

## all change for charities

In February 2010 the Scottish Government published their Consultation Analysis Report on the proposals for the 'minor' changes needed to the rules governing Scotland's 23,500 registered charities.

As a result of this the income threshold above which charities are required to prepare fully accrued accounts will be increased to £250,000 with effect from 1 April 2011 (i.e. for year ended 31 March 2012 accounts). It is estimated that this will mean 84% of Scottish charities will be eligible to prepare the simpler 'Receipts & Payments' Accounts.

On 28 March 2010 the Public Services Reform (Scotland) Act received Royal Assent. The Act contains a number of the other provisions arising from the consultation which will come into force later this year.

At long last the Act has 'legalised' Trustee Indemnity Insurance by specifically permitting charities to pay for such insurance provided the

policy excludes indemnity;

- where a trustee has been fined following criminal proceedings/ breach of regulatory provisions;
- for any legal costs in respect of proceedings where the trustee has been convicted of an offence arising out of their fraud, dishonesty, or wilful or reckless misconduct; and
- where the trustee is liable to the charity for failing to act in the charity's interest.

The provisions in the Charity & Trustee Investment (Scotland) Act 2005 relating to publication of the charity's name and charitable status have been extended to include the charity's website. In future the following details must be shown on a charity's website;

- confirmation that the organisation is a charity
- the charity registration number

- the charity's name as it appears on OSCR's register, and
- any other name by which the charity is commonly known.

The Act also gives OSCR the power to appoint charity Trustees where there are insufficient existing Trustees by number to appoint new Trustees and where the charity's founding document makes no provision for Trustee appointment in such circumstances.

In addition to the provisions mentioned above, the Act contains provisions for the removal of Trustees by the Court of Session and for the reorganisation of restricted funds.

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# uncharitable face of direct debit

The Charity Commission has issued a warning to charities about Direct Debit fraud, following a number of reported incidents in which fraudulent Direct Debits have been set up from charity bank accounts.

Charities are particularly vulnerable to Direct Debit fraud as they often make their bank details available to the public in order to facilitate direct payments. Their vulnerability is also heightened as Direct Debits can be initiated by the beneficiary rather than the account holder.

Direct Debits are either set up via a paper mandate, which must be signed by the account holder, or via a paperless system, such as by telephone or online. The paperless system also requires authorisation

from the account holder, but is more open to abuse. However, Direct Debit payments are covered by a guarantee scheme, whereby if the originator or the bank or building society makes an error, the account holder is entitled to a full and immediate refund.

The Charity Commission is advising that charities should inform their bank that no further Direct Debits should be set up without specific authorisation, that all Direct Debit payments should be monitored regularly, and that incorrect Direct Debits should be referred to the bank for a refund. It is then the bank's responsibility to retrieve the money from the beneficiary.

A spokesperson for BACS, which

administers Direct Debit payments, said that, while Direct Debit was safe when compared to other payment methods, it supported the Charity Commission warning.

"Paperless Direct Debit is a highly reliable, safe and cost-effective method for organisations, including charities, to collect regular payments," said the spokesperson. "Instances of Direct Debit fraud are very low when compared with alternative payment methods like cheque or card. We treat any instances of Direct Debit fraud extremely seriously, even when they take place rarely."

To read more on the Charity Commission warning go to: <http://snipurl.com/vazvh>

## taxing problems for Charities

HM Revenue & Customs (HMRC) has launched a range of measures designed to clamp down on tax avoidance and fraudulent claims for tax relief in the charity sector.

In the 2010 Budget, Chancellor Alistair Darling announced measures relating to the reporting requirements for charities. This includes the introduction of a new 'fit and proper' person test, which will apply to trustees, directors or anyone else who controls the finances of a charity, and is designed to stamp out the exploitation of charity tax relief.

The 'fit and proper' person test may involve verifying the details of the person nominated to handle charity finances, and may also involve HMRC checking criminal convictions and determining whether that person has a history of exploiting tax reliefs for non-charitable purposes. Provisions introducing the test for charities are included in the Finance Bill 2010, which is due to come into force in the autumn. Under the new rules, charities must tell HMRC when there is a change to who deals with Gift

Aid or tax relief, and HMRC will then review its records. In response, some charities have raised concerns about whether this move will mean extra regulatory burdens for them, as well as more administration and red tape.

Additionally, a change to the rules on claiming Gift Aid came into force on 1 April 2010. This was introduced as part of the Finance Act 2008 and stipulates that the time allowed for claiming backdated claims will be reduced from six years to four years.

These changes to Gift Aid come after the Government announced in December 2009 that it was bringing in legislation designed to stamp out a tax avoidance scheme, which allows people to exploit tax relief on donations of listed shares and other types of qualifying investments, such as land, to charities.

Stephen Timms, Financial Secretary to the Treasury, described the avoidance scheme as 'an artificial, aggressive and offensive tax avoidance scheme

that seeks to abuse those tax reliefs available for donations to charity". In a speech to Parliament, Mr Timms announced that the tax relief on these arrangements will be reduced to either the cost of acquisition to the donor of the shares or investments gifted, or the market value at the date of disposal, whichever is lower.

For more information on Budget announcements relating to charities go to: <http://snipurl.com/vbosv> or <http://snipurl.com/vbota>

For more information on the anti-avoidance legislation from HMRC go to: <http://snipurl.com/vbou1>



## in brief..

### **Charity Commission warns charities to file accounts and returns on time**

The Charity Commission is urging charities to ensure they file their accounts and annual returns on time after statistics revealed that a fifth of charities did not meet the deadline in 2009. The Commission, which regulates charities in England and Wales, has launched a regional press campaign to encourage charity trustees to file on time. Charities whose income exceeds £10,000 in their financial year are required to submit an annual return, while those charities whose income is more than £25,000 must also submit their accounts as well as an annual return. Charities have ten months from the end of their financial year to submit their accounts and/or annual return to the Commission. For more go to: <http://snipurl.com/vazw7>

### **NCVO launches VAT helpline for charities**

The National Council for Voluntary Organisations (NCVO) has launched a telephone and e-mail helpline to provide advice and support to charities on what VAT they have to pay and what they can reclaim. The service is free to NCVO members with an income of less than £100,000. The standard charge for everyone else is between £100 and £500 per year for

unlimited access to the service. For more go to: <http://snipurl.com/vazxn>

### **Launch of Charitable Incorporated Organisations delayed**

The launch of a new legal form for charities has been delayed and may not be introduced until 2011. Provisions for the establishment of Charitable Incorporated Organisations (CIO) were included in the Charities Act 2006. CIOs were expected to be available from spring 2010 but a spokesperson from the Office of the Third Sector said there is insufficient time in the current parliamentary session to pass the legislation. Charities registering as CIOs will be able to incorporate without registering with both the Charity Commission and Companies House. For more go to: <http://snipurl.com/vazxv>

### **Treasury drops plans to reform Gift Aid**

HM Treasury has announced that it will not move forward with changes to the Gift Aid tax relief system, in order to avoid damaging what it calls "a very successful system". Many charities have called for the system to be reformed because of its perceived complexity and bureaucracy. However, the Treasury said that it will not rush into any major reforms of Gift Aid, but will continue to hold regular meetings with representatives from the charity sector as part of its

Gift Aid forum. For more go to: <http://snipurl.com/vazxw>

### **First round of volunteering grants launched**

Awards of up to £5,000 have been given to 40 organisations as part of a funding pilot to increase the number of disabled people in volunteering positions. The Access to Volunteering funding has been provided by the Office of the Third Sector and awarded to organisations in Greater London, the North West and the West Midlands. Further information on who has received the first round of funding, as well as details of how to apply for grants, has been published on the Access to Volunteering website. For more go to: [www.accesstovolunteering.org](http://www.accesstovolunteering.org)

### **Santander Foundation pledges £3.3m for charities in 2010**

The charitable arm of high-street bank Santander has announced it will make £3.3 million available to charities in the UK during 2010. The Santander Foundation, a new charitable foundation launched by Santander, will support education, training and financial projects, that help disadvantaged people to manage their money, in nine UK regions. These include Northern Ireland, West Yorkshire, Teesside and Milton Keynes. Charities in these areas can receive maximum grants of £30,000. To read more go to: <http://snipurl.com/vazy1>

## online help

The Cabinet Office has published a series of new pages on its Office of the Third Sector website designed to help charities and voluntary organisations keep up to date with key regulatory issues as well as make information more easily available.

The new pages will provide information about recent and ongoing changes to initiatives, changes to regulations and the law in England and Wales, cutting red tape, as well as the implementation schedule for the Charities Act 2006. The pages

will also include details of consultations and links to useful information on other websites. The introduction of the new pages is a result of the Office of the Third Sector (amongst other Government departments) aiming to tackle the unnecessary or disproportionate regulation of third sector organisations. One example is how the Charities Act 2006 introduced a number of deregulatory changes, designed to help smaller charities.

The majority of the provisions in the Charities Act 2006 are now in force, while the remaining provisions are

due to roll out from 2010 onwards including the introduction of a new legal form for charities, the Charitable Incorporated Organisations (CIOs).

The law and regulation pages of the Cabinet Office website are available at: <http://snipurl.com/vazv7>

Third sector organisations can suggest ideas that will aim to reduce the burden of red tape by submitting their comments to the Better Regulation Executive at: <http://snipurl.com/vazvc>

## money for migrants

Organisations that provide volunteering opportunities for migrants could be eligible for funding from the European Union (EU). Money from the European Integration Fund (EIF), administered by the UK Border Agency, can be awarded by the Government, if organisations can match funding on a 50:50 basis.

The funding follows new 'fast-track' citizenship plans introduced by the Borders, Citizenship and Immigration Act 2009, allowing migrants who have been in the UK for five years to qualify for UK citizenship within one



further year rather than three, if they can prove they have undertaken volunteering work. The citizenship plans will be in place by 2011, and will only apply to volunteers working with registered charities.

The EIF is aimed at migrants who have arrived in the UK within the last five years and are not asylum seekers, refugees, EU or European Economic Area (EEA) nationals, or people who have come to the UK on short-term visas, such as student visas. The EIF has made approximately £6.4 million of funding available, and aims to help migrants acquire basic knowledge about the language and culture of the UK in order to help better integration into UK society.

The minimum grant that organisations can apply for is £40,000 per year, and projects can run for up to three years. The closing date for applications for the EIF 2009 Programme, which supports projects starting after 1 July 2010, is 4 June 2010.

The scheme has attracted criticism, partly because of the difficulties in obtaining match funding, and because of the barriers to entry for smaller organisations, meaning that many migrants will not have the opportunity to volunteer in their local communities.

Some organisations have difficulties recruiting migrants as a result of restrictions imposed by the new Vetting and Barring Scheme, launched in October 2009.

There is also concern that the fast-track citizenship offer is a form of payment in kind for volunteer work, and goes against the principles of volunteering. In a briefing to MPs, Volunteering England warned the scheme offered "a strong and explicit incentive to volunteer" and could turn volunteering into a "tick-box exercise".

For more details on the EIF go to: <http://snipurl.com/vazvu>

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## depleted funding: further stats

Nearly 50% of charities suffered a fall in income in 2009, according to a report published by the Charity Finance Directors' Group (CFDG), the Institute of Fundraising (IoF) and PricewaterhouseCoopers (PwC). The half-yearly 'Managing in a Downturn' report revealed that 49.5% of respondents reported that their charity's income fell between May and November 2009. But while many of those surveyed expected their income to continue to fall over the next 12 months, the overall outlook is more positive than when the previous report was published in July 2009.

The number of respondents reporting a fall in income was actually less than predicted, and 29% of

respondents reported an increase in income, more than predicted in the previous report. While 42% of respondents said they expected their income to fall over the next six months, over a quarter - 27% - expected their income to increase.

The report highlighted Government funding as a key anxiety for many charities surveyed, as public funding cuts are widely predicted. Some 56% of respondents said they expected income from statutory sources, such as the Government, local authorities and the European Union, to fall over the next six months, although some did not expect the cuts to have an effect until 2011. For more go to <http://snipurl.com/vazvu>