



CHARITIES REGULATIONS 2020

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Statutory Document No. 2020/0060



Charities Registration and Regulation Act 2019

CHARITIES REGULATIONS 2020

Approved by Tynwald: 18 February 2020

Coming into Operation: 1 April 2020

The Attorney General makes the following Regulations under sections 3, 9, 11, 12, 13, 16, 23, 27, 29, 36, 46 and 49 of the Charities Registration and Regulation Act 2019.

PART 1 – GENERAL

1 Title

These Regulations are the Charities Regulations 2020.

2 Commencement

If approved by Tynwald, these Regulations come into operation on 1 April 2020.

3 Interpretation

In these Regulations —

“**accounting year**” means —

- (a) a year ending on such date as is specified in the charity’s governing instrument; or
- (b) a period ending on such a date as has been agreed by the charity in accordance with the provisions of the governing instrument and which has been notified to the Attorney General;

provided the requirements of section 27(1) are met;

“**accruals accounts**” means accounts that allocate the costs or income of a particular activity according to when the liability is incurred, or when there is entitlement or certainty about income;

“**the Act**” means the Charities Registration and Regulation Act 2019 and a reference to a numbered section is a reference to the section of the Act so numbered;

“**auditable charity**” means a charity to which section 27(5) applies;

- “**approved form**” has the meaning given by section 53;
- “**charity trustee**” has the meaning given by section 24;
- “**foreign charity**” has the meaning given by section 40;
- “**governing instrument**” has the meaning given by section 3;
- “**International Standards on Auditing**” means the international auditing standards set by the International Auditing and Assurance Standards Board;
- “**IOM charity number**” means the number allotted to the charity under section 13(1)(b);
- “**name**” in the case of an individual means his or her title and present forenames and present surname and any forename or surname by which the individual concerned has previously been known in the period since he or she attained the age of 18 years;
- “**proper practices**”, in relation to any matter, means practices consistent with such of the following as are applicable to that matter—
- (a) any Financial Reporting Standards issued or adopted from time to time by the Financial Reporting Council in the United Kingdom;
 - (b) any Statement of Recommended Practice applicable to charities preparing their accounts in accordance with the Financial Reporting Standards issued or adopted from time to time by the Charities Commission or the Office of the Scottish Charity Regulator;
- “**receipts and payments accounts**” means accounts that consist of a summary of all monies received and paid via the charity’s bank accounts and in cash by the charity during its accounting year, along with a statement of balances;
- “**the register**” and “**registered**” have the meaning given by section 3;
- “**responsible person**” has the meaning given by section 41; and
- “**safeguarding policies**” means the policies adopted by a charity to safeguard and promote the welfare of children and vulnerable adults.

PART 2 – THE REGISTER AND REGISTRATION

4 Particulars and information to be contained in the register

- (1) The register must contain the following particulars and information in respect of every registered charity in addition to its name —
 - (a) the IOM charity number;
 - (b) any former or other name used by the charity in the carrying on of any of its activities;

- (c) the date on which the charity was registered;
 - (d) the legal nature of the charity (e.g. a Trust, an unincorporated association, a company or a Foundation);
 - (e) in the case of a body corporate, the number with which it has been registered as a company or otherwise established and, if applicable, the number with which it has been registered under the Foreign Companies Act 2014;
 - (f) the date on which the charity was established;
 - (g) the country or territory in which the charity was established;
 - (h) any number with which it has been registered as a charity in a country or territory outside the Island;
 - (i) the governing instrument of the charity;
 - (j) the purpose, as described in section 6, for which the charity has been established;
 - (k) the name, residential address, date of birth and e-mail address (if any) of each charity trustee or, in the case of a charity trustee which is a body corporate, of each director or similar officer;
 - (l) the date on which each person was appointed as, and ceased to be, a charity trustee;
 - (m) the description of any office held by a charity trustee (e.g. Chair, Treasurer, Secretary);
 - (n) the postal and e-mail addresses of the charity for correspondence;
 - (o) if a body corporate, the address of the registered office or other similar address required to be stated by the law governing its establishment;
 - (p) if a foreign charity, the name, the residential and e-mail addresses of the person appointed as the responsible person and, if registered under the Foreign Companies Act 2014, the charity's address for service in the Island;
 - (q) the charity's accounting year end;
 - (r) the address of the charity's website (if any);
 - (s) the accounts and reports referred to in Part 6 of the Act; and
 - (t) in the case of an institution which has been removed from the register under section 15—
 - (i) the date on which the institution was removed from the register; and
 - (ii) the grounds for such removal.
- (2) In the case of a charity trustee or a responsible person which is a body corporate, if not already provided under paragraph (1)(n) or (p), as the case may be, the address of its registered office or other similar address required to be stated by the law governing its establishment.

5 Information contained in the register which is not to be made public

- (1) The following information is not to be made available to any person unless the Attorney General considers that it is in the public interest to do so —
 - (a) any forename or surname by which an individual was previously known;
 - (b) the residential address or e-mail address of any individual unless it is an address referred to in regulation 4(1)(n);
 - (c) the date of birth of a charity trustee;
 - (d) the signature of any individual;
 - (e) any information which could result in the identification of an individual who is a charity trustee or, in the case of a charity trustee which is a body corporate, a director or similar officer of the charity trustee in circumstances where the Attorney General considers that there is a genuine and serious risk of harm to an individual as a consequence of such identification; and
 - (f) any information sufficient on its own to identify an individual who is a donor to, or a beneficiary of, a charity, unless that individual has given his or her written consent to the charity trustees for such information to be made public.
- (2) In the case of a beneficiary aged under 16, the consent referred to in regulation 5(1)(f) is that of an individual with parental responsibility for such beneficiary.
- (3) Regulation 5(1) does not apply to the disclosure under section 58 by the Attorney General of information contained in the register.

6 Documents to accompany an application for registration

- (1) An application for registration must be accompanied by the following documents —
 - (a) a copy of the governing instrument;
 - (b) in the case of a body corporate, a copy of the certificate of incorporation or other certificate issued by the public authority concerned which confirms the establishment of the institution concerned;
 - (c) in the case of an institution which is registered as a charity in a country or territory outside the Island, a copy of the certificate of such registration;
 - (d) in the case of a body corporate to which the Foreign Companies Act 2014 applies, a copy of the certificate of registration issued under section 12(4) of that Act; and
 - (e) a charity trustee eligibility declaration in the approved form.

This is subject to paragraph (2).

- (2) A copy of the governing instrument need not be filed where it forms part of a licence granted by the Attorney General under section 18 of the Companies Act 1931.

7 Information to be registered and included in certificate of registration

- (1) On an application for registration under section 11 being approved, the particulars and information set out in regulation 4 shall be registered.
- (2) The certificate of registration shall contain the following information —
 - (a) the IOM charity number;
 - (b) the name of the charity;
 - (c) the date on which it has been registered; and
 - (d) the name of the individual who approved the application.

PART 3 – GOVERNING INSTRUMENTS

8 The governing instrument

- (1) The governing instrument must make provision in respect of the following matters —
 - (a) the name of the institution;
 - (b) the objects of the charity;
 - (c) the powers to be exercised by the institution in the furtherance of the objects of the charity and any restrictions on the same;
 - (d) membership, where appropriate, including the categories of membership (if any), the keeping of membership records, the acceptance of persons as members and the removal of members;
 - (e) in the case of an institution with a membership, the holding of general meetings, including the calling of meetings, the giving of notice to members, the quorum and the business to be transacted at the annual general meeting;
 - (f) the appointment and retirement of the charity trustees;
 - (g) meetings of the charity trustees, including any stipulations as to frequency and the quorum;
 - (h) powers of the charity trustees;
 - (i) dealings with the property of the institution;
 - (j) the keeping of financial and other records and the preparation of accounts and reports;
 - (k) amendment of the governing instrument; and
 - (l) dissolution of the institution.

This is subject to paragraph (2).

- (2) The Attorney General may disapply any of the provisions in paragraph (1) in relation to an institution or class of institutions where he considers it appropriate to do so, taking account of the nature of the institution or any particular circumstances relating to it.

9 Date on which requirement for governing instrument comes into operation

The requirement in section 16 that each registered charity must have a written governing instrument comes into force on 1 April 2022 in respect of charities in existence on 1 April 2020.

PART 4 – ANNUAL ACCOUNTS AND REPORTS

10 Accounting records and systems

- (1) This regulation applies to the accounting records and accounting control systems of every registered charity.

This is subject to paragraphs (5) and (7).

- (2) The accounting records must be sufficient –
 - (a) to show the charity’s transactions; and
 - (b) to secure that the accounts of the charity as required by regulation 11 or 12, as the case may be, can be prepared so as to comply with these Regulations.
- (3) The accounting records must in particular contain –
 - (a) a record of all income and expenditure of the charity, identifying the matters to which the income and expenditure relate;
 - (b) entries from day to day of all sums of money received and paid by the charity, identifying matters to which the receipts and payments relate; and
 - (c) a record of the assets and liabilities of the charity.
- (4) The accounting records must be accessible on the Island.
- (5) In the case of a foreign charity –
 - (a) “accounting records” means the accounting records in relation to the activities carried on by the charity in, or otherwise connected with, the Island; and
 - (b) the accounting records are deemed to be accessible on the Island if copies of them are accessible at all times by the responsible person.
- (6) The accounting control systems must include –

- (a) measures to ensure that the financial transactions of the charity are recorded as soon and as accurately as reasonably practicable;
 - (b) measures to enable the prevention and detection of inaccuracies and fraud, and the reconstitution of any lost records;
 - (c) a specification of the duties of officers dealing with financial transactions and the division of responsibilities of those officers;
 - (d) procedures to ensure that uncollectable amounts, including bad debts, are not written off except with the approval of the charity trustees or such officer of the charity as is nominated by the charity trustees for this purpose, and that the approval is shown in the accounting records; and
 - (e) measures to ensure that risk is appropriately managed.
- (7) The Attorney General may modify this regulation in its application to a foreign charity.

11 Receipts and payments accounts

- (1) A registered charity which is not an auditable charity may prepare receipts and payments accounts unless any of the following applies –
- (a) the charity is a company;
 - (b) the charity's governing instrument requires that accruals accounts be prepared or that its accounts be audited;
 - (c) the charity has resolved that accruals accounts be prepared or that its accounts be audited;
 - (d) any enactment provides that the charity should prepare accruals accounts.
- (2) A registered charity which prepares receipts and payments accounts must prepare them in the approved form.

12 Accruals accounts

- (1) This regulation applies to the accounts of any registered charity which does not prepare receipts and payments accounts.
- (2) A registered charity to which this regulation applies must prepare a statement of accounts each accounting year in accordance with proper practices.

13 Auditors' report

The auditors' report required under section 27 shall be in the approved form published for that purpose.

This is subject to any requirements imposed by any applicable International Standards on Auditing.

14 Independent examiners' reports

The independent examiner's report required under section 27 shall be in the approved form published for that purpose.

15 Qualifications of independent examiners

For the purpose of section 27(3)(b)(ii), the prescribed qualifications are set out in the Schedule.

16 Definition of "gross income"

For the purposes of the Act, "gross income" is the total recorded income of the charity from all sources including special trusts and funds released from endowments, but excludes —

- (a) resources being received as endowments;
- (b) gains from disposals of fixed assets and investments;
- (c) asset revaluation gains.

17 Annual reports and other information

(1) The report by the charity trustees on the activities of the charity during the accounting year which is required to be contained in the annual report prepared under section 29 shall —

- (a) in the case of a charity which is not an auditable charity, be a brief summary of the main activities and achievements of the charity during the year in relation to its objects; or
- (b) in the case of a charity which is an auditable charity, be in accordance with proper practices;

and, in either case, be dated and be signed by one or more of the charity trustees, each of whom has been authorised to do so.

(2) The information relating to the charity and to the charity trustees and officers which is required to be contained in the annual report is —

- (a) the name of the charity as it appears in the register and any other name used by the charity in the carrying on of any of its activities;
- (b) the IOM charity number and any number with which it has registered as a charity in a country or territory outside the Island;
- (c) in the case of a body corporate, the number with which it has been registered as a company or otherwise established and, if applicable, the number with which it has been registered under the Foreign Companies Act 2014;
- (d) the address for correspondence of the charity and, in the case of a body corporate, the address of the registered office or other

- similar address required to be stated by the law governing its establishment;
- (e) the name of every person who has been a charity trustee during the accounting year in respect of which the annual report is prepared, including the date on which each person's appointment commenced or ceased, if during that year;
 - (f) whether a charity trustee has been employed by the charity during the accounting year in respect of which the annual report is prepared, including the date on which that person's employment commenced or ceased, if during that year;
 - (g) in the case of a foreign charity, the name of every person who has been a responsible person during the accounting year in respect of which the annual report is prepared, including the date on which each person's appointment commenced or ceased, if during that year;
 - (h) the objects of the charity;
 - (i) details of any amendments to the charity's name or governing instrument during the accounting year in respect of which the annual report is prepared; and
 - (j) a description of the aims and objectives (if any) which the charity trustees have set for the charity in the future, and of the activities contemplated in furtherance of those aims and objectives.
- (3) The Attorney General may publish an approved form which must be used by registered charities generally or by a certain class of registered charity in the preparation of the annual report.

PART 5 – SUPPLEMENTAL

18 Filing requirements – evidence of winding up or dissolution

For the purposes of section 23(4)(b)(iii), the evidence of winding up or dissolution is as follows –

- (a) accounts of the charity for the period of the accounting year which ends on the date of winding up or dissolution showing the distribution of its assets and which have been audited or examined as required by section 27;
- (b) the report referred to in section 29 for the period referred to in sub-paragraph (a); and
- (c) in the case of a body corporate, a declaration of dissolution issued by the Registry or other public authority which holds the public records concerning the incorporation or other establishment of that body corporate, or such other evidence as appears to the Attorney General to be sufficient for the purpose; or

- (d) in any other case, a resolution of the charity, a minute recording the following of such other procedure as is required under its governing instrument to wind up or dissolve the charity or such evidence as appears to the Attorney General to be sufficient for the purpose.

19 Furnishing particulars

- (1) The Attorney General may require a registered charity to furnish him or her with the information set out in paragraph (2).
- (2) The information is —
 - (a) in the case of a charity carrying out any activities which may involve an individual who is a child or a vulnerable adult (as those terms are defined for the purposes of the Safeguarding Act 2018) details of the safeguarding policies adopted by the charity;
 - (b) a description of the policies, if any, which have been adopted by the charity for the selection of individuals and institutions who are to receive grants, or other forms of financial support, out of the assets of the charity;
 - (c) a description of the policies, if any, which have been adopted by the charity trustees for the purpose of determining the level of reserves which it is appropriate for the charity to maintain in order to meet effectively the needs designated by its trusts, together with details of the amount and purpose of any material commitments and planned expenditure not provided for in the balance sheet which have been deducted from the assets in calculating the amount of reserves;
 - (d) a description of the policies which have been adopted by the charity trustees for the purpose of identifying, and counteracting, the risk of the charity becoming involved in or being used for money laundering activities or of its property being used to finance terrorism;
 - (e) a description of the accounting control systems required by regulation 10; and
 - (f) details of any breach by the charity of any of the policies referred to in (a) to (d) or of the systems referred to in (e).

20 Requirement for registered charity to state specified information

- (1) A registered charity must state the information referred to in paragraph (2) and (if appropriate) in paragraph (3) in the documents and communications referred to in paragraph (4).

This is subject to paragraphs (5) to (9).

- (2) The information is as follows —

- (a) the name of the charity and any other name under which it carries out the activities to which the document or communication relates;
 - (b) that it is a registered charity;
 - (c) the IOM charity number and any number with which it has been registered as a charity in a country or territory outside the Island;
 - (d) the present forenames, or the initials thereof, and present surname of each charity trustee; and
 - (e) the postal address, or the e-mail address, for correspondence.
- (3) Where the name of a registered charity does not include the word “charity” or the word “charitable”, the fact that the registered charity is a charity must be stated in any contract or other document by which land is transferred to, or from, its ownership.
- (4) The documents and communications are as follows —
 - (a) any document containing correspondence sent by the charity, including communications sent electronically;
 - (b) any document published by the charity, including in electronic form; and
 - (c) any advertising or publicity material used by the charity, including posters and any fundraising material.
- (5) The information referred to in paragraphs (2) and (3) must be stated in English in legible characters.
- (6) Paragraph (2)(d) does not apply in respect of a charity trustee to whom the restriction on identification in regulation 5(1)(e) applies.
- (7) It is not necessary to state the information referred to in paragraph (2)(d) and (e) if —
 - (a) the document or communication concerned includes the address of the charity’s website or of a website on which the Attorney General has published such information; and
 - (b) the charity trustees have taken all reasonable steps to ensure that the information published by the Attorney General is accurate at the time that the document or communication is sent, published or used.
- (8) In the case of information published by a registered charity on its website, it is not necessary to state the information in paragraph (2) on each page or document which forms part of, or is accessed through, the website provided the information appears at least once on the website.
- (9) In the case of a registered charity which is a body corporate, the requirements of paragraph (1) apply in addition to any requirements concerning the stating of information which apply to the charity concerned by the law governing its establishment.

21 Offences

- (1) A registered charity which fails to comply with regulations 10, 11, 12, 17 and 20 commits an offence.

Maximum penalty – (summary) – a fine of level 5 on the standard scale.

- (2) Section 51 applies to an offence under paragraph (1) as it does to an offence under the Act.

22 Revocation

The following are revoked –

- (a) the Charities (General) Regulations 1990¹;
- (b) the Charities Regulations 2007²; and
- (c) the Charities (Exemption) Regulations 2008³.

MADE 22 JANUARY 2020

JOHN L.M. QUINN
HM Attorney General

¹ GC 55/90

² SD 94/07

³ SD 230/08

SCHEDULE

INDEPENDENT EXAMINERS' QUALIFICATIONS

[Regulation 15]

| Governing Body | Qualification |
|---|--|
| ICSA – Institute of Chartered Secretaries and Administrators | ACIS – Associate of the Chartered Institute of Secretaries |
| ICSA – Institute of Chartered Secretaries and Administrators | FCIS – Fellow of the Chartered Institute of Secretaries |
| CIB – the Chartered Institute of Bankers | ACIB – Associate of the Chartered Institute of Bankers |
| CIBS – the Chartered Institute of Bankers in Scotland | MCIBS – Member of the Chartered Institute of Bankers in Scotland |
| ACCA – Association of Chartered Certified Accountants | CAT – Certified Accounting Technician |
| ACCA – Association of Chartered Certified Accountants | Diploma in Financial Management |
| AAT – Association of Accounting Technicians | AAT – Association of Accounting Technicians |
| ICAEW – Institute of Chartered Accountants in England and Wales | Diploma in Charity Accounting |
| CIPFA – Chartered Institute of Public Finance and Accountancy | Diploma in Charity Finance and Accountancy |
| CIPFA – Chartered Institute of Public Finance and Accountancy | Diploma in Public Audit |
| AIA – the Association of International Accountants | AAIA – Associate of the Association of International Accountants |
| AIA – the Association of International Accountants | FAIA – Fellow of the Association of International Accountants |
| AAPA – the Association of Authorised Public Accountants | AAPA – the Associate of the Authorised Public Accountants |
| IIA – The Institute of Internal Auditors UK & Ireland | PIIA – Advanced Diploma in Internal Auditing and Management |
| IIA – The Institute of Internal Auditors UK & Ireland | MIIA – Diploma in Internal Audit Practice |
| ACT – The Association of Corporate Treasurers | AMCT – Diploma in Corporate Treasury Management |
| IFA – the Institute of Financial Accountants | FFA – Fellow of the Institute of Financial Accountants |

*EXPLANATORY NOTE**(This note is not part of the Regulations)*

These Regulations provide for various matters concerning the registration and regulation of charities.

Part 1 deals with general conditions relating to the Regulations, their commencement and interpretation.

Part 2 provides for the particulars and information to be contained in the Charities Register and for its non-disclosure in certain circumstances, for the documents to accompany an application for registration and for the information to be registered and included in a certificate of registration.

Part 3 provides for the matters in respect of which provision must be made in a charity's governing instrument and for the date on which the requirement that each charity must have a written governing instrument comes into force in respect of charities in existence on 1 April 2020.

Part 4 provides for the keeping of accounting records, for the form and content of accounts and of the reports of auditors and examiners, for the qualifications of independent examiners, for the definition of "gross income" and for the form and content of the annual reports of charities.

Part 5 provides for filing requirements concerning winding up or dissolution, for the furnishing of particulars to the Attorney General, for the statement by registered charities of specified information in specified descriptions of document or communication, for contravention of certain regulations to be an offence and for the revocation of certain Regulations made under the Charities Registration Act 1989.