

FMO/IMS

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Institute Members in Scotland

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Documents Consultation
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Submitted via email to charityact@scotland.gsi.gov.uk on 13/12/05

Dear Ms Warne

**CONSULTATION ON THE PROPOSALS FOR REGULATIONS UNDER
SECTION 15 ON CHARITY REFERENCES IN DOCUMENTS**

On behalf of the Institute of Chartered Accountants in England and Wales (ICAEW) Members in Scotland (IMS) Group, I am pleased to set out below in italicised script our comments on the above consultation paper. Whilst the proposals do not involve technical accounting issues, we have members who are involved with charities in both professional and voluntary capacities, including company secretarial and legal compliance roles. We are therefore grateful for the opportunity to contribute to the development of the proposed Regulations.

Question 1: Do you agree that all charities should have to follow the same mandatory requirements for references in documents (i.e. no exemptions)? Or do you consider that a financial threshold (such as a gross income of £5,000 pa) should be used to exempt smaller charities? If such an exemption threshold were to be set, what level do you consider is appropriate?

Broadly, we agree that the same regulations should apply to all. However, we believe that there are good arguments in favour of exempting the very smallest (perhaps those under £5,000 incoming resources) from certain items. For example it would be onerous for a volunteer to have to add the charity reference manually on every page of an off-the-shelf duplicate receipt book. There should be no exemption with regard to the Trustees' Annual Report.

Question 2: Do you agree that requirements in relation to references in documents should be unchanged for charitable companies registered as companies in Scotland?

Yes

Question 3: Do you agree with the main categories of document proposed to be included in the Regulations as requiring mandatory identification information? Are there other types or examples of document which should be included? Is the format in the Charities Act 1993 (section 5) the best way to describe them?

Yes. However, we would wish to make two observations:

- 1. We foresee that there could be problems for small charities in arranging for banks to include the charity information on their standard cheque stationery without prohibitive cost.*
 - 2. There needs to be clarity about what is and is not a "document". For example, email correspondence should be subject to these requirements (with guidance as to whether each successive reply in an exchange of messages needs to repeat the charity information (hopefully not)). So, arguably, should advertising hoardings soliciting donations, but the consultation document does not make this clear.*
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Question 4: Do you agree that the information charities should be required to include on documents is their name (stating that they are a charity if not included in the name)? Should they also be required to include a charity reference number?

We agree strongly with regard to name and status as a charity. We also feel that inclusion of the reference number is important, particularly when soliciting donations of money.

Question 5: Do you agree that the "normal" charity name which appears on the Register should be included in all formal documents under section 15?

We believe that there is a difficulty with the inclusion of the word "formal" here. Is the term "formal" intended embrace all the various documents in paragraphs 42-47 of the consultation? It would be a mistake to create a situation in which by choosing to communicate informally a charity can sidestep the regulations. The regulations should apply to all written communication – even the word "document" is sometimes interpreted narrowly and could have some people believing the rules do not apply to them.

A charity should be required to identify itself consistently. The introduction of the term "normal" is interesting – it may be the intention that this may differ from the name in the register of companies, for example. At present there are a number of charities whose names have become obsolete or archaic, but for whom legal

hindrances make a formal change of name impractical. They should be able to use a regular name which differs from their “legal” name provided certain documents, such as the Trustees’ Annual Report and perhaps the OSCR register, provide an accessible way for an interested member of the public to link the two.

Consideration should be given to requiring identification by charities’ trading subsidiaries, if the scope of the present Act allows this.

Question 6: Is this the correct approach to documents in other languages?

Yes. It may be worth considering standardising the required descriptions in the more common languages, as is done in the Companies Acts with regard to Welsh. Some languages may not have words that readily equate to “charity”, and in such cases one of the listed standard descriptions should be used.

Question 7: Do you agree that component elements of Designated religious charities should have to provide the additional information, as proposed, on all formal documents?

We are generally in favour. We would observe that many of a church’s communications are with their members or regular attenders. It should not be necessary to repeat the charity information to them at all points.

Question 8: Do you agree that 12 months from the date the proposed regulations come into force is an appropriate period of grace for existing charities to use up existing stationery and make relevant changes?

Yes.

Question 9: Does the RIA provide an accurate picture of the impact of the proposed requirements and options? Do you have any comments on the draft RIA? Are you able to provide any further information which might help expand or improve the RIA?

We have not made a close study of this part of the consultation. However we are of the view that these proposals will not have any undue negative impact on charities, governmental costs or the economy in general. The Regulations form a low cost means of improving public knowledge and awareness and reducing opportunities for fraudulent activity.

Additional comments

The Regulations will need to be clearly written, and very clear as to scope so that anyone involved in running a charity can discern which requirements attach to each type of written material they may produce. OSCR should be encouraged to supply guidance and raise awareness.

We were concerned to read in paragraph 53 that the timescale for further regulation of fundraising activities is the “next few years”. Our view is that the need for updated regulation of fundraising activities, particularly with regard to on-street activity, was a main driver for the development of the 2005 Act. It should be given early priority.

ICAEW Members in Scotland

In 2001, the ICAEW established the Institute Members in Scotland (IMS) Group to conduct the normal functions of participation and representation of its members available to ICAEW Members elsewhere in the UK and Northern Ireland. The Group represents over 1,200 Chartered Accountants, 75% of whom work in Scottish business organisations including financial services, oil, media and the public sector. The IMS Group can draw on the extensive resources of the ICAEW, a professional body with more than 125,000 members worldwide.

The IMS Group welcomes circulation of Scottish Executive consultations to allow our members to contribute to policy thinking. We hope that the comments on this particular consultation will assist the Executive in providing effective and clear regulation that assists the work of charities in Scotland.

Yours sincerely



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Executive

On behalf of Institute Members in Scotland

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