



24 July 2009

Our ref: ICAEW Rep 78/09

Your ref:

Charity Consultations
Charity Law Team
Scottish Government
Area 2W, St Andrews

By email only

Dear Sir of Madam

CHARITIES AND TRUSTEE INVESTMENT (SCOTLAND) ACT 2005: PROPOSALS FOR MINOR AMENDMENTS TO THE ACT AND TO THE CHARITIES ACCOUNTS (SCOTLAND) REGULATIONS 2006: CONSULTATION PAPER

The Institute of Chartered Accountants in England and Wales (the Institute) welcomes the opportunity to comment on the consultation paper *Charities And Trustee Investment (Scotland) Act 2005: Proposals for Minor Amendments to the Act and to the Charities Accounts (Scotland) Regulations 2006: Consultation Paper* published by the Scottish Government in April 2009.

The Institute operates under a Royal Charter, working in the public interest. Its regulation of its members, in particular its responsibilities in respect of auditors, is overseen by the Financial Reporting Council. As a world leading professional accountancy body, the Institute provides leadership and practical support to over 132,000 members in more than 165 countries, working with governments, regulators and industry in order to ensure the highest standards are maintained. The Institute is a founding member of the Global Accounting Alliance with over 775,000 members worldwide.

Our members provide financial knowledge and guidance based on the highest technical and ethical standards. They are trained to challenge people and organisations to think and act differently, to provide clarity and rigour, and so help create and sustain prosperity. The Institute ensures these skills are constantly developed, recognised and valued.

The Institute's Charities Committee ("the committee") is responsible for co-ordinating the technical considerations of the charity sector with respect to Chartered Accountants working in or for charities. Its membership represents the interests of practitioners, their clients and Chartered Accountants employed in financial roles within charities.

Our views

Whilst we clearly recognise the right of the Scottish Government to set its own laws and requirements for those trading or acting within its borders the committee is strongly of the view that charities being subjected to inconsistent and varying requirements across the UK goes against the principles of better regulation and subjects charities that operate in more than one jurisdiction to additional cost and confusion.

Paragraph 104 of the consultation states a provisional view that “the current regulations do not include the Trustees' Annual Report within the scope of the true and fair view - and that the auditor/independent examiner's focus should be on checking that the Trustees' Annual Report is fully consistent in all material respects with the accounts.” The consultation document then goes on to state that assurances from the Government and Regulator should negate the need for an amendment in primary legislation. We consider that this approach does not address the key point, which is that the effect of section 44(1) is to extend the scope of the audit. The auditor will be deemed to have checked the statements contained in the report, and this will result in additional costs to charities.

Whilst we are heartened at the confirmation of the Government's and OSCR's position regarding the acceptability of auditors' reports that do not make a specific reference to having included the Trustees' Annual Report within the scope of the true and fair view we consider that primary legislation should be amended so that it is clear and consistent not only with other Scottish legislation but also with the position within England and Wales. Charities and auditors need to have clarity on the requirements, their application and any liability (or protection from liability) arising from inconsistencies.

Please contact me should you wish to discuss any of the points raised in this response.

Yours sincerely

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