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# CHARITY NEWSLETTER

## MARCH 2007

### Introduction

Welcome to the 10<sup>th</sup> edition of our Charity Newsletter.

I hope those who attended enjoyed our Annual Seminar last October which included a review of the Charities Act and a further look at some of the practical implications of SORP 2005. The dynamic presentation by Seven Investment Management on charity investment was most thought provoking and we will try to include another guest speaker in our 2007 event.

This edition of the newsletter completes our review of charity accounts under SORP 2005 by looking at the Trustees Report. In addition now that the Charities Act has finally become law we can advise on the fairly lengthy implementation programme to bring the various sections into force.

Just like London buses we were waiting for the Charities Act to come along for ages, when this bit of legislation finally turns up another one is right behind it. The Companies Act 2006 includes quite a lot of issues that are relevant to charities and these are explained on page 2.

Finally, during the writing of this newsletter Gordon Brown announced what is probably his final budget. We have therefore added an extra page setting out any budget issues that impact on charities.

Richard Robinson  
*Partner*  
20 March 2007

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# Companies Act 2006

The latest Companies Act was passed by parliament on 8 November 2006. This helpfully incorporates existing companies' law into one document but also includes some new legislation. As it runs to 1300 clauses and 16 schedules it is not an easy read!

Some of the main changes that could affect charities will be as follows:

## Already in force

### **Company websites, e-mails, letterheads must include the following information:**

Full name of charitable company

Place of registration (for example England & Wales), registration number, registered office address.

## Still to be implemented

- 1 The deadline for filing company accounts will be shortened from 10 months to 9 months following the year end.
- 1 Directors must not sign the accounts unless they show a true and fair view.
- 1 A service address rather than the registered office address may be lodged with Companies House to reduce security risk.
- 1 There will continue to be a move towards online filing.
- 1 Auditors will be able to agree a limit to their liability arising from the signing of audit reports.
- 1 Audit reports will be signed by the audit partner rather than in the firm name.
- 1 The duties of directors' have been summarised, making them clearer.
- 1 The minimum age limit for a director will reduce to 16. However it would not normally be appropriate for a charitable company to have a director who is a minor.
- 1 Directors' will be able to keep their residential address off the 'public record' by using a 'service address'.
- 1 The reporting accountants' report will be replaced with the independent examination regime, which is already in operation for unincorporated charities.
- 1 Companies will be able to sign documents/agreements under the witnessed signature of one director. Charities will need to consider if this is acceptable practice and good governance.
- 1 New private companies will not need to hold an annual general meeting. This may be useful for trading subsidiaries, if the articles allow. However, good governance will recommend that an annual general meeting is held for charitable companies.
- 1 There will be new model articles of association for private companies, and a new shorter form of memorandum of association. Although charity law will still govern charities, and therefore the articles will still need charitable objects, the new model articles may be useful when setting up trading subsidiaries.
- 1 There will no longer be a requirement for a private company to have a company secretary. Given the accountability responsibilities for charities and reporting requirements to both the Charity Commission and the Registrar of Companies we would not recommend dispensing with this important role.
- 1 There are new rules covering when a company can drop 'Limited' from its name. This could have implications for new charities; existing charities will be exempt from the new rules.
- 1 New rules regarding share capital which may be beneficial to trading subsidiaries.

The Companies Act 2006 will not fully be in force until October 2008 and the Government will be implementing the above changes in stages over the intervening period, so watch out for announcements concerning the aspects that affect your charity.

# The Charities Act at last!

So it's finally with us. We have looked at what the Act covers in previous articles but of course it does not all come into force at the same time. In fact very little of the legislation has immediate effect, most of it will come into force over a three year period. Supplementary regulations are required to support the Act which will include transitional arrangements in some cases. We will have to wait for 2009 for the whole thing to be in operation.

One of the clauses already announced relates to the increase in audit threshold to £500,000 gross income (or gross assets over £2.8 million) which applies to all audit periods commencing after 27 February 2007 so the first audit year end when the new threshold applies is 28 February 2008. Remember however that if the charity's constitution requires an audit this would need to be changed before an audit can be dispensed with, although of course an independent examination is still required. Some charities however may still decide to retain an audit to provide ongoing comfort to their trustees that the charity's accounts are accurate and appropriate controls are in place.

The timetable for some of the other principal clauses is shown below:

## First half 2007

- 1 Charity Commission re-established with its revised and enlarged powers.
- 1 Interim changes to the compulsory regulation thresholds.
- 1 New provision for trustee indemnity insurance.

## Second half 2007

- 1 Changes to audit and accountancy rules.
- 1 Charity merger procedures including the setting up of a merger register.
- 1 Changes to fundraising procedures.

## First half 2008

- 1 Statutory definition of "charity" and charity purposes activate.
- 1 Public benefit test applies.

## During 2008

- 1 Compulsory registration of formerly exempt and excepted charities.

## 2009

- 1 Public collection licensing regime comes into operation.

And finally, there is also reference to consolidating all the charities acts into a single piece of legislation - watch this space!



# SORP 2005 - Trustees' Report

As promised in our last newsletter the final area we review is the Trustees' Report. Arguably this is the most significant change to the guidance and has resulted in trustees rethinking the way they report on their activities and, in most cases, a lengthening of this section of the published accounts.

The most important changes to the recommendations are discussed below:

## Reference and Administrative details

This section requires the same details as SORP 2000 but the name of the charity's chief executive must also be shown.

## Structure, Governance and Management

The aim of this section is to provide the reader with an understanding of how the charity is constituted, its organisational structure and explains how trustees are appointed and trained.

A clear explanation of how the charity is managed will help to demonstrate to the reader of the report that its activities are being properly controlled. Whilst smaller charities may not have a formal process to train new trustees the provision to them on appointment of key documents such as the constitution and accounts and ongoing mentoring by more experienced trustees should be sufficient to meet this requirement.

## Objectives and Activities

The SORP now provides trustees with a clearer structure for reporting on the aims and objectives they have set and the strategies and activities used to achieve them.

The report should start with a statement of the objects of the charity set out in its constitution then provide the reader with information about how it plans to achieve these explaining the activities being undertaken throughout the year.

Many charities now take the opportunity in this section to provide quite a detailed report on how they operate split between the main areas of activity although some may wish to relegate this to a separate glossy annual report.

Special areas requiring an explanation are:

1. Grant making – where the charity's policies should be explained.
2. Related parties – the report should give details of other key organisations with which the charity is connected including its subsidiaries.
3. Programme related investments – many charities now make investments on non commercial terms because they are assisting the borrower with an activity linked to the lending charity's objectives. As this activity is a breach of the trustees' usual duty to maximise the income and security of its investments the charity needs to explain its actions.
4. Use of volunteers – many charities rely on voluntary help to undertake their activities and there is now an opportunity to disclose this and acknowledge their support. Whilst the SORP does not require any measurement of this assistance a number of charities provide details of volunteer numbers or hours of assistance provided.

## Achievements and performance

This important new section gives charities the opportunity to report the achievements of itself and its subsidiaries. These should be compared against the objectives set.



## Charity News

- At least 40 local authorities have agreed to provide free rubbish collection to charities operating in their districts.
- One charity, Sue Ryder, is exploring the possibility of tracing significant donations of goods for sale in their charity shops so gift aid can be claimed on the eventual selling price. This is well worth considering if a charity receives a valuable picture or antique from a donor for resale.
- Most organisations operating charity shops have now signed up to the code of conduct which was introduced by the Association of Charity Shops. This covers rules for house to house collections, customer care and recycling banks amongst other matters.
- The Charity Commission annual return can now be completed online, this interactive capability provides an improved opportunity to collect information and the Commission has launched a consultation over changes they would like to make to the 2007 return.

These changes include:

- ∨ Linking the questions in part B to the answers given in part A so they are more appropriate to the charity's circumstances.
- ∨ A question on the charity's geographical area of activity both within the UK and overseas.
- ∨ Incident reporting to allow assistance to be offered by the Commission on a more timely basis.
- ∨ Details of the use of volunteers for charities with income over £500,000.

## Charity Contacts

If you would like further information regarding any of the issues raised in this newsletter please contact a member of our Charity Team:

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