

LIONS CLUBS INTERNATIONAL MD105

A GUIDE TO THE CHARITIES ACTS 1992 AND 1993 FOR LIONS CLUBS

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Warning

The Charities Acts 1992 and 1993 provided the framework for the regulation of charities, but the detailed provisions will mainly be contained in regulations introduced by statutory instrument. At the time of publication of this draft, the regulations governing accounting and auditing have just been enacted, but not yet implemented, and those relating to public charitable collections have only been released in draft. Therefore, much of the comment and advice in this publication is of a provisional nature, and updates will be issued as appropriate.

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SCOPE OF THE ACTS

The Charities Acts 1992 and 1993 only apply to England and Wales. The Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 applies to Scotland. No part of the Acts apply to any other part of the Multiple District (Northern Ireland, Eire, Channel Islands or the Isle of Man.)

1. The Charities Acts 1992 and 1993

The scope of these two Acts is as follows:-

1.1 The Charities Act 1992

Originally this Act covered all the new legislation and was additional to the existing Charities Act 1960. Due to the enactment of the 1993 Act (see 1.2 below) the 1992 Act now only deals with the following:-

Control of Fundraising for Charitable Institutions

Public Charitable Collections

Offences and minor administrative matters

1.2 The Charities Act 1993

This Act consolidates the Charities Act 1960 and the parts of the 1992 Act not mentioned above. It therefore covers the whole of the general regulatory powers of the Charity Commissioners relating to Registration, Trustees, Accounting, Investment and Property.

2. The Law Reform (Miscellaneous Provisions) (Scotland) Act 1990

The provisions of this Act, as it relates to charities, are not as extensive as the Charities Acts, but set out to achieve the same objective of making charities publicly accountable.

3. Implementation of the Acts

At the time of preparation of this guide, not all the provisions of the Acts are in force. The parts of the Acts relating to accounting and auditing are not expected to be introduced until March 1996, and no date is yet known for the introduction of the parts relating to public charitable collections. Full details of the exact dates will be published in due course.

STATUS OF LIONS CLUBS

It is important to realise the status of a Lions Club when considering the application of the various provisions.

1. Legal Status

A Lions Club is an unincorporated association, which means that in general terms it is regarded as a legal entity that is separate from its members. Such separation does not however remove its members from a joint and several liability for the debts and liabilities of the Club.

2. Charitable Status

A charity is defined as "an organisation established for charitable purposes only". There is no definition of "charitable purposes" and it is therefore difficult precisely to describe what is or is not charitable. It is however clear that any organisation which is not established for charitable purposes only is not a charity.

It is generally accepted that a Lions Club does not have objects which are of a wholly charitable nature, and accordingly is not itself a charity. Thus it is not possible for a Club to apply to the Charity Commissioners (in England and Wales) for registration as a Registered Charity.

3. Multiple District Recommendation

The Multiple District recommendation to Clubs is that they consider forming a Charitable Trust which is established for charitable purposes only and which can be registered as a charitable body. The reasons behind this advice are as follows:-

- 3.1 Awareness by the public that the Lions Club has organised its affairs to have largely charitable status. It is felt that without such status Clubs may well be looked upon by the public as inferior.
- 3.2 Acceptance by Local Authorities of Clubs' charitable status. It may be the case that some Local Authorities may seek to refuse applications for street collection licences if the applicant is not a Registered Charity. Advice has been received that this action is actually an abuse of a Local Authority's powers. It would appear to be advisable however to try to avoid such a situation arising.
- 3.3 The tax advantages which are available to Charitable Trusts are not available to Clubs per se.

CHARITABLE TRUSTS AND REGISTRATION

The formation of a Charitable Trust is a relatively easy process, and only requires the execution of a Trust Deed. The use of the Model Trust Deed is recommended, as its wording has been agreed with the various authorities as acceptable. There are two versions of the Deed, one for use in England and Wales, and one (available shortly) for use in Scotland. There is also an agreed Deed of Variation for the use of Clubs who already have an "old-style" Charitable Trust to update their Trust Deed to the currently accepted wording. Each one of these documents is contained in a separate Charity Pack, which is available on request from the Multiple District Headquarters by calling 0121-441-4544, and specifying which pack is required. Each pack also contains other forms, information and advice needed in order to set up (or vary) and register the necessary Deed to obtain Registered Charity status.

1. Procedure for the Execution of a Charitable Trust

The model deed should be used as a basis for the individual Club's deed, with the various blank parts being completed. It is recommended that the whole deed be word-processed.

2. Procedure for Registration

Once the Charitable Trust has been formed, the question of registration should be considered. Registration only applies in England and Wales, and is compulsory for all charities whose gross annual income from all sources (including donations) exceeds , 1,000, or where the charity has the use or occupation of land, or has a permanent endowment.

It is necessary for a photocopy of the signed and stamped deed to be sent to the Charity Commissioners, together with a completed questionnaire (form RE96C), and form RE1. Further details of this process are contained in the Charity Pack. The Charity Commissioners may require

further information, but if not, registration will ensue, with details of the registration number, etc. being sent to the Club.

3. Post Registration

It is necessary for all Registered Charities to comply with certain disclosure requirements.

3.1 Cheques, Invoices and Fundraising Documents

One of the following statements must appear where a Registered Charity had an annual gross income in excess of , 5,000.

A Registered Charity
Registered Charity No. xxxxxxxx
Registered as a Charity
Registered with the Charity Commissioners

3.2 Letterhead

It is a legal requirement to have a declaration of Charitable Status on any document which is used to solicit funds for or on behalf of a charity. It is good practice, therefore, to show some statement on letterheads. It must be remembered that a Lions Club is not itself registered, and therefore a statement on any letterhead must not give the impression that it is the Club which is registered, It is a criminal offence for an organisation to hold itself out as a Registered Charity when it is not, and it is therefore recommended that the following words be used on Club headed paper:-

"Incorporating XYZ Lions Club Charitable Trust Registered Charity No. xxxxxxxx"

3.3 Fundraising by Clubs

It appears that where a Club raises money for a Registered Charity (whether for its own Trust Fund or for another Registered Charity), then it is necessary to declare on any publicity material for the fundraising event the details of the Registered Charity for whom funds are being raised. It is recommended therefore that the following wording be used on such publicity material:-

"Proceeds in aid of Yyyyyyyyyyy - a Registered Charity"

4. Scotland

Although the Charity Commissioners have no power in Scotland and registration is not necessary, there is nevertheless some regulatory process. This is controlled by the Scottish Charities Office, whose address is:-

Crown Office
25 Chambers Street
Edinburgh
EH1 1LA

Tel 0131 226 2626
Fax 0131 226 6912

The actual recognition of charities in Scotland is carried out by the Inland Revenue, who maintain a list of "recognised bodies", although it is not a register. Clubs should contact the Inland Revenue for inclusion on this list. The address is:-

Claims Branch (Edinburgh) Tel 0131 522 6255
Trinity Park House
South Trinity Road
Edinburgh EH5 3SD

DUTIES AND RESPONSIBILITIES OF TRUSTEES

The Charities Acts provide that Trustees are "the persons having the general control and management of the administration of the charity". Thus, the Trustees may not only be those persons named in the Trust Deed, but may include anyone who is exercising any control over the decision making process. Relating this to a Lions Club which has a Charitable Trust, it would certainly include the Directors of the Club, and may extend to all the members of the Club, if it is the practice of the Club to involve all members in decision making.

It should be borne in mind that, in any event, all members have a joint and several liability in connection with the affairs of their own Club, and the above paragraph does not really make any individual member's liability any more onerous than it already is.

The role of the Trustee is absolutely vital and carries with it legal responsibilities and duties. The Charity Commissioners booklet CC3 and leaflet CC3A, both entitled "Responsibilities of Charity Trustees" should be read by all Trustees.

Trustees are ultimately responsible for the affairs of the charity and that responsibility is both a personal and a collective one. Individual responsibility cannot be delegated. Trustees have a custodial role over the assets of the charity, both real and financial. If the loss of any asset results from the negligence, or worse still, the dishonesty of all or any trustees, then personal liability may result.

Trustees are responsible for compliance with the Charities Acts. Such liability includes the preparation of proper accounts and the audit or review thereof, if applicable, and the keeping of proper books, minutes. etc.

It is understood that where Trustees act on a non-unanimous decision, then the dissenting minority may avoid any personal liability, if their dissension was properly recorded at the time the decision was made.

ACCOUNTING AND AUDITING REQUIREMENTS

The Charities Act 1993 strengthens the requirements for registered charities to keep proper books of account, and to prepare annual Statements of Account in the form prescribed by the Act. It also introduces the requirement for an annual Trustees Report and an Annual Return to be prepared, and for the Accounts, Report and Return to be filed with the Charity Commissioners. Furthermore, it introduces for the first time the requirement for charity accounts to be audited, or for smaller charities, to be examined by a suitably qualified Independent Examiner.

1. Bank Accounts

There are no particular statutory requirements as to the number and style of bank accounts to be maintained by charities, although for practical reasons, it will often be beneficial to run separate bank accounts for specific projects or activities, if their size and/or nature warrants it. However, for the proper execution of their duties, all the bank accounts should remain under the control of the Treasurer and the Trustees at all times.

It is a constitutional requirement of Lions Clubs that all administrative expenses of the club itself are met from members' funds, rather than from charitable moneys. Therefore, in order to demonstrate the proper segregation of funds, it is necessary for all clubs to keep an administrative bank account separate from the charitable income and expenditure bank account. Indeed, this principle has now been officially incorporated into the International Board Policy Manual, and all clubs are required to comply. Furthermore, it is currently considered best advice that, if a club forms a charitable trust, it should keep three bank accounts, as follows:-

- 1) Admin account (for all club dues and admin expenses).
- 2) Fundraising account (for all activities, charitable events, etc.).
- 3) Charity Trust account (to receive the net profits on charitable events, and to make charitable grants, donations, etc.).

In this way, all the members of the club share the potential responsibility for liabilities incurred during fundraising activities, rather than just the trustees named in the Charity Trust deed. Also, as the "rules" controlling the funds once they are placed in the Charity Trust account are likely to be more stringent than those applying to the club itself, the use of a club fundraising account allows more flexibility.

2. Accounting Records

Trustees must ensure that the accounting records are sufficient:-

- a) to show and explain the day-to-day transactions, receipts and payments;
- b) to disclose with reasonable ease the financial position of the charity;
- c) to include a record of assets and liabilities;
 1. to enable accounts to be prepared in accordance with the Act.

Accounting records must be kept for six years, and it is up to each club to develop its own bookkeeping systems and controls in order to meet the requirements above. However, the recommended methods are:-

- 1) an analysed cash book system, with a separate cash book for each bank account, or
- 2) a cash book and nominal ledger system.

If assistance is required, please contact your District Treasurer in the first instance.

3. Statements of Account

Whilst the accounting requirements of the Act will legally apply to registered charities only, they will be looked upon as "best practice" for all charities and voluntary organisations, and the recommended practice for Lions Clubs is being developed along similar lines.

For accounting periods beginning on or after 1st March 1996, all registered charities with gross aggregated income from all sources (including income in associated entities) in the current period exceeding £100,000 will be required to prepare a full set of accounts on the accruals basis in accordance with the Accounting by Charities Regulations issued by the Home Office and the

Statement of Recommended Practice (SORP) issued by the Charity Commissioners. There will be very few Lions Clubs' Registered Charities in this category, and therefore this guide does not attempt to advise further on these accounting requirements. Copies of the Accounting by Charities Regulations, and the SORP can be obtained from the Charity Commissioners by calling 0171-273-2563. If further advice is required, please call the Multiple District Treasurer.

For Registered Charities and Lions Clubs with gross income below , 100,000, accounts will be considerably simpler. The recommended practice for Lions Clubs will still be to prepare accounts on an accruals basis, but the only other fundamental concept that will have to be followed will be to treat like items consistently from year to year. However, the SORP does require all charities, large and small, to distinguish at all points in the accounts between unrestricted funds and restricted funds (i.e. those funds which have been collected, expended or held for a particular designated purpose). Furthermore, restricted funds should (except where immaterial) be distinguished one from another.

Lions Clubs with a Registered Charitable Trust will find it necessary to prepare accounts for the Trust separately from those for the club itself, as the accounts for the Trust must be available for filing with the Charity Commissioners, and must be available to the public, whereas those for the club need not.

A standard set of Accounts, Notes and Trustees' Report (see 5. below) for a Lions Club, with guide notes on completion, and a pro-forma version for ease of use, are being drawn up, and will be circulated in due course. It will be recommended that Districts set up workshops to develop their use by clubs.

4. Audit or Independent Examination

Registered Charities with gross income or total expenditure (including associated entities) exceeding £250,000 in the year of account, or in either of the two immediately preceding years, will be required to have their accounts audited in full by a Registered Auditor. If any Lions Club falls into this category, and required advice, please contact the Multiple District Treasurer.

Those with gross income and total expenditure (including associates) between , 10,000 and , 250,000 for all years concerned will only require to have an "independent examination" of their accounts by an independent person who is reasonably believed by the trustees to have the requisite ability and practical experience to carry out a competent examination of the accounts. The examiner is not expected to report that the accounts show a "true and fair view", but merely to report on any matters which have come to his attention which give him reasonable cause to believe that in any material respect the books, the accounts or the actions of the trustees are incorrect or misleading.

Whilst Registered Charities with annual gross income and total expenditure below , 10,000 are not required by the Acts to have either an audit or an independent examination, all Lions Clubs, whatever their size, are required by our Multiple District Constitution to prepare annual accounts, to have an independent examination along the same lines as those laid down by the Acts, and to file the accounts and examination report with their District Treasurer by 31st December next following the year end. It is therefore advised that all Lions Clubs should follow the rules for independent examination which are laid down in the Accounting by Charities Regulations issued by the Home Office (see 3. above), along with guidance on the selection of the examiner and directions as to the conduct of his examination. The accounts to be prepared, examined and filed

must, of course, include the accounts of any registered Charitable Trust, or other separate legal entity forming part of the club's activities.

The costs (if any) of the audit or independent examination can be met from the charitable moneys of the Charitable Trust, as far as they relate to that account. However, an audit or examination can be ordered by the Charity Commissioners, if the trustees fail in their duty, and in this case, the costs must be met by the trustees personally. An audit can also be ordered by the Commissioners in various other circumstances, even if an independent examination has already taken place.

The Acts confer the right on any member of the public to submit a written request to the trustees of any charity for a copy of its latest accounts, which must be supplied within two months at whatever reasonable fee the trustees may require. However, as has been stated previously, Lions Clubs themselves are not charities within the Charity Commissioners' definition, and public access would only be to the club's Charity Trust accounts.

5. Annual Reports

The trustees of a Registered Charity must prepare an annual report in respect of the financial year of the charity. For charities with annual gross income or total expenditure over , 10,000, this report must be sent to the Charity Commissioners within 10 months of the year end, together with the accounts and the report of the auditor or independent examiner. The Trustees' Report must contain those items prescribed by the SORP, which are summarised here as follows:-

- * the name, address, nature, purpose and organisation of the charity.
- * the names of the trustees and principal officers, and any committees or sub-committees to which they belong.
- * the method of appointment of trustees, and the appointing body or person
- * the names and addresses of any associated entities, and of agents, bankers, solicitors, advisers, etc.
- * details of any specific restrictions or unusual terms in the governing document (if material).
- * the objects, policies and activities of the charity.
- * a review of the transactions and the financial position of the charity for the year sufficient to enable the reader to understand the accounts and see how the charity aims to achieve its objectives.
- * for each fund in the accounts, confirmation or otherwise that the assets are available and adequate to fulfil the charity's obligations.
- * a review of the relationship of the charity with any connected entities, and with any entities with which it co-operates (if material).

It is expected that those charities below the , 10,000 limit will be able to keep this report relatively simple, but further guidance on this is awaited from the Charity Commissioners.

Where a Lions Club has a Charitable Trust, the report will legally only be required to cover the activities of the Trust. However, a similar report covering the club as a whole may be desirable. Further guidance will be issued with the standard for club accounts discussed at 3. above.

6. Annual Returns

Every Registered Charity must prepare an annual return in such form and containing such information as may be required by regulation from time to time. The return must be filed with the Charity Commissioners within 10 months of the charity's year end. Currently, there is no filing fee.

The return form (AR2) is issued by the Commissioners with the known information pre-printed, so that only additions or amendments have to be made. It currently requires such information as:-

- * the principal contact at the charity
- * details of the charity's bank accounts
- * the current objects of the charity
- * the area of benefit of the charity
- * the charity's accounting date, and various financial details.

There are various versions of the form in use at present, and each charity should use the form sent to it. In due course, when field testing is completed, it is expected that the form will be standardised for all charities, except those with gross income and total expenditure of less than £10,000 per year, who will have a simpler form.

7. Penalties for Non-Compliance

Charity trustees are jointly responsible for ensuring that the annual report and accounts, and the annual return, are submitted to the Charity Commissioners on time. If there is persistent default, the Commissioners have the power, with the consent of the Director of Public Prosecutions only, to bring proceedings against the trustees, who will be liable on summary conviction to a fine, unless they can show reasonable excuse.

8. Scotland

The Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 contains very similar provisions concerning the accounting records, annual accounts, annual trustees' report, etc. of those bodies recognised by the Commissioners of Inland Revenue (CIR) as charitable ("recognised bodies"). However, the CIR do not hold a register in the same way that the Charity Commissioners do for England and Wales, and there is no requirement for an annual return in Scotland. However, each recognised body is required on request from a member of the public to supply (within one month) the latest accounts and a copy of its governing document (normally its trust deed).

The form and content of the accounts and trustees' report, and the auditing requirements for recognised bodies in Scotland are governed by the Charities Accounts (Scotland) Regulations 1992. They are broadly, but not entirely, similar to the provisions of the Charities Acts, and the regulations governing England and Wales. A review of the Scottish regulations is expected, to bring them into line with the SORP.

In Scotland, accounts must be prepared and audited (or examined) within 10 months of the year end, and supplied to the Lord Advocate, should he so request. The Lord Advocate has power to require the preparation of accounts where the charity is in default, at the personal expense of the trustees.

FUNDRAISING

The provisions of the Charities Acts included in this section affect not only Registered Charities, but also Charitable Institutions. A Charitable Institution is defined in the Acts as a charity or an institution (other than a charity) which is established for charitable, benevolent or philanthropic purposes. These provisions will therefore apply to all Lions Clubs, whether or not they have a registered charity.

1. Public Charitable Collections

These provisions will replace the existing law relating to Street Collection Permits and House to House Collections. Draft regulations were circulated some time ago for comments, of which there were many, and at the time of publication of this guide, no revised regulations have been issued, and no date had been set for implementation. However, set out here is the framework under the Acts, and the outline of the expected rules.

A Public Charitable Collection (PCC) is defined as a Charitable Appeal made in a public place or from house to house. It excludes the inside of a building, unless there is general public access (e.g. shopping precincts, stations, etc.). The Acts specifically exclude static collection boxes, and collections in places where access is by purchase of a ticket only. A Charitable Appeal is an appeal to members of the public to give money or other property (whether for consideration or not) which is made in association with a representation that the whole or any part of its proceeds is to be applied for charitable, benevolent or philanthropic purposes. As well as cash, it will therefore cover the collection of jumble, books, newspapers, etc., and the selling of items such as programmes, etc.

When the regulations come into force, a PCC will only be legally carried out under a permit from the local authority, or by an order of the Charity Commissioners (in the meantime, do not forget that the current street collection licence system is still in force). A promoter of any PCC in breach of this will be liable to a fine of up to £1,000. A promoter is a person who organises or controls the conduct of the Charitable Appeal.

Application for a permit will be made to the local authority not less than one month before the collection. The draft regulations also put a time limit of not more than six months before the collection, but this may be extended to one year. The local authority is obliged to consult with the local police, and can attach such conditions as it thinks fit consistent with the regulations. The regulations may relate (amongst others) to the keeping and publication of accounts for the collection, prevention of annoyance to the public, use of collectors' badges and certificates of authority. The permit may specify the day, time and frequency of the collection, and may be refused if it appears to the local authority that the collection would cause undue inconvenience to the public by reason of the day of the week or date of the collection, or its time, frequency or locality. It can refuse if the collection falls on the same day or within one day of another collection previously authorised, or if the amount likely to be applied for charitable, philanthropic or benevolent purposes would be inadequate having regard to the likely amount of the collection proceeds. There is provision to appeal against refusal of the grant of a permit.

Experience has shown that local authorities may refuse to grant permits if the applicants are not Registered Charities. The Acts are quite clear in that permits can be given to other organisations (such as Lions Clubs), and any clubs experiencing problems in this area should immediately contact the Multiple District Legal Advisor.

2. Professional Fundraisers and Commercial Participators

The provisions of the Acts relating to professional fundraisers and commercial participators are now in force and, although at first sight they seem unlikely to affect Lions Clubs, there are circumstances in which Clubs may find themselves caught by the provisions. Therefore, at least a brief knowledge of them is necessary.

A professional fundraiser (PF) is defined in the Acts as any person (other than a charitable institution) who carries on a fundraising business (one carried on for gain and wholly or primarily engaged in soliciting money or property for charitable, philanthropic or benevolent purposes) or who for reward solicits money or other property for the benefit of a charitable institution.

A commercial participator (CP) is defined as a person who, as part of a business, not being a PF, encourages purchases of goods and services on the grounds that some of the proceeds will go to charity. These would include, for example, a bank which produces affinity credit cards, or a local photographer who advertises that a proportion of fees for sittings will be donated to the local Lions Club.

Thus it can be seen that, whilst involvement between PF's and Lions Clubs is likely to be rare, our involvement with the local business community, who are often keen to help (sometimes for mutual gain and sometimes for entirely charitable purposes), can on occasion lead to the business involved becoming a CP.

Before a PF or a CP can lawfully solicit money or other property for the benefit of a charitable institution, he must have an agreement with the charity, in accordance with the regulations. Further details can be obtained from the Multiple District Legal Advisor if any club wishes to enter into such an agreement. Any solicitation by a PF must be accompanied by a statement clearly indicating the name of the charity(s) and, if more than one, the proportions in which they are to benefit, and the method by which the PF's remuneration is determined. Solicitations by a CP must have a similar statement, though rather than stating his method of remuneration, it must state what proportion of the sale price of the goods or services is to be applied to or for the benefit of the charity, or what fixed sum is to be given by way of donation by him.

3. Unauthorised Fundraising

Lions Clubs have power to prevent unauthorised fundraising carried out in their name if the person in question is using methods of fundraising to which they object, or such person is not a fit and proper person to raise funds for it, or the Club does not wish to be associated with the particular promotional or fundraising venture in which that person is engaged. The Act sets out the procedure a Club must follow before any such injunctions would be granted by the court. Further information can be provided on request by the Multiple District Legal Advisor.

4. Scotland

The Public Charitable Collections provisions follow, in general, legislation that is already in place in Scotland (s.119 Civic Government (Scotland) Act 1982). There are no provisions in Scotland dealing with professional fundraisers, commercial participators or unauthorised collectors.

POWERS OF THE CHARITY COMMISSIONERS

The Charities Acts 1992 and 1993 have given greater force to the role of the Charity Commissioners to prevent, investigate and initiate action against abuse by charities. The main

powers are set out below. It is hoped that this section will be of only academic interest to Lions Clubs, and that none will see the powers at first hand. However, it does illustrate why the general public may be more inclined to support a Registered Charity, knowing that any misconduct could be investigated and action taken by the Commissioners.

1. Power to Obtain Information and Institute Enquiries

The Commissioners can require any person to provide them with any information in his possession which relates to the charity, and to provide copies of any documents relevant to the charity. They can also obtain information from statutory or government bodies, such as the Inland Revenue. They may institute enquiries into a charity, and in the enquiry, they or their appointee can direct any person to furnish accounts and statements, provide written answers to questions, provide copies of any documents he holds or controls and attend to give evidence or produce documents. It is an offence knowingly or recklessly to provide the Commissioners with information which is false or misleading, or wilfully to alter, suppress, conceal or destroy any document which is required to be produced to the Commissioners, the penalty being a fine and/or up to two years in prison.

2. Power to Intervene

In certain circumstances (mainly where there has been misconduct or mismanagement in the administration of the charity, and/or it is necessary to protect the property of the charity) the Commissioners have power to:-

- * suspend, or remove any trustee, officer or employee of the charity.
- * appoint additional trustees.
- * invest assets in the name of the Official Custodian of Charities.
- * prevent those holding assets for the charity from parting with them.
- * prevent a debtor making payment to the charity.
- * restrict transactions which the charity may enter into.
- * appoint a receiver or manager of the charity.
- * establish a scheme for the administration of the charity.

3. Scotland

Power has been given to the Lord Advocate to make enquiries and investigate charities. He has similar powers to those of the Commissioners to obtain information and documents. He also has power, without recourse to the courts, where he believes there to be misconduct or mismanagement, or there is need to protect the assets of the charity, to suspend any person concerned with the management of the charity for up to 28 days. Where a person fails to respond to the requests made in the enquiry, the Sheriff can make an order, and non-compliance could then mean a fine and/or prison. The Court of Sessions can act on the application of the Lord Advocate where there has been mismanagement or misconduct, or there is need to protect the assets of the charity. The Court may stop a body from representing itself as a charity, suspend any person in the management or control of the charity, appoint a manager of the affairs of the charity, order the freezing of money, restrict transactions, and appoint trustees.

The Charity Commissioners can investigate, supervise or protect, where a Scottish charity is controlled wholly or mainly from England and Wales.

