

Charities Act 2006 SORP 2005

Brief Highlights



Charities Act Main Aims

- Modernise the law
- Clarify role of Charity Commission
 - ...to promote compliance by charity trustees with their legal obligations.

There have been a number of revisions to the 1993 Charities Act over time and during its journey to becoming law, the 2006 Act has caused commitments to be made that will result in the consolidation of charity statute law.

The role of Charity Commission is, and I quote, "... to promote compliance by charity trustees with their legal obligations." This clarification basically means that the Commission now has additional responsibilities for all charities whether registered, excepted, or exempt.

Charities Act Timetable (2007)

- Audit threshold to increase to £500,000
 - Will only apply to 2008 accounts at the earliest !
- Trustee Indemnity Insurance
- Charity Commission given additional powers over ALL charities

It has been said for some time that the income audit threshold is to increase from the current quarter of a million figure, to half a million pounds, and there will also be changes to some of the other conditions which surround the new threshold figure. However, this new audit threshold will not be enacted until 27 February 2007 and will only apply to accounting years which start on or after this date. The bottom line is that the new threshold does not apply to your 2006 accounts and will not apply to your parish's 2007 accounts either.

Currently charity trustees may, with their own money, take out an indemnity insurance for financial losses to their charity, caused by the trustees' themselves. The new Act allows for trustees to pay for indemnity insurance using the charity's money, presuming the purchase is not expressly forbidden within the charity's rules. Due to the number of situations that are excluded, by law, from such cover, the value of indemnity insurance to your charity should be carefully debated. You must also be able to show that the purchase was in the charity's best interests, rather than that of the trustees.

If there is a dispute over whether an individual, or a group of people are members of a charity (on the Electoral Roll), the Charity Commission have the authority to decide. Also, while the Commission have always been able to insist that copies of documents they want to see are given to them, the new Act gives the Commission the power to enter premises and seize documents and computer equipment for themselves, under a warrant.

Charities Act Timetable (2008)

- New definition of charity
- Payment for Trustees who provide additional services, to be allowed
- New powers for Charity Commission to remove, or suspend, Trustees
- Charitable Incorporated Organisation
- Charity Tribunal

If you are creating a charity, then there will be a requirement that the new charity passes a public benefit test. Will the new charity actually bring any benefit to the general public?

Currently, charity trustees can not be paid for being a trustee of the charity and generally should not receive any financial benefit from the charity. This has been confusing in some cases and so the situation is being clarified. Additional services of professional, or business, type that are not related to being a trustee may receive payment as long as they meet four conditions defined within the Act.

The Charity Commission will have the power to remove an individual from the membership of a charity and disqualify them from being a charity trustee. This is likely to be a rare occurrence and only where serious fraud, or other criminal conduct, is being investigated.

A CIO will be a new type of company that will not need to be registered with Companies House. Exactly how this new company will work and what real benefits it will bring should be known closer to the time.

Anyone would has a disagreement with the Commission currently has to go through the courts. A Charity Tribunal is to be created to handle all complaints.

Charities Act Timetable (?)

- Registration of excepted charities
 - Income >£100,000 – not expected before 2008
 - Income <£100,000 – not expected before 2012
- Licensing regime for public collections
 - Not envisaged to be in force before 2009

It has been known for some time that all charities currently excepted from registration, will have to register with the Charity Commission. The Church of England's excepted status exemption expires at the end of September 2007. However, while all PCCs will be under the Charity Commissioners authority after this date, actual registration is yet to come. Please do not try and jump the gun, neither the Church of England, nor the Charity Commissioners want anyone to do this.

The Commissioners are to become responsible for a new public collections licensing regime. This will relate to street and door to door collections.

SORP 2005

- Church Accounting Regulations 2006 require PCCs to follow SORP 2005
- Accounts to focus on Activities
 - Modified receipts/income headings
 - New payments/expenditure headings
- Annual Report to:
 - Review (not catalogue) previous year
 - Present your parish's vision for the future

From the August 2006, the SORP 2005 (Statement of Recommended Practice 2005) guidelines became a requirement for all Church of England parishes.

Considering how 'late in the day' everyone has been receiving the necessary information and guidance, Treasurers will be glad to hear that changes to the financial sections are small. They are, in the main, changes to the headings and layout of the figures.

The biggest changes are to the Annual Report. Anyone below the audit threshold who have already implemented the previous SORP recommendations, should not have too many difficulties. Anyone with an income above £250,000 have a lot more to do.

And Finally ...

- Refund Scam
- Avoid fraud, and error. Ensure separation of duties to do with money and accounts
 - Do not sign Blank Cheques
 - Letter of appointment for Independent Examiner by PCC Chair and IE Report sent to PCC chair
 - Do ensure evidence is available re correlation between accounts and bank statements
- The Resources Department are available to help and advise you throughout the year
 - Direct line: 0151 705 2180

Refund scam: You receive large donation cheque, but asked to return some. Their cheque bounces, yours is cashed.

To help protect Treasurers from accusations of fraud. We recommend that letters of appointment and thanks to Independent Examiners should be sent by the PCC Chair, or Secretary, as a separate point of contact from the Treasurer. We also recommend that Independent Examiners should send their signed reports directly back to the PCC Chair with a covering letter and not via the Treasurer. You may wish to provide your Independent Examiner with a SAE carrying the official PCC correspondence address, as shown in your Annual Report.