

Cross border collie wobbles

Cross-border charities face additional demands from Scottish accounting rules, says Gareth Morgan.

A significant number of charities operating on a UK-wide basis have found that as well as being registered with the Charity Commission they also needed to register with OSCR (the Office of the Scottish Charity Regulator) because of activities in Scotland. The requirement arises from the Charities and Trustee Investment (Scotland) Act 2005. Any charity operating in Scotland, regardless of where it is based, must register with OSCR if it wishes to make any claim to charitable status north of the border. There is a limited exception for charities which purely fundraise or have members in Scotland, provided their literature makes clear that they are charities established in England and Wales (E&W), but any E&W charity occupying premises in Scotland should have registered with OSCR by 28 February 2007. As a result, many UK-wide charities have taken the decision to register with OSCR in order to be sure of meeting the requirements.

A charity registered with OSCR as well as the Charity Commission has to submit annual accounts to both, although few seem to be aware that this may mean additional accounting requirements. Also, there are some charities based in E&W, which need to register in Scotland, even though they are currently exempted or excepted from Commission registration.

Any charity registered with OSCR must produce accounts complying with the Charities Accounts (Scotland) Regulations 2006, which took effect for accounting years starting on or after 1

April 2006. OSCR and the CC have agreed a memorandum of co-operation, and in general a charity will only have to produce one set of accounts for both regulators. But whenever any organisation is subject to oversight by two or more sets of regulations, the focus must always be on those with the tightest demands, and in most cases this will be the Scottish ones. While both sets of regulations require audited accounts under the Sorp for larger charities, the impact on UK-wide charities with income below £250,000

will be particularly significant.

There is no power for OSCR to dispense a charity from these requirements just because it is established in E&W. Its recently published accounting guidance mentions that cross-border charities must file accounts to comply with the Scottish Act, but, curiously none of the issues in the table is highlighted. It simply asks for some comment in the trustees' report on the charity's activities in Scotland. No doubt any breaches of the regulations will be treated leniently at first, but cross-border charities need to prepare for the tougher regime which Scottish charity accounting rules require. ■

Key areas where the Scottish regulations are more demanding

- Accounts must be filed within nine months of year-end (10 months in E&W). This applies to charities of all sizes, so any cross-border charity with a 31 March 2007 year-end will have to file its first set of accounts with OSCR by 31 December 2007, with the content meeting both the E&W and Scottish regulations.
- All accounts for non-company charities must at least have an independent examiner's (IE's) report (not required in E&W under £10,000 income).
- All charitable companies must have at least an IE's report if they do not have a reporting accountant's (RA's) or audit report. In E&W there is currently no requirement for independent scrutiny below the £90,000 threshold at which an RA's report is required under company law.
- Where a charity below £100,000 income opts to produce the accounts on a receipts and payments (R&P) basis, the Scottish regulations are very prescriptive. In E&W the requirement is simply to produce a R&P account plus a statement of assets of liabilities with no detailed rules on content.
- Where a charity's accounts are independently examined, the IE must be professionally qualified in all cases where the accounts are on an accruals basis. In E&W this is only mandatory for charities in the £250,000 to £500,000 income band, effective for accounting years starting on or after 27/2/2007. Because the accounts of a charitable company can never be on a R&P basis, it follows that a professionally-qualified IE will always be needed even for the smallest charitable companies below the £90,000 RA threshold. No independent scrutiny is needed in E&W.

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