



CHARITIES BULLETIN

ISSUE 5 – SEPTEMBER 2020

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- Manx Registered Charities
- The Isle of Man Law Society
- STEP
- IOMSCA
- ACCA
- AICP
- ACSP
- Institute of Directors
- Chartered Governance Institute (formerly ICOSA)

1. On-line publication of information concerning charities

Work has continued on expanding the forms, guidance and other information available on the Charities Administration webpage: www.gov.im/charities.

In case of any queries, the Attorney General would now ask that the website www.gov.im/charities be the first point of reference, in particular the guidance regarding specific topics and the [Frequently Asked Questions](#) document. Please consider contacting the Charities Administration team only if the answer is not available on-line.

The forms, guidance and other information currently available on-line includes the following:

- [Charities Registration and Regulation Act 2019](#)
- Charities Registration and Regulation Act 2019 (Appointed Day) Order 2019
- [Charities Regulations 2020](#)
- Charities Tribunal Rules 2020
- Religious Charities Regulations 1999
- List of Manx Charities legislation (which includes copies of the Charities Registration Act 1989 and those Regulations made under it which have now been repealed)
- Charities Bulletins (Issues 1 to 5)
- A note published by the Attorney General on the requirement for a substantial and genuine connection with the Isle of Man
- FAQs
- Coronavirus Guidance for IOM registered charities
- Notification form (replaces the "Schedule 3" form) (and continuation sheet)
- Registration application form (replaces the "Schedule 2" form) (and continuation sheet)
- Merger Notification Form
- Template for receipts and payments accounts
- Template for annual report
- Template for report of independent examiner

- Guidance for the completion of annual accounts and annual reports templates and for the carrying out of independent examinations
- Guidance on notifying the occurrence of an event using the notification form
- Index of Charities registered in the Isle of Man
- Index of Charities recently registered (i.e. within the last three months)
- Index of Charities removed from the register on or after 1 April 2020
- Model governing instruments:
 - Model constitution of unincorporated association (two versions: one for adoption on the establishment of the charity, the second as a replacement for an existing constitution)
 - Model Memorandum and Articles of Association of a charitable company limited by guarantee and incorporated under the Companies Acts 1931 to 2004 (two versions: one for a company intended to be audit exempt, the second for a company the accounts of which are to be subject to audit)
 - Model charitable trust (two versions: one with and one without a settlor)

The Coronavirus Guidance and the FAQs are kept under review and will be updated as necessary. Suggestions for further matters to be included in the Guidance or the FAQs should be sent by e-mail to charities@gov.im.

Work continues on the transfer of data into our information management systems, which is a necessary step in the process of making public information held on the register available online. Until this information is available online, requests for public information held on the register concerning individual charities should be made in writing, preferably by e-mail to charities@gov.im.

Work is also underway on re-formatting the website, which will result in dedicated pages for specific issues and the publication of guidance on additional topics. It is anticipated that the new website will be live around the beginning of October.

Any suggestions as to matters in respect of which published guidance would be useful can be sent by e-mail to charities@gov.im.

2. Reminders concerning changes to requirements to file annual accounts and reports

Annual accounts due for accounting years ending on or before 31 March 2020 continue to be filed in accordance with the provisions of the Charities Registration Act 1989 (a copy of which can be found in the List of Manx Legislation on www.gov.im/charities or, alternatively, on the [Isle of Man Legislation website](#) under "Repealed Acts" on the "Legislation" drop down tab). It is not necessary to file annual reports for those years.

The provisions of the 2019 Act and the 2020 Regulations apply with effect from the accounting year in which the Act came into force, ie the accounting year which includes 1 April 2020. This is provided in Article 4(2) of the Charities Registration and Regulation Act 2019 (Appointed Day) Order 2019.

Accordingly, every charity will first have to prepare its annual accounts and annual report in compliance with Part 6 of the 2019 Act (sections 27 to 30) and Part 4 of the 2020 Regulations (Regulations 10 to 17) in respect of the accounting year which ends on or after 1 April 2020.

A charity may prepare its accounts on a receipts and payments basis provided all of the following apply to it:-

- the charity is not a company;
- the charity's gross income for the financial year in question does not exceed the threshold for its accounts to be audited under section 27 of the Act (currently £250,000);
- the charity's governing instrument does not require that accruals accounts be prepared or that its accounts be audited;
- the charity has not resolved that accruals accounts be prepared or that its accounts be audited; and
- there is no legislation applicable to the charity which requires it to prepare accruals accounts.

In addition to information in the Guidance on the Preparation of Receipts and Payments Accounts and Annual Reports, in the FAQs and in this Bulletin (repeated from Issue 4), flowcharts have been published on www.gov.im/charities to assist charities in identifying the basis on which their accounts should be prepared.

If a charity, able to do so, chooses to prepare its accounts on a receipts and payments basis then it must use the template for this, and the template for the preparation of its annual report, which have been published as approved forms by the Attorney General.

In all other cases, the charity must prepare accruals accounts per Regulation 12 of the 2020 Regulations. **Please note that** the requirement concerning the preparation of accruals accounts is that they be prepared "in accordance with proper practices", such term being defined in Regulation 3 as being practices consistent with a relevant Financial Reporting Standard (i.e. FRS 102) or any Statement of Recommended Practice applicable to charities preparing the accounts in accordance with the Financial Reporting Standards issued or adopted from time to time by the Charity Commission of England and Wales of the Office of the Scottish Charity Regulator. The Attorney General does not publish a template for accruals accounts because he considers that it is a matter on which charities should take the appropriate professional advice.

The requirements for audit or independent examination of charity accounts remain unchanged and an updated version of the guidance for independent examination originally published by the General Registry is now available on www.gov.im/charities.

Please note that audit and independent examination reports must be signed by the individual who carried out the audit or examination and not by the firm to which they belong. This is because section 27 (which is a re-enactment of section 5 of the Charities Registration Act 1989) refers to an "accountant" (as that term is defined in the Schedule to the [Interpretation Act 2015](#), e.g. a member of the Institute of Chartered Accountants in England and Wales) and to a person who "holds a qualification" as per the table in the Schedule to the Charities Regulations 2020, both of which necessarily must be an individual.

3. Reminders concerning notification of changes

As of 1 April 2020, the following changes must be notified to the Attorney General by using the notification form:

- Change of charity trustee or of the details of a charity trustee (Annex A)
- Change of responsible person or of the details of a responsible person (Annex B)
NB Your charity will have a "responsible person" only if it is a foreign charity without charity trustees resident on the Island.
- Change of correspondence or other address for the charity (Annex C)
- Amendment of charity name (Annex D)

- Amendment of a governing instrument (Annex E)
- Winding up or dissolution of the charity (Annex F)

Notification must be given within one month of the happening of the relevant change. This is to ensure compliance with section 23 of 2019 Act.

The change is notified by completing and submitting pages 1 and 2 of the form (including the declaration) together with the appropriate annex(es). It is only necessary to print off and complete the annex(es) which relates to the changes being notified. The charity number should be inserted where indicated on the form and the appropriate annex(es). All fields must be completed otherwise the form cannot be processed and will be returned.

Please note that, when completing a notification form and the relevant Annex, it is important that all the fields be completed correctly, taking account of the guidance provided by the footnotes. As notification forms are “approved forms”, they may be rejected by the Attorney General if they have not been completed correctly. If rejected, the requirement to notify the change will not have been complied with. Also, considerable administrative time is used in requesting missing information.

We are receiving a significant number of incorrectly completed notification forms. The most common errors/omissions are:

- Omitting titles of individuals (e.g. Mr, Mrs, Miss, Ms, Dr);
- Omitting former names of individuals (in particular where the title given is “Mrs”);
- Giving shortened forms of forenames;
- Omitting offices held by individual charity trustees where the charity’s governing instrument requires the appointment from among the Charity trustees of officers such as a Chairperson, Secretary, Treasurer, etc.
- Omitting dates of changes, e.g. dates of resignations and appointments

Please do not provide the details of an officeholder (e.g. Chairperson, Secretary, Treasurer) unless that person is one of the charity trustees. This is because it is only the details of the charity trustees which are required to be held on the Register. So, for example, if the charity’s secretary is not a charity trustee, details concerning that person should not be notified. This means that, in relation to a charitable company, details of the person appointed as company secretary for the purposes of company law should not be provided unless s/he is also a director of the company.

Finally, the notification form must be signed by a person who is a charity trustee on the date of signing. In particular, this means that a person cannot notify their own retirement as a charity trustee because the retirement will have taken effect before the form is signed.

Further guidance is included in the “Guidance on notifying the occurrence of an event using the notification form” which is available on www.gov.im/charities.

Please note that the notification form is only for use for notification of changes referred to in section 23. Thus, for example, if a charity changes its accounting year end, the Attorney General should be informed of this in writing, either by letter addressed to “Charities Administration” at the address on the first page of this Bulletin or by e-mail to charities@gov.im.

4. Reminder concerning the requirement for the Attorney General’s prior written consent when amending a charity’s governing instrument or name

Sections 17 and 19 of the 2019 Act provide that the prior written consent of the Attorney General must be obtained **before** any amendment is made to a charity's governing instrument or name unless the charity is a foreign charity. Consent should be requested by writing to Charities Administration at the address on the first page of this Bulletin or by e-mail to charities@gov.im. The following should be included in the request:-

- details of the amendment(s) to be made; and
- reasons for the proposed amendment(s).

Where the proposals include more than minor changes to a governing instrument, a copy of the governing instrument should be provided, marked up to show the proposed amendments. Wherever possible, this copy should be provided as an editable Word document attached to an e-mail.

Only after written consent has been given by the Attorney General personally (or by the Solicitor General or a person authorised under section 45 of the 2019 Act) can the charity follow its usual procedure for adopting the changes. **Please note that** the consent applies only to amendments which were included in the request made to the Attorney General. If at the meeting of the charity at which the amendments are to be adopted the members wish to make any further changes, separate consent will have to be sought before that can occur.

The charity must notify the adoption of changes to its governing instrument or name by sending a completed notification form and Annex D or E (as appropriate) to the Charities Administration within one month of the date of adoption.

In the case of a foreign charity, although the Attorney General's prior consent is not required, the charity trustees are encouraged to notify the Charities Administration of any proposed changes so that they can be informed of any matters which may affect the charity's eligibility to remain on the register should the proposals be adopted.

5. Reminder regarding the requirement for registered charity to state specified information

Charities are reminded of the requirements set out in Regulation 20 to state certain information (including the name of the charity, that it is a registered charity, its charity number, the names of its trustees and a postal or e-mail address for correspondence) on its correspondence and any publicity, etc (including in electronic form, e.g. on websites, Facebook and other social media platforms). Failure to comply with the requirements of Regulation 20 is an offence which carries a maximum penalty on summary conviction of a fine of £10,000.

Full details of the requirements are set out in Regulation 20. As charity trustees are individually liable in the event of a breach of the requirements in respect their charity, they should now read Regulation 20 (set out below for ease of reference) and ensure that the requirements are implemented for their charity.

CHARITIES REGULATIONS 2020

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 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 website¹ 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.

6. Reminder regarding changes to administrative processes

Charities are reminded that routine correspondence from the Attorney General’s Chambers concerning the administration of the register is no longer being sent by post, but only by e-mail. This includes notification of the publication of Charity Bulletins and other information and reminders concerning the filing of annual accounts.

For this reason, it is essential that the e-mail address provided by the charity (which is required to be held on the register and will be published as the charity’s e-mail correspondence address) is an effective means of corresponding with the charity trustees. Ideally, the correspondence address provided should be one which is accessible to more than one of the trustees of the charity, so that it is able to be checked irrespective of the availability of a particular individual or that person’s access to a particular computer system, e.g. a school computer during the holidays.

7. Seminars

The lifting of social distancing and other restrictions on the Island meant that it was possible to re-schedule the seminars which were due to take place in March and April. Accordingly, during July, seven seminars were held across the Island, the dates of which

¹ www.gov.im/charities

had been published on www.gov.im/charities, bring the number of seminars provided for charity trustees to eight.

Although the seminars were well attended, we are aware that there are a number of charities which were not represented. Accordingly, if there is sufficient interest, a further seminar will be arranged during late autumn/early winter. If any charity trustee who has not already attended a seminar would like to do so, please contact Charities Administration, preferably by e-mailing charities@gov.im. If arranged, the date of the further seminar will be published on www.gov.im/charities.

8. Reminder concerning the responsibilities of charity trustees

Charity trustees are reminded that they are all responsible for the compliance by their charity with the statutory requirements. This means that, for example, it is not just the responsibility of the treasurer to submit the annual accounts, or for the secretary to notify a change of trustee or correspondence address.

9. Queries concerning charities or matters regarding the register

As part of the streamlining of our processes, all queries concerning charities, including ones concerning the notification of changes, preparation and filing of accounts and report, current or proposed activities of your charity or the amending of a governing instrument, should now be made to Charities Administration, preferably by e-mailing charities@gov.im. Your query will be directed to the appropriate officer within the team on receipt.

As there is now an increasing amount of published guidance and other documents available on www.gov.im/charities, the Attorney General asks that anyone considering contacting us first checks www.gov.im/charities in case the query is already answered there.

If you have any suggestions for topics to be covered in future Bulletins, included in the FAQs or to be the subject of additional guidance, please do let us know.