

RULES AND GUIDANCE ON REFERENCES TO CHARITABLE STATUS

What's changed?

In April 2007, rules came into force which govern how a charity should refer to itself in printed material. These were rather long awaited by charities and their professional advisers alike, as up till then, there had been no such rules (unless the charity in question was also a company, in which case the rules which relate to companies applied).

OSCR also published its own guidance on these rules.

What do the Regulations say?

Under the rules, a body which is entered in the Scottish charity register (in most cases this will be a Scottish registered charity) must show its:

- registered charity number;
- its name (as entered in the charity register); and
- any other name by which it is commonly known,

on business letters and e-mails; adverts, notices and official publications; any document which solicits money or other property; bills of exchange (except cheques), promissory notes, endorsements and orders for money and goods; bills rendered; invoices, receipts and letters of credit; statements of account (prepared in accordance with the Charities Account (Scotland) Regulations 2006; educational or campaign documents; conveyances which provide for the creation, transfer, variation or extinction of an interest in land; and (in what might be seen as a catch all clause) 'contractual documentation'.

What does the guidance say?

Some concern was expressed as to the breadth of application of the rules. OSCR's guidance seeks to address these concerns.

The guidance not only sets out the types of documents which must comply with the Regulations, but also lists documents which - in OSCR's view - should comply, as a matter of good practice. We have collated these in a table at the end of this note.

OSCR explains in its guidance that the primary aim of the Regulations is to "provide clarity" to the general public regarding whether or not a body has charitable status (though some of the categories of documents which OSCR claims must include the required information seems at odds with this).

Some other points extracted from the guidance worth noting are as follows:-

- the Regulations apply to all charities entered in the Scottish Charity Register (including those which are registered in other countries);
- OSCR asserts that the Regulations apply regardless of where - in geographical terms - the documents have been issued;
- OSCR recommends the information be placed in a prominent position;
- if a Scottish charity is also registered in another country (including England) then it will need to comply with that country's requirements too;
- documents issued outwith the charity for distribution to the general public must comply with the Regulations; documents issued internally eg. to staff or volunteers should comply; and
- correspondence between a parent charity and any subsidiary body must comply with the Regulations.

Practical impact?

Charities should review their style documents and branded stationery to make sure they contain all the required information. We would recommend text on websites and in e-mail footers comply with the regulations too.

The rules:

- should be read in conjunction with the requirements under section 13 of the Charities and Trustees (Investment) Scotland Act 2005 which sets out how an organisation should refer to itself as a charity; and
- where the charity is also a company, sit alongside the disclosure requirements which are imposed on companies.

Further help

The regulations can be found [here](#).

OSCR's guidance can be found [here](#).

Our charities team is led by Adrian Bell and has considerable experience in the formation of, and provision of ongoing advice to charities in Scotland including advising on incorporation, reorganisation and regulatory matters. The team adopts a cross-departmental approach drawing on both private client trust experience and corporate/commercial experience.

Term used in regulations	Documents which <u>must</u> comply	Documents which <u>should</u> comply
<ul style="list-style-type: none"> • business letters and emails issued externally or signed on behalf of the charity 	<ul style="list-style-type: none"> • any letter or email concerned with the business of the charity • letters and emails sent by solicitors or other professionals on behalf of a charity client • correspondence between parent and subsidiary charities 	<ul style="list-style-type: none"> • compliment slips • business cards • charity's website homepage
<ul style="list-style-type: none"> • advertisements, notices and official publications 	<ul style="list-style-type: none"> • printed advertisements in newspapers or magazines • posters • published notices, for example, in advance of an AGM • annual reports • magazines and external newsletters • charity information booklets • flyers & hand-outs advertising events 	<ul style="list-style-type: none"> • advertisements on the internet, radio or television • signage and displays
<ul style="list-style-type: none"> • any document which solicits money (i.e. donations) or other property on behalf of the charity 	<ul style="list-style-type: none"> • sponsorship forms • printed collection envelopes issued to local households • leaflets for clothes, bric-a-brac or other property for sale by the charity 	<ul style="list-style-type: none"> • labels on collection buckets
<ul style="list-style-type: none"> • bills of exchange, promissory notes, endorsements and orders for money or goods 	<ul style="list-style-type: none"> • bills of exchange (except cheques) • purchase orders • loan agreements issued or signed on behalf of a charity • corporate bonds 	

	<ul style="list-style-type: none"> • endorsements, for example, a signed instruction on an uncrossed cheque for the purpose of making it payable to another person 	
<ul style="list-style-type: none"> • bills rendered 	<ul style="list-style-type: none"> • all bills submitted for payment by or on behalf of the charity • demands for rent by charitable housing associations 	
<ul style="list-style-type: none"> • invoices, receipts and letters of credit 	<ul style="list-style-type: none"> • all invoices and receipts for goods and services issued or signed on behalf of a charity • any letter of credit issued or signed by a bank on behalf of a charity 	
<ul style="list-style-type: none"> • statements of account prepared in accordance with Regulations 8, 9 or 14 of the Charitable Accounts (Scotland) Regulations 2006 	<ul style="list-style-type: none"> • annual financial statement of account 	<ul style="list-style-type: none"> • any interim accounting information which may be issued in the course of the financial year
<ul style="list-style-type: none"> • educational or campaign documentation 	<ul style="list-style-type: none"> • publicity leaflets highlighting a charity's activities or projects • any campaign or promotional material intended to support for a charity • contributions to consultations, for example, those conducted by the Scottish Government 	<ul style="list-style-type: none"> • campaigns or promotional broadcasts on the internet, radio or television
<ul style="list-style-type: none"> • conveyances which provide for the creation, transfer, variation or extinction of an interest in land 	<ul style="list-style-type: none"> • all relevant legal conveyancing documents issued or signed on behalf of a charity by a solicitor or other professional 	
<ul style="list-style-type: none"> • contractual documentation 	<ul style="list-style-type: none"> • legal contracts or agreements, for example, contracts for the provision of services issued or signed on behalf of a charity • tickets for events containing contractual information, such as terms and conditions 	

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