STATUTORY RULES OF NORTHERN IRELAND

2015 No. 384

CHARITIES

The Charities (Accounts and Reports) Regulations (Northern Ireland) 2015

Made - - - - 30th November 2015

Coming into operation 1st January 2016

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 64(1) and (2), 66(1), 68(1) and (2) and 179(5) of, and paragraphs 3(3) to (5), 4(2) and (3), 6(2), 8(3), 10(2) and (3) and 13 of Schedule 6 to, the Charities Act (Northern Ireland) 2008(**1**).

In accordance with section 179(4) of that Act the Department has consulted such persons or bodies of persons as it considers appropriate.

PART 1

GENERAL

Citation and commencement

1.—(1) These Regulations may be cited as the Charities (Accounts and Reports) Regulations (Northern Ireland) 2015 and, subject to paragraph (2), shall come into operation on 1st January 2016.

(2) In so far as they relate to a common investment fund under section 43 or a common deposit fund under section 44, these Regulations shall come into operation on the day on which, respectively, section 43 or 44 comes into operation.

Interpretation

2.—(1) In these Regulations—

"the Act" means the Charities Act (Northern Ireland) 2008;

"the Commission" means the Charity Commission for Northern Ireland

"the Companies Act" means the Companies Act 2006(**2**);

(**1**) 2008 c.12 (N.I.)
(**2**) 2006 c. 46

"charitable subsidiary undertaking" means a subsidiary undertaking that is a charity;

"common deposit fund" means a common deposit fund established by a scheme under section 44;

"common investment fund" has the meaning given by paragraph (2);

"director"—

(a) in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate;

(b) in any other case, includes any person occupying the position of a director by whatever name called;

"expenses" includes expenditure and losses;

"FRS 102" means the Financial Reporting Standard applicable in the UK and Republic of Ireland issued by the Financial Reporting Council in September 2015(**3**);

"fund" means particular assets of a charity held on trusts which, as respects the purposes for which those assets are held or the powers of the charity trustees to use or apply those assets, are not identical to the trusts on which other assets of the charity are held;

"general charity" means any charity other than a special case charity or an investment fund;

"grant-aided school" means a grant-aided school within the meaning of the Education and Libraries (Northern Ireland) Order 1986(**4**);

"income" includes revenue and gains;

"investment fund" means a common deposit fund or a common investment fund;

"non-charitable subsidiary undertaking" means a subsidiary undertaking that is not a charity;

"relevant financial year" means the financial year in respect of which—

(a) the statement of accounts is prepared;

(b) the receipt and payments account and statement of assets and liabilities are prepared; or

(c) group accounts are prepared;

"SORP" has the meaning given in regulation 4;

"special case charity" means a charity which is—

(a) an institution of further education within the meaning given in Article 2(2) of the Further Education (Northern Ireland) Order 1997(**5**);

(b) a higher education institution within the meaning given in Article 30(3) of the Education and Libraries (Northern Ireland) Order 1993(**6**);

(c) a housing association which is registered in a register maintained under Article 14 of the Housing (Northern Ireland) Order 1992(**7**);

"unrestricted fund" means a fund which is to be used, or applied, in any way determined by the charity trustees of a charity for the furtherance of the objects of the charity.

(2) Subject to paragraph (3), "common investment fund" means a common investment fund established by a scheme under section 25 of the Charities Act (Northern Ireland) 1964(**8**) or section 43 of the Act.

(**3**) Copies of the Financial Reporting Standard FRS 102 are available from FRC Publications, Lexis House, 30 Farringdon Street, London EC4A 4HH or www.frc.org.uk
(**4**) S.I. 1986 No. 594 (N.I. 3)
(**5**) S.I. 1997/1772 (N.I. 15)
(**6**) S.I. 1993/2810 (N.I. 12); the definition of "higher education institution" in Article 30(3) was amended by Article 11(2) of S.I. 2005/1963 (N.I. 13)
(**7**) S.I. 1992/1725 (N.I. 15)
(**8**) 1964 c. 33 (N.I.); section 25 was amended by paragraph 37 of Schedule 1 to S.I. 2013/1773

(3) A fund is not a "common investment fund" for the purposes of these Regulations if its trusts provide for property to be transferred to that fund only by or on behalf of a participating charity of which the charity trustees are the trustees appointed to manage the fund.

(4) Where the scheme or schemes regulating an investment fund allocates responsibility for the exercise of a function of a charity trustee to a particular person, "charity trustees", in relation to that investment fund, includes the person to whom the relevant function has been allocated.

(5) For the purposes of these Regulations and notwithstanding section 39(2) of the Interpretation Act (Northern Ireland) 1954(**9**), where a period of time is expressed to begin on, or to be reckoned from, a particular day, that day shall be included in the period.

(6) In these Regulations, unless the context otherwise requires, any reference to a numbered section or Schedule is a reference to the section or, as the case may be, Schedule bearing that number in the Act.

Financial year of a charity which is not a company

3.—(1) The financial year of a charity which is not a company ("relevant charity") is, for the purposes of the Act and regulations made under the Act, to be determined in accordance with this regulation.

(2) The first financial year of a relevant charity is the period beginning with the day on which the charity is established and ending with—

(a) its accounting reference date; or

(b) such other date, not more than seven days before or after the accounting reference date, as the charity trustees may determine.

(3) Subsequent financial years of a relevant charity—

(a) begin with the day immediately following the last day of the charity's previous financial year; and

(b) end with—

(i) its accounting reference date; or

(ii) such other date, not more than seven days before or after the accounting reference date, as the charity trustees may determine.

(4) For the purposes of this regulation, the "accounting reference date" of a relevant charity is—

(a) in relation to the first financial year of the charity, such date not more than 18 months after the date on which the charity was established as the charity trustees may determine;

(b) in relation to a subsequent financial year of the charity—

(i) the date 12 months after the previous accounting reference date of the charity; or

(ii) such other date, not more than 18 months after the previous accounting reference date of the charity as the charity trustees may determine.

(5) Subject to paragraph (7), the charity trustees may specify a new accounting reference date of the charity, having effect in relation to—

(a) the charity's current financial year and subsequent financial years; and

(b) the charity's previous financial year and subsequent financial years.

(6) The "previous financial year" of a charity means that immediately preceding the current financial year.

(**9**) 1954 c. 33 (N.I.)

(7) A charity must not specify a new accounting reference date more than once in any three year period without the consent of the Commission.

The SORP

4. The SORP is—

(a) in relation to an investment fund, the current version of the Statement of Recommended Practice for Financial Statements of UK Authorised Funds issued by the Investment Management Association (**10**);

(b) in relation to a charity which falls within paragraph (a) or (b) of the definition of "special case charity" (in regulation 2(1)), the current version of the Statement of Recommended Practice: Accounting for further and higher education issued by the Further and Higher Education SORP Board (**11**);

(c) in relation to a charity which falls within paragraph (c) the definition of "special case charity", the current version of the Housing SORP: Statement of Recommended Practice for registered social housing providers issued by the National Housing Association(**12**);

(d) in relation to a general charity, the current version of the Statement of Recommended Practice applicable to charities preparing their accounts in accordance with the Financial Reporting Standard applicable in the UK and Republic of Ireland (FRS 102) issued by the Charity Commission for England and Wales and the Office of the Scottish Charity Regulator(**13**).

Application

5.—(1) Subject to paragraphs (2) to (4), these Regulations apply in respect of a financial year of a charity which begins on or after 1st January 2016.

(2) Nothing in these Regulations applies in respect of a financial year of a charity which began before its registration in the register.

(3) Parts 2 to 4 do not apply to a charity which is a grant-aided school;

(4) Parts 2 and 3 do not apply to a charity which is—

(a) a body to which Article 91 of the Health and Personal Social Services (Northern Ireland) Order 1972(**14**) applies;

(b) the governing body of an institution of further education (within the meaning given in Article 2(2) of the Further Education (Northern Ireland) Order 1997).

Grant-aided schools

6. The charity trustees of a charity which is a grant-aided school must prepare consecutive statements of account consisting on each occasion of—

(a) an income and expenditure account relating to a period of not more than 15 months; and

(**10**) Copies of the Statement of Recommended Practice for Financial Statements of UK Authorised Funds are available from the Investment Association, 65 Kingsway, London WC2B 6TD or www.theinvestmentassociation.org

(**11**) Copies of the Statement of Recommended Practice: Accounting for further and higher education are available from Universities UK, Woburn House, 20 Tavistock Square, London WC1H 9HQ or www.fehesorp.ac.uk

(**12**) Copies of the Housing SORP Statement of Recommended Practice for registered social housing providers are available from the National Housing Federation, Lion Court, 25 Procter Street, London WC1V 6NY or www.housing.org.uk.uk

(**13**) Copies of the Statement of Recommended Practice applicable to charities preparing their accounts in accordance with the Financial Reporting Standard applicable in the UK and Republic of Ireland (FRS 102) are available from www.charitysorp.org and www.cipfa.org

(**14**) S.I. 1972/1265 (N.I. 14); Article 91 was substituted by Article 6 of S.I. 2003/418 (N.I. 5) and amended by paragraph 1(1)(a) and (d) of Schedule 6 to the Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1) (N.I.)

(b) a balance sheet relating to the end of that period.

PART 2

FORM AND CONTENTS OF STATEMENTS OF ACCOUNTS

General

7. The requirements as to the form and contents of a statement of accounts of a charity to be prepared under section 64(1) are prescribed—

(a) in the case of a general charity, in regulation 8;

(b) in the case of a special case charity, in regulation 9;

(c) in the case of an investment fund, in regulation 10.

Form and contents of statement of accounts: general charities

8.—(1) This regulation applies to a statement of accounts prepared by the charity trustees of a general charity in accordance with section 64(1).

(2) The statement of accounts must consist of—

(a) a statement of financial activities showing the total incoming resources and expenditure of resources of the charity during the relevant financial year;

(b) a balance sheet showing the state of affairs of the charity as at the end of the relevant financial year;

(c) a statement of cash flows, if appropriate; and

(d) notes to the accounts in accordance with paragraph (7).

(3) The statement of accounts must be prepared in accordance with the following principles—

(a) the statement of financial activities must give a true and fair view of the total incoming resources and expenditure of resources of the charity in the relevant financial year;

(b) the balance sheet must give a true and fair view of the state of affairs of the charity at the end of the relevant financial year;

(c) where compliance with paragraphs (4) to (6) would not be sufficient to give a true and fair view as required under sub-paragraph (a) or (b), the additional information necessary to give a true and fair view must be given in the statement of accounts or in notes to the accounts;

(d) if in special circumstances compliance with any of the requirements of paragraphs (4) to (7) would be inconsistent with giving a true and fair view, the charity trustees must depart from the relevant requirement to the extent necessary to give a true and fair view.

(4) The statement of accounts must be prepared in accordance with the methods and principles set out in FRS 102 and the SORP.

(5) Subject to paragraph (6), the statement of accounts must, in relation to any amount required to be shown in the statement of financial activities or in the balance sheet for the relevant financial year, show the corresponding amount for the financial year immediately preceding the relevant financial year.

(6) Where a charity has more than one fund, disclosure is subject to paragraph (4).

(7) The notes to the accounts must—