect of an examination carried out by him under section 43A or 43B are specified in regulation 32.

## CHAPTER 2

### AUDIT OF INDIVIDUAL CHARITY ACCOUNTS

#### **Duties of auditors: audit of a statement of accounts prepared under section 42(1) of the 1993 Act**

**24.**—(1) Where a statement of accounts has been prepared under section 42(1) of the 1993 Act for the relevant financial year, the auditor carrying out the audit of those accounts under section 43 of that Act must make a report on that statement 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 him 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;
- (c) states that the auditor is a person falling within paragraph (a) or, as the case may be, paragraph (b) of section 43(2) of the 1993 Act;
- (d) is dated and specifies the financial year in respect of which the accounts to which it relates have been prepared;
- (e) specifies that it is a report in respect of an audit carried out—
  - (i) under section 43 of the 1993 Act; and
  - (ii) in accordance with regulations made under section 44 of that Act;
- (f) states whether in the auditor’s opinion the statement of accounts complies with—
  - (i) the requirements of regulation 6, 7 or 8, as relevant; and
  - (ii) in particular whether—
    - (aa) the balance sheet gives a true and fair view of the state of affairs of the charity at the end of the relevant financial year; and
    - (bb) the true and fair view requirements specified in paragraph (2) are satisfied.
- (g) where the auditor has formed the opinion that—
  - (i) accounting records have not been kept in respect of the charity in accordance with section 41 of the 1993 Act;
  - (ii) the statement of accounts does not accord with those records;
  - (iii) any information contained in the statement of accounts is inconsistent in any material respect with any report of the charity trustees prepared under section 45 of the 1993 Act in respect of the relevant financial year; or
  - (iv) any information or explanation to which he is entitled under regulation 33 has not been afforded to him,

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

(2) The true and fair view requirements specified for the purposes of sub-paragraph (f)(ii)(bb) of paragraph (1) are—

- (a) in the case of a charity to which regulation 6 applies—
  - (i) the statement of total return gives a true and fair view of the incoming resources and application of the resources of the investment fund in the relevant financial year;
  - (ii) the statement of changes in net assets gives a true and fair view of the movements in the net assets of the investment fund between their position as at the beginning of the relevant financial year;

- (b) in the case of a charity to which regulation 7 applies, the income and expenditure account gives a true and fair view of the income and expenditure of the charity in the financial year in question;
  - (c) in the case of a charity to which regulation 8 applies, the statement of financial activities gives a true and fair view of the incoming resources and application of the resources of the charity in the relevant financial year
- (3) The auditor must, in preparing his report carry out such investigations as will enable him to form an opinion as to the matters specified in sub-paragraphs (f) and (g) of paragraph (1).

### **Duties of auditor: audit of accounts prepared under Part 7 of the Companies Act 1985**

**25.**—(1) Where individual accounts have been prepared by the charity trustees of a charity which is a company under Chapter 1 of Part 7 of the 1985 Act, the auditor carrying out the audit of those accounts under section 43 of the 1993 Act must make a report on those accounts 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 him 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;
- (c) states that the auditor is a person falling within paragraph (a) or, as the case may be, paragraph (b) of section 43(2) of the 1993 Act;
- (d) is dated and specifies the financial year in respect of which the accounts to which it relates have been prepared;
- (e) confirms that the accounts were not required to be audited in accordance with Part 7 of the 1985 Act;
- (f) specifies that it is a report in respect of an audit carried out under section 43 of the 1993 Act and in accordance with regulations made under section 44 of that Act;
- (g) states whether in the auditor's opinion—
  - (i) the company's individual accounts comply with the requirements of section 226A of the 1985 Act, and in particular whether—
    - (aa) the income and expenditure account gives a true and fair view of the income and expenditure of the charity for the relevant financial year; and
    - (bb) the balance sheet gives a true and fair view of the state of affairs of the charity as at the end of that year;
  - (ii) in any case where the charity has prepared a statement of financial activities in addition to complying with the requirements of the 1985 Act, that statement gives a true and fair view of the charity's incoming resources and application of resources in the relevant financial year;
  - (iii) in any case where the accounts state that they have been prepared in accordance with the methods and principles in the SORP, those methods and principles have been followed;
- (h) where the auditor has formed the opinion that—
  - (i) accounting records have not been kept in respect of the charity in accordance with section 221 of the 1985 Act;
  - (ii) the charity's individual accounts do not accord with those records;
  - (iii) any information contained in those accounts is inconsistent in any material respect with—

- (aa) any report of the charity trustees prepared under section 45 of the 1993 Act in respect of relevant financial year; or
- (bb) the report prepared in respect of the relevant financial year under section 234 of the 1985 Act; or

(iv) that any information or explanation to which he is entitled under regulation 33 has not been afforded to him,

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

(2) The auditor must in preparing his report carry out such investigations as will enable him to form an opinion as to the matters specified in sub-paragraphs (g) and (h) of paragraph (1).

**Duties of auditors: audit of a receipts and payments account and a statement of assets and liabilities prepared under section 42(3) of the 1993 Act**

**26.**—(1) Where an account and statement have been prepared under section 42(3) of the 1993 Act for the relevant financial year the auditor carrying out the audit of the accounts under section 43 of that Act must make a report on those accounts 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 him 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;
- (c) states that the auditor is a person falling within paragraph (a) or, as the case may be, paragraph (b) of section 43(2) of the 1993 Act;
- (d) is dated and specifies the financial year in respect of which the accounts to which it relates have been prepared;
- (e) specifies that it is a report in respect of an audit carried out under section 43 of the 1993 Act and in accordance with regulations made under section 44 of that Act;
- (f) states whether in the auditor’s opinion—
  - (i) the account and statement properly present—
    - (aa) the receipts and payments of the charity for the relevant financial year; and
    - (bb) its assets and liabilities as at the end of that year;
  - (ii) the account and statement adequately distinguish any material special trust or other restricted fund of the charity;
- (g) where the auditor has formed the opinion that—
  - (i) accounting records have not been kept in respect of the charity in accordance with section 41 of the 1993 Act;
  - (ii) the account and statement do not accord with those records; or
  - (iii) any information or explanation to which he is entitled under regulation 33 has not been afforded to him,

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

(2) The auditor must in preparing his report carry out such investigations as will enable him to form an opinion as to the matters specified in sub-paragraphs (f) and (g) of paragraph (1).

**Duties of auditors of the accounts of English National Health Service Charities**

**27.**—(1) The duties of an auditor carrying out an audit of the accounts of an English National Health Service Charity under section 43A of the 1993 Act are specified in this regulation.

(2) Where—

- (a) the accounts of the charity in respect of the relevant financial year are required to be audited by section 43A(2) of the 1993 Act; or
  - (b) an auditor is appointed by the Audit Commission under section 43A(3)(a) of the 1993 Act to audit the accounts of the charity and the charity has prepared a statement of accounts under section 42(1) of that Act for the relevant financial year,
- regulation 24 applies to the auditor with the modifications specified in paragraph (3).

(3) The specified modifications to regulation 24 are—

(a) for paragraph (1)(c) there is substituted—

“(c) states that the auditor is a person appointed under section 43A(2) or, as the case may be, section 43(3)(a);”;

(b) in paragraph (1)(d) for “section 43” there is substituted “section 43A”.

(4) Where—

(a) the charity has prepared an account and statement have been prepared under section 42(3) in respect of the relevant financial year; and

(b) an auditor has been appointed by the Audit Commission under section 43A(3)(a) of the 1993 Act to audit those accounts,

regulation 26 applies to the auditor with the modifications specified in paragraph (5).

(5) The specified modifications to regulation 26 are—

(a) for paragraph (1)(c) there is substituted—

“(c) states that the auditor is a person appointed under section 43A(3)(a);”;

(6) in paragraph (1)(d) for “section 43” there is substituted “section 43A”.

### **Duties of auditors of accounts of Welsh National Health Service Charities**

**28.**—(1) The duties of an auditor carrying out an audit of the accounts of a Welsh National Health Service Charity under section 43B are specified in this regulation.

(2) Where—

(a) the accounts of the charity in respect of the relevant financial year are required to be audited under section 43B(2) of the 1993 Act; or

(b) the Auditor General for Wales elects under section 43B(3) of the 1993 Act that the accounts of the charity be audited and the charity has prepared a statement of accounts under section 42(1) of that Act for the relevant financial year,

regulation 24 applies to the Auditor General for Wales with the modifications specified in paragraph (3).

(3) The specified modifications to regulation 24 are—

(a) the requirement in paragraph (1)(a) to provide the name and address of the auditor is omitted;

(b) paragraph (1)(c) is omitted;

(c) in paragraph (1)(e) for “section 43” there is substituted “section 43B”.

(4) Where—

(a) the charity has prepared an account and statement have been prepared under section 42(3) of the 1993 Act in respect of the relevant financial year; and

(b) the Auditor General for Wales elects under section 43B(3) of the 1993 Act that the accounts of the charity be audited,

regulation 26 applies to the Auditor General for Wales with the modifications specified in paragraph (5).

- (5) The specified modifications to regulation 26 are—
- (a) the requirement in paragraph (1)(a) to provide the name and address of the auditor is omitted;
  - (b) paragraph (1)(c) is omitted;
  - (c) in paragraph (1)(e) for “section 43” there is substituted “section 43B”.

## CHAPTER 3

### AUDIT OF GROUP ACCOUNTS

#### **Audit of accounts of larger groups**

**29.** The sum prescribed as the relevant income threshold for the purpose of paragraph 6(1)(a) of Schedule 5A to the 1993 Act is £500,000.

#### **Duties of auditors carrying out an audit of group accounts under paragraph 6 of Schedule 5A to the Charities Act 1993**

**30.—**(1) Where group accounts prepared under paragraph 3(2) of Schedule 5A to the 1993 Act are required to be audited under paragraph 6 of that Schedule, the auditor must make a report on those accounts to the charity trustees of the parent charity which—

- (a) states the name and address of the auditor and the name of the parent charity concerned;
- (b) is signed by him 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;
- (c) states that the auditor is—
  - (i) if section 43A of the 1993 Act applies in relation to the relevant financial year, a person appointed by the Audit Commission;
  - (ii) if section 43B of that Act applies in relation to the relevant financial year, is the Auditor General for Wales;
  - (iii) in any other case, is a person falling within paragraph (a) or, as the case may be, paragraph (b) of section 43(2) of that Act;
- (d) is dated and specifies the financial year in respect of which the accounts to which it relates have been prepared;
- (e) where the parent charity is a company, confirms that the charity trustees were not required by section 227 of the 1985 Act to prepare group accounts for that year;
- (f) specifies that it is a report in respect of an audit carried out under paragraph 6 of Schedule 5A to the 1993 Act and in accordance with regulations made under section 44 of that Act (as modified by paragraph 8 of Schedule 5A to that Act);
- (g) states whether in the auditor’s opinion the group accounts—
  - (i) in the case of a parent charity to which regulation 13 applies, comply with the requirements of regulation 13 and in particular whether—
    - (aa) the consolidated statement of total return gives a true and fair view of the total return of the parent charity and its subsidiary undertakings during the relevant financial year;

- (bb) the consolidated statement of changes in net assets gives a true and fair view of the changes in the net assets of the parent charity and its subsidiary undertakings during the relevant financial year;
  - (cc) the consolidated balance sheet gives a true and fair view of the state of affairs of the parent charity and its subsidiary undertakings at the end of the relevant financial year;
  - (ii) in the case of a parent charity to which regulation 14 applies, comply with the requirements of regulation 14 and in particular whether—
    - (aa) the consolidated balance sheet gives a true and fair view of the state of affairs of the parent charity and its subsidiary undertakings at the end of the relevant financial year; and
    - (bb) the consolidated income and expenditure account gives a true and fair view of the income and expenditure of the parent charity and its subsidiary undertakings as a whole in the relevant financial year;
  - (iii) in the case of a parent charity to which regulation 15 applies, comply with the requirements of regulation 15 and in particular whether—
    - (aa) the consolidated balance sheet gives a true and fair view of the state of affairs of the parent charity and its subsidiary undertakings as at the end of relevant financial year;
    - (bb) the consolidated statement of financial activities gives a true and fair view of the total incoming resources of the parent charity and its subsidiary undertakings and the movements in the total resources of the group in the relevant financial year;
  - (h) where the auditor has formed the opinion that—
    - (i) any information contained in the group accounts is inconsistent in any material respect with any report of the charity trustees prepared—
      - (aa) under section 45 of the 1993 Act in respect of the relevant financial year; or
      - (bb) where the parent charity is a company, with the report prepared in respect of that financial year under section 234 of the 1985 Act;
    - (ii) any information or explanation to which he is entitled under regulation 33 has not been afforded to him;
- contains a statement of that opinion and of the grounds for forming it.
- (2) The auditor must, in preparing his report carry out such investigations as will enable him to form an opinion as to the matters specified in sub-paragraphs (g) and (h) of paragraph (1).

## CHAPTER 4

### INDEPENDENT EXAMINATION OF INDIVIDUAL CHARITY ACCOUNTS

#### **Independent examination of individual charity accounts**

- 31.** An independent examiner who has carried out an examination of the accounts of a charity under section 43 of the 1993 Act must make a report to the charity trustees which—
- (a) states his name and address and the name of the charity concerned;
  - (b) is signed by him;
  - (c) is dated and specifies—
    - (i) in all cases, the financial year in respect of which the accounts to which it relates have been prepared;

- (ii) where the charity whose accounts are being examined is a company, confirms that the accounts are not required to be audited under Part 7 of the 1985 Act;
- (d) if the gross income of the charity in that year exceeds the sum specified in section 43(3A) of the 1993 Act, specifies the basis on which he qualifies to act as independent examiner in accordance with that section;
- (e) states any, or any other, relevant professional qualifications or professional body of which he is a member;
- (f) where the accounts are being examined in the circumstances specified in regulation 34(3)(b), states the date when the Commission dispensed with the requirements of section 43(2) of the 1993 Act;
- (g) specifies that it is a report in respect of an examination carried out under section 43 of the 1993 Act and in accordance with any directions given by the Commission under subsection (7)(b) of that section which are applicable;
- (h) states whether or not any matter has come to the examiner's attention in connection with the examination which gives him reasonable cause to believe that in any material respect—
  - (i) accounting records have not been kept in respect of the charity in accordance with—
    - (aa) where that charity is a company, section 221 of the 1985 Act;
    - (bb) in any other case, section 41 of the 1993 Act;
  - (ii) the accounts do not accord with those records;
  - (iii) in the case of an examination of a statement of accounts which has been prepared under 42(1) of the 1993 Act, the statement of accounts does not comply with any of the requirements of regulations 6, 7 or 8 as relevant other than any requirement to give a true and fair view;
  - (iv) in the case of the examination of the accounts prepared under Part 7 of the 1985 Act, the charity's accounts—
    - (aa) do not comply with the requirements of section 226A of the 1985 Act other than any requirement to give a true and fair view;
    - (bb) in any case where those accounts state they have been prepared in accordance with the SORP, have not in fact been prepared in accordance with the methods and principles set out in the SORP;
- (i) states whether or not any matter has come to the examiner's attention in connection with the examination to which, in his opinion, attention should be drawn in the report in order to enable a proper understanding of the accounts to be reached;
- (j) contains a statement as to any of the following matters that has become apparent to the 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 trusts of the charity;
  - (ii) any information or explanation to which he is entitled under regulation 32 has not been afforded to him;
  - (iii) in the case of an examination of a statement of accounts which has been prepared under section 42(1) of the 1993 Act, any information contained in the statement of accounts is inconsistent in any material respect with any report of the charity trustees prepared under section 45 of the 1993 Act in respect of the financial year in question;
  - (iv) in the case of an examination of accounts prepared under Part 7 of the 1985 Act, any information contained in the accounts is inconsistent in any material respect with any report of the charity trustees prepared under section 45 of the 1993 Act or the



report prepared under section 234 of the 1985 Act in respect of the financial year in question.

## CHAPTER 5

### EXAMINATION OF THE ACCOUNTS OF ENGLISH AND WELSH NATIONAL HEALTH SERVICE CHARITIES

#### **Examination of the accounts of English and Welsh National Health Service Charities**

**32.** Where a person has carried out an examination of the accounts of an English National Health Service charity under section 43A of the 1993 Act, or the Auditor General for Wales has carried out an examination of the accounts of a Welsh National Health Service charity under section 43B of that Act, that person or, as the case may be, the Auditor General for Wales must make a report to the charity trustees which—

- (a) states the name of the charity concerned, and, in the case of an examination under section 43A, the name and address of the examiner;
- (b) is signed by him;
- (c) is dated and specifies the financial year in respect of which the accounts to which it relates have been prepared;
- (d) in the case of an examination under section 43A, states any relevant professional qualifications or professional body of which he is a member;
- (e) specifies that it is a report in respect of an examination carried out under section 43A, or, as the case may be, section 43B, of the 1993 Act and, in the case of an examination under section 43A, in accordance with any directions given by the Commission under subsection (5) of that section which are applicable;
- (f) states whether or not any matter has come to the examiner's attention in connection with the examination which gives him 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 41 of the 1993 Act;
  - (ii) the accounts do not accord with those records;
  - (iii) in the case of an examination of a statement of accounts which has been prepared under 42(1) of the 1993 Act, the statement of accounts does not comply with any of the requirements of regulation 6, 7 or 8, as relevant, other than any requirement to give a true and fair view;
- (g) states whether or not any matter has come to the examiner's or, as the case may be, the Auditor General for Wales', attention in connection with the examination to which, in his opinion, attention should be drawn in the report in order to enable a proper understanding of the accounts to be reached;
- (h) contains a statement as to any of the following matters that has become apparent to the examiner or, as the case may be, the Auditor General for Wales, 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 trusts of the charity, or
  - (ii) any information or explanation to which he is entitled under regulation 33 has not been afforded to him, or
  - (iii) in the case of an examination of accounts a statement of which has been prepared under section 42(1) of the 1993 Act, any information contained in the statement of

accounts is inconsistent in any material respect with any report of the charity trustees prepared under section 45 of the 1993 Act in respect of the financial year in question.

## CHAPTER 6

### MISCELLANEOUS

#### **Audit and independent examination: supplementary provisions**

**33.**—(1) Any person carrying out an audit or examination of the accounts of a charity under sections 43, 43A or 43B or of paragraph 6 of Schedule 5A to the 1993 Act has a right of access to any books, documents and other records (however kept) which relate to the charity concerned and which the person concerned considers it necessary to inspect for the purpose of carrying out the audit or examination.

(2) Such a person is entitled to require, in the case of the charity concerned, such information and explanations from past or present charity trustees of, or trustees for, the charity, or from past or present officers or employees of the charity, as he considers it necessary to obtain for the purposes of carrying out the audit or examination.

(3) An auditor carrying out an audit of the group accounts of a parent charity under paragraph 6 of Schedule 5A to the 1993 Act also has—

- (a) a right of access to any books, documents and other records (however kept) which relate to any of the subsidiary undertakings included in group accounts and which the auditor considers it necessary to inspect for the purpose of carrying out the audit;
- (b) the right to require, in the case of any such subsidiary undertaking, such information and explanations from—
  - (i) in the case of a subsidiary undertaking which is a charity, past or present charity trustees of, or trustees for, that charity;
  - (ii) in the case of any subsidiary undertaking which is not a charity from the subsidiary undertaking itself and from past or present officers or employees of that undertaking;
 

as he considers it necessary to obtain for the purposes of carrying out the audit;
- (c) the right to require the charity trustees of the parent charity to take all such steps as are reasonably open to them to obtain from any such subsidiary undertaking such information and explanations as he may reasonably require for the purposes of carrying out the audit.

(4) For the purposes of this regulation, “officer” includes any auditor or other person appointed to scrutinise the accounts of any such undertaking.

#### **Dispensations from audit or examination requirements**

**34.**—(1) The Commission may—

- (a) in the circumstances specified in paragraph (2), dispense with the requirements of section 43(2) or (3) of the 1993 Act in the case of a particular charity;
- (b) in the circumstances specified in paragraph (3) dispense with those requirements in respect of a particular financial year of a charity;
- (c) in the circumstances specified in paragraph (4) dispense with the requirements in paragraph 6(4)(a) of Schedule 5A to the 1993 Act in the case of a particular charity;
- (d) in the circumstances specified in paragraph (5) dispense with those requirements in respect of a particular financial year of a charity.

(2) The circumstances specified for the purposes of paragraph (1)(a) are where the Commission is satisfied that the accounts of the charity concerned—

- (a) are required to be audited in accordance with any statutory provision contained in or having effect under an Act of Parliament which imposes requirements which, in the opinion of the Commission, are sufficiently similar to the requirements of section 43(2) for those requirements to be dispensed with;
  - (b) have been audited by the Comptroller and Auditor General or the Auditor General for Wales.
- (3) The circumstances specified for the purposes of paragraph (1)(b) are where the Commission—
- (a) is satisfied that the accounts of the charity concerned for the financial year in question have been, or will be, audited or examined in accordance with requirements or arrangements which, in the opinion of the Commission, are sufficiently similar to the relevant requirements of section 43 of the 1993 Act applicable to that financial year of that charity for those requirements to be dispensed with;
  - (b) considers that, although the financial year in question of the charity concerned is one to which section 43(2) of the 1993 Act applies, there are exceptional circumstances which justify the examination of the accounts by an independent examiner instead of their audit in accordance with that subsection.
- (4) The circumstances specified for the purposes of paragraph (1)(c) are where the Commission is satisfied that the group accounts of the parent charity concerned—
- (a) are required to be audited in accordance with any statutory provision contained in or having effect under an Act of Parliament which imposes requirements which, in the opinion of the Commission, are sufficiently similar to the requirements of paragraph 6(4)(a) of Schedule 5A for those requirements to be dispensed with;
  - (b) have been audited by the Comptroller and Auditor General or the Auditor General for Wales.
- (5) The circumstances specified for the purpose of paragraph (1)(d) are where the Commission is satisfied that the group accounts of the parent charity concerned for the financial year in question have been, or will be, audited in accordance with requirements or arrangements which, in the opinion of the Commission, are sufficiently similar to the requirements of paragraph 6(4)(a) of Schedule 5A for those requirements to be dispensed with.
- (6) The Commission must make it a condition of a dispensation granted under this regulation that the charity trustees send to the Commission any report made to the trustees with respect to the accounts of that charity for the relevant financial year of which it requests a copy.
- (7) The Commission must make it a condition of a dispensation granted under paragraph (3)(b) that the charity trustees comply with the requirements of section 43(3) of the 1993 Act as if they were able to make and had in fact made an election under that section that the accounts of the charity for the relevant financial year be examined by an independent examiner.
- (8) The Commission may revoke a dispensation granted under this regulation if the charity trustees fail to comply with a condition imposed under paragraph (6) or (7).

### **Ceasing to hold office**

**35.**—(1) Where an auditor appointed by charity trustees or under section 43A(2) or (3)(a) ceases for any reason to hold office he must send—

- (a) to the charity trustees—
  - (i) a statement of any circumstances connected with his ceasing to hold office which he considers should be brought to their attention; or
  - (ii) if he considers that there are no such circumstances, a statement that there are none;

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- (b) a copy of any statement sent to the charity trustees under sub-paragraph (a)(i) to the Commission.

**Auditors appointed by the Commission**

**36.**—(1) Subject to paragraph (2), in the case of an auditor appointed by the Commission, any report required by any of the provisions of this Part to be made to the charity trustees must instead be made to the Commission.

(2) This regulation does not apply in the case of an English or Welsh National Health Service Charity.