

1 ACCOUNTING AND FINANCE

1.1 Accounting and reporting – changes to requirements

There have recently been slight changes in the requirements in connection with the trustees' annual report and accounts which all charities have to compile each year. As a result of the changes, the Charity Commission has issued separate guidance booklets explaining the requirements for different time periods.

Booklet CC15 *Charity Reporting and Accounting: The Essentials (May 2007)* covers the requirements for financial years starting between 27 February 2007 and 31 March 2008.

Booklet CC15A *Charity Reporting and Accounting: The Essentials (April 2008)* covers the requirements for financial years starting on or after 1 April 2008.

Both these publications can be printed off from the Charity Commission web site (www.charity-commission.gov.uk). Once in the Commission's web site, click on *publications and guidance*, then on *range of publications*, then on *detailed lists*, and then on *accounting and reporting*.

1.2 Retention periods for accounts and other legal documents

Most documents connected with accounts must by law be kept for six years. We advise keeping them for seven years as if queries arise in connection with the accounts of six years ago, there can be issues in those accounts which carry over from the previous year.

However, there are some documents which in any event must by law be kept for minimum periods of other than six years. These include:

- Correspondence re. donations (three years)
- Petty cash records (seven years)
- Invoices for capital items (10 years)
- Receipts cash books (10 years)
- Sales ledger (10 years)
- Deeds of covenant (where still applicable) (12 years)
- Agreements (12 years after expiry if made under seal – six years if not under seal)
- Documents relevant to the execution of a will (12 years)
- Employer's Liability Insurance certificates (40 years)
- Successful quotations for capital expenditure (indefinitely)
- Investment certificates (indefinitely)
- Investment ledger (indefinitely)
- Fixed assets register (indefinitely)

Six years is also the period over which taxpayers can obtain refunds for income tax overpaid, and HMRC can recover unpaid income tax. The period over which overpaid VAT can be reclaimed is certainly at least three years, but there have been several legal cases involving periods beyond that, and the precise position is not clear.

1.3 Gift Aid

The Gift Aid scheme is administered by HMRC Charities. Churches which are registered charities, or which are affiliated to the FIEC, will be recognised as charities by the HMRC, and will be entitled to administer their own Gift Aid scheme, and to recover tax directly from HMRC, rather than using an agency. A "do it yourself" arrangement obviously involves more work, but saves the money paid in agency charges. Churches need to choose the arrangement which suits their circumstances best.

HMRC Charities has recently changed some of its contact details, which are now as follows:

HMRC Charities
St John's House
Merton Road
LIVERPOOL
L75 1BB

Tel. 0845 302 0203 (Monday to Friday, 8.00am to 5.00pm)

Email: charities@hmrc.gov.uk

1.4 Review of substantial donor legislation

The government indicated in January 2009 that it is reviewing the details of the proposed "substantial donor" rules. A further announcement is expected in connection with the Chancellor's Budget statement on 22 April 2009. The government's re-think follows a Consultation last summer in which more than half the respondents urged a complete repeal of the proposed legislation. During the review the Treasury will have discussions with significant charities and other bodies affected by the proposed rules.

Small churches would be most at risk from the proposed new rules if they are largely kept financially afloat as a result of the generous giving of one or two individuals.

While recognising the need to prevent the abuse of the tax system, church associations opposed the proposed substantial donor rules because they removed the privacy of giving, and introduced an immense amount of complex and bureaucratic record-keeping, and because both of these disadvantages would in turn inevitably have reduced the willingness of major donors to continue the same high level of support.

1.5 Taxation of Ministers of Religion – CLAS web site information

The Churches' Legislation Advisory Service has produced a new guide on the subject of the taxation of ministers of religion. Dated January 2009 and entitled *Taxation of Ministers of Religion: A Rough Guide*, it can be freely printed off from the CLAS web site – just type *CLAS taxation of ministers of religion* into a search engine. The new guide contains a lot of useful information about the liabilities and allowances applicable to ministers of religion.

2 CHARITY ISSUES

2.1 Demonstrating public benefit

There are two circumstances in which churches will be obliged to address the issue of how their activities as a charity operate for the public benefit:

[1] When a church is applying to register as a charity (*now an obligation for all churches not excepted from registration, and all previously-excepted churches with a gross annual income of £100,000 or more*)

The current registration application form asks the applicant to enter verbatim the wording of the first three objects of the charity, as set out in the governing document, and then asks the applicant to summarise how each of these three objects operates for the public benefit through the activities of the charity.

The answers submitted will therefore depend on how the objects are described in an applicant church's governing document. If churches are not sure how to express the public benefit aspect of any stated charitable object, the office of FIEC Limited will be happy to advise.

[2] In the Trustees' Annual Report, which every charity is required to produce, it will be compulsory for financial years beginning in or after April 2009 for charities to include a statement indicating how the activities of the charity operate for the public benefit.

If a church's governing document states that the objects of the charity are "the advancement of the Christian faith in accordance with the Basis of Faith, primarily but not exclusively within Shoretown-on-Sea and the surrounding neighbourhood," then these objects should be summarised in the Trustees' Annual Report, and followed by a comment which could be worded as follows:

<<<The church has continued to hold services of worship every Sunday, which have included preaching and/or Bible teaching, and throughout the year age-related activities for children have also been provided. All of these meetings have been open to the general public, whom we have regularly invited by means of a leaflet campaign and press advertisements.

Our targeted activities for seniors – Bible studies and lunch club fellowship – have been promoted in Shoretown and the surrounding villages; and our weekday activities for children have attracted children from a similar catchment area. *[Approximate numbers can be quoted if desired, but this is not essential]*

The church has also maintained its support for church-planting and missionary work in Sylvania and in the Golden Hills area of Brightland.>>>

[The aim of the statement about public benefit in the Trustees' Annual Report is not to justify the church's existence – simply to show that the church has fulfilled the aims set out in the formal objects of the charity, and that it exists for the benefit of the general public – not just in the interests, for instance, of a private group of friends]

2.2 Charitable Incorporated Organisations

The Charities Act 2006 introduced a new legal entity known as a Charitable Incorporated Organisation. A CIO is something of a halfway house between an unincorporated association (which is what most church charities are) and a fully-fledged Company set up under the Companies Acts. A CIO will be regulated entirely by the Charity Commission, whereas a charitable Company under the previous legislation was subject both to the Charity Commission and to Companies House.

A consultation on what requirements should be imposed on CIOs ended on 10 December 2008 and the government has promised a response within three months. A future issue of *Blue Pages* will comment on the outcome, once this is known, and assess the advantages and disadvantages of being a company, a CIO or an unincorporated association, and the circumstances in which it may be beneficial and appropriate for a church to put one aspect of its work under the management of a separate company or CIO.

3 HEALTH AND SAFETY

3.1 Level 2 Food Safety catering course and qualification

Under the Food Safety Act 1990, any organisation providing catering is required to have a "trained person" on the premises. The most commonly-available course which meets the level of training required is one of approximately six hours offered by most local authorities, and also by a wide range of colleges and by private enterprise. The course is accredited by the Chartered Institute of Environmental Health (CIEH) and leads to a Level 2 Award in Food Safety in Catering. All churches are strongly encouraged to ensure that three or four people undertake this course, as this will provide more flexibility when organising catered events. The trained person does not need to be in charge of a catering function, but must be on the premises throughout. The cost of the course varies from venue to venue, but a typical per person cost would be between £60 and £80.

The CIEH recommends that candidates re-take the course every three years, as this will keep them up to date with new food hygiene discoveries and methods, and with any new kitchen technology.

3.2 Portable Appliance Testing (PAT)

It is often assumed that there is a legal requirement that electrical appliances must be inspected each year by a PAT-accredited electrician. This is not the case. The law governing electrical installations and equipment is found in The Electricity at Work Regulations 1989 (Statutory Instrument 1989 No. 635), and simply requires them to be “maintained.”

The precise wording is as follows:

“as may be necessary to prevent danger all systems shall be maintained so as to prevent so far as reasonably practicable such danger.” [Regulation 4]

The following points, however, need to be borne in mind by churches:

- The Electricity at Work Regulations do apply to churches, as church premises are categorised as a workplace for health and safety purposes;
- The key is what is meant by the word “maintained.” On its web site, the HSE makes it clear that this is a requirement which can be fulfilled by an unqualified person. For more detailed HSE guidance, type *Maintaining Electrical Equipment Safely* into a search engine, and this will bring you to the HSE’s advice on this subject;
- Some electrical contractors, in their own publicity, have given the impression that professional testing is a legal requirement, which is untrue. “Talking up” the legal requirements is an obvious temptation in the pursuit of new business when the actual legal requirement is as vague as whatever is meant by the word “maintained;”
- In some cases, PAT-testing may be an insurance requirement, even though not a legal requirement. Churches will need to check with their insurance companies;
- Whatever is meant by the word “maintained,” it does not mean that churches can do nothing and still be fulfilling the law. Each church must have a way of ensuring that electrical equipment is adequately “maintained” and some churches may well judge that the most effective way of meeting this obligation is to arrange for its equipment to be PAT-tested. At the very least churches should carry out their own formal regular inspections;
- If portable equipment in a church is PAT-tested, it is recommended that such inspections should take place annually;
- With regard to fixed electrical installations and systems, the Institution of Electrical Engineers recommends that these should be inspected by a qualified electrician annually for church premises more than five years old, and every two years for churches less than five years old.

3.3 First-aiders and church activities

Contrary to popular belief, churches are not obliged to have a qualified first-aider present at church services or other meetings and activities. However, because church premises are classed as workplaces under health and safety legislation, it is obligatory for a church to nominate an “appointed person” who will take responsibility in the event of an incident requiring first-aid.

The “appointed person” does not have to have first-aid qualifications, and does not have to be the person administering any first-aid treatment given. Neither are there any legal restrictions governing who can give first-aid. However the “appointed person” is the person to whom incidents must be reported, and who decides what action is necessary following an incident, such as whether an ambulance should be called, or relatives contacted.

The details of incidents, and action taken, should be recorded in an accident book kept on the premises. Keeping an accident book is a legal obligation.

3.4 Myth of the Month

The Health and Safety Executive is trying hard to remove the idea that health and safety legislation and public policy is often based on a pedantic and fanciful concept of risk.

In the public mind, it is often thought that a whole range of activities is illegal, when this is not, in fact, the case.

In an attempt to scotch these false assumptions, the HSE has established a *Myth of the Month* section on its own web site. The section contains a myth for every month since April 2007, and the 23 myths scotched and explained since then represent a useful and informative resource. Not only is the clarification provided helpful, but the “light touch” style of the section goes a long way to removing the impression image of overbearing bureaucracy in which health and safety issues often appear.

4 PROPERTY AND UTILITIES

4.1 Maintaining graveyards safely

Fresh guidance to churches and other organisations which own or manage graveyards was issued by the Ministry of Justice on 16 January 2009. In a 17-page document entitled *Managing the Safety of Burial Ground Memorials*, the government sets out a “sensible, proportionate and sensitive” approach to managing safety risks in burial grounds.

The main message of the guidance is that the risk of injury in a burial ground is slight and that in the past graveyard owners have tended to be “over-zealous” in their attitude to potential safety hazards. The guidance advocates carrying out regular risk assessments, but in the light of those assessments, only taking action which is proportionate to the level of risk identified.

To download a copy of the guidance from the Ministry of Justice web site, type *Managing the Safety of Burial Ground Memorials* into a search engine.

4.2 Water charges

Churches will be aware that a number of water companies are introducing a new way of calculating charges for surface water drainage. In some cases this has led to churches being asked to pay many times the amount they have previously been asked to pay for all water services.

For the past year churches and faith groups of all kinds have been protesting and campaigning against the unjust, disproportionate and unaffordable nature of the new charges, but the government has rejected these representations, believing and asserting that the new method is the fairest way of apportioning the cost of surface water drainage between the various types of customer.

However, in the last few weeks there have been two indications of a possible re-think by the government, OFWAT and the water companies:

[1] The water company which was leading the way in charging on the new basis, United Utilities, announced that in respect of churches and similar customers in the voluntary sector it would in the year 2009-2010 revert to the method of charging which applied in 2007-2008. During the year it will review its intentions for future years.

[2] On 20 January 2009, Mr Huw Irranca-Davies, MP, Parliamentary Under Secretary of State for Environment, Food and Rural Affairs, said in Parliament: “The government is aware of the problem of affordability faced by some customers as a result of the switch to site area charging for surface water drainage and is looking at what can be done.”

A large number of FIEC churches will be subject to hugely increased costs if the new charging method is adopted by all water companies. The FIEC strongly believes that the new charging basis is wrong in

principle and that the impact on churches is both unjust and disproportionate, and will be joining in the representations during this time of review and consultation.

Blue Pages will keep churches informed.

4.3 FIEC Loan fund

The FIEC has a Loan Fund which is available to churches which can wholeheartedly assent to the FIEC doctrinal basis, whether affiliated to the FIEC or not. Loans of up to £50,000 are available towards property acquisition or building projects. Further information can be obtained from the FIEC office.

5 LEGAL

5.1 New Immigration Rules

The November 2008 issue of *Blue Pages* included a section on the new immigration rules which took effect on 27 November 2008. In particular, the requirements and rules in relation to tier 2 applications were explained.

It needs to be noted, however, that religious workers can also be admitted to the UK by way of tier 5 applications, but these will only be granted for a maximum period of two years. Both categories require a UK-based sponsoring organisation and a guarantee of financial self-sufficiency. Tier 5 applicants do not have to pass the English language test which is obligatory for tier 2 applicants.

For tier 2 applications, sponsoring bodies require a licence, which costs £300, and have to issue a certificate to the applicant, which costs £170. For tier 5 applications, the equivalent costs to the sponsoring body are £400 and £10 respectively. A tier 2 applicant will have to pay a personal fee of £400 with his application. Tier 5 applicants pay £100.

5.2 Thresholds for distribution of estates subject to intestacy

New intestacy arrangements took effect on 1 February 2009, with the result that if a husband or wife dies without leaving a will, the spouse can now inherit much more of the estate.

The changes mean that where there are children, the wife or husband inherits the first £250,000 instead of £125,000. Where there are no children, the spouse can inherit £450,000 instead of £200,000. In the case of estates whose total value is below these thresholds, the spouse will inherit the whole estate.

While the substantial increases in these thresholds are welcome, there is a danger that more people will take the view that they don't need to make a will, since the new intestacy thresholds make better provision for the widow or widower.

However, there are still several reasons for making a will:

- Only by means of a will can an estate be distributed precisely in accordance with the wishes of the deceased;
- Intestacy makes no provision for legacies to Christian work or charities;
- In certain circumstances, intestacy can lead to a property having to be sold, in order to meet the distribution provisions of the intestacy rules, even though the surviving spouse may be living in it;
- Where some family members are not Christians, then if there is no will, there is always a risk that some consequences, such as funeral arrangements, may not be handled in the most appropriate way, or as the deceased would have wished.

Our advice is that everyone over the age of 18 should make a will, whether or not they own a property, and whatever the extent of their wealth and possessions. We also advise everyone making a will to use the services of a solicitor or will-writer, rather than drawing up a “do-it-yourself” will.

Blue Pages is published by The Fellowship of Independent Evangelical Churches, 39 The Point, Market Harborough LE16 7QU. Tel. 01858 434540. Email: admin@fiec.org.uk While every effort has been taken to verify the accuracy of the material it contains, the FIEC can accept no responsibility for the consequences of the use of its information or advice.