

BULLETIN 4 — June 2008

Charities Act 2006

On the whole, the Charities Act 2006 (CA2006) is effective only for accounting periods starting 1st April 2008 onwards, although there are several areas in which the changes are effective regardless of what accounting period is being dealt with. It is intended to compliment or build-upon the Charities Act 1993 (CA1993) rather than to replace it.

Key areas of change (as widely reported in the media with respect to private schools) relate to which organisations qualify for charitable status and which do not, and which must now register.

In overview:

- **Objects:** instead of just four (advancement of religion, relief of poverty, advancement of education or other purposes beneficial to the community) 'heads of charity', there are now 12 that are more narrowly defined. 'Other purposes beneficial to the community' is still there
- **Public benefit:** there is now no assumption of public benefit, where previously there was. A public benefit test must be carried-out to identify the public benefits (clear, related to aims and balanced against detriment or harm), and that must be offered to the public or a section of the public
- **Private benefit:** the ban on payments to trustees remains, except for trustees acting in a professional capacity (where payment is conditionally permitted)
- **Registration:** most charitable organisations that were previously excepted from registration (such as places of worship), must now register with the Charity Commission

It is also no surprise perhaps to read of changes to the reporting requirement rules that examiners of charity accounts must adhere to. There is now a *Statutory Duty to Report to the Charity Commissioners* in cases where the following is detected:

- Dishonesty or fraud
- Failure of internal controls
- Knowledge or suspicion of money laundering
- Belief or suspicion that the charity is involved in or supporting terrorism
- Evidence that beneficiaries have been put at significant risk of abuse or mistreatment
- Significant or repeated breach(es) of legislative requirements
- Deliberate or significant breach of an order from a regulator
- On ceasing to hold office, any related matters reported to the charity's trustees

The examiner continues to be under no obligation to seek out matters in need of reporting however, and is not required to report minor breaches or mistakes.

Please contact us if you'd like to discuss this or any other operational issues relating to charitable or not-for-profit organisations.

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