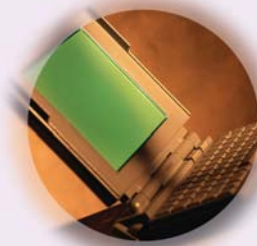


## CHARITY COMMISSION NEWS

From 1st April, the Charity Commission has announced its intention to publish on its website the names of charity trustees of registered charities. This is an attempt to further one of the Charity Commission's stated aims of improving the openness and accountability of charities and follows consultation with the sector in 2001 to 2002.

Charity Commission figures put the number of searches on the online register at over 200,000 per month and this move will eventually reveal the names of over one million individuals behind charities in England and Wales.

The information will be harvested from the Annual Return submitted by each charity and although trustees' addresses and dates of birth are also collected, only names will be published on the online register. Some types of charity have been exempted by the Commission and dispensation can be obtained in certain circumstances from the requirement to disclose the public name of any of its trustees and/or the address of the charity.



## BUDGET 2004

### UNCLAIMED FUNDS FOR CHARITIES?

Gordon Brown warned the banking industry to do more to trace the owners of what is said to be as much as £20 billion in forgotten savings and abandoned bank accounts, or give it to charity.

A couple of investment banks have already begun redirecting funds to charity and have countered the industry objections by the use of insurance from Lloyd's of London, should the original owners turn up at a later date to claim their forgotten cash.

The Chancellor has given the financial sector six months to make greater efforts to find the owners of the assets being held. The British Bankers Association has already begun a scheme to return money to its rightful owners and will review its own progress in May ahead of the Chancellor's Pre-Budget Report in September, when he will review the situation.

### SELF - ASSESSMENT RETURN COULD HELP

Although announced some time ago, from 6 April 2004 taxpayers completing a Self-Assessment return will be able to use the return to nominate a charity to receive all or a specified part of any tax repayment that arises. Charities should remind their members and supporters about this, in an effort to boost their funds.

### PAYROLL GIVING

From April 2004 Small and Medium sized Enterprises ("SMEs") who set up new Payroll Giving schemes will be able to apply for a Government grant to help with the cost of establishing the scheme. This will be available for two years.

### ABOLITION OF ACT NOW COMPLETE

In a measure first announced in 1997 the abolition of advanced corporation tax (ACT) is now complete. In general terms companies had to account to the Inland Revenue for 25% of any dividend that was paid. However charities were able to reclaim the tax paid. For example, on an £800 dividend a further £200 would be payable to the Inland Revenue with a charity being able to reclaim that tax paid.

As far as charities were concerned the abolition of ACT was phased in over the five years, from 1999 to 2004 with compensation from the Government. A percentage of any dividend they received was returned falling from 21% in 1999/2000 to 4% in 2003/4. On the above example the return to the charity would fall from £168 to £32.

The point of the phasing was to cushion the blow and allow charities to restructure their investments. The cushion has now been removed and it is estimated that the full effect has been to remove £309 million from the income of UK charities.

### GIFT AID AND DAY ADMISSIONS

The statutory exemption which allows certain heritage and conservation charities to offer free admission in return for a donation which attracts Gift Aid is under review. The Government will announce the results of the on-going consultation "around the time of its Spending Review 2004". Charities have until mid-June to make their views known to the Inland Revenue.

### IN THIS ISSUE

CHARITY COMMISSION NEWS

BUDGET 2004

THE MONEY LAUNDERING REGULATIONS 2003 ("MLR")

FLYING SCOTSMAN

# THE MONEY LAUNDERING REGULATIONS 2003 ("MLR")

MLR came into force on 1 March 2004 and replace the 1993 and 2001 Regulations.

Money Laundering is the process by which the proceeds of crime, and the true ownership of those proceeds, is changed so that the proceeds appear to come from a legitimate source. The old regime focused largely on financial services providers but under MLR the regulated sector is now much more comprehensive. The regulated sector could include charities and their trading subsidiaries if any of their activities fall within the very wide definition given to "relevant business".

Where business relationships are formed, or one off transactions are carried out in the course of "relevant business" those carrying out such relevant business are required to implement certain procedures for establishing (a) the identity of whom they are dealing with (b) record-keeping (c) internal reporting of knowledge or suspicion that a person is engaged in money laundering and (d) training.

Failure to comply with MLR is a criminal offence and may lead to imprisonment for a term of up to 2 years, or to a fine or to both, whether or not money laundering has actually taken place.

Relevant business includes the provision of legal services which involves participation in a financial or real property transaction and services in relation to the formation, operation or management of a company or trust. These activities are qualified in that they must be done "by way of business", but that does not preclude charities.

Charities should therefore examine their activities in the light of these regulations to assess whether or not they apply.

## IDENTIFICATION

MLR require that as soon as is reasonably practicable after contact is first made, satisfactory evidence of identity must be obtained. Evidence must be capable of establishing that someone is who they claim to be and the person obtaining the evidence must be satisfied that it does in fact establish that the person is who they say they are.

## RECORD KEEPING

Copies of any evidence of identity collected must be retained. Records must be kept for at least five years from the date of the last contact between the parties. Consideration should be given to keeping central records of evidence of identity as a precaution against the inadvertent early destruction of records. Keeping a central record could also make it easier for staff to check the evidence obtained.

## INTERNAL REPORTING

The appointment of a "nominated officer" is required by MLR. If a result of the conduct of relevant business a person knows or suspects or has reasonable grounds for knowing or suspecting that a person is engaged in money laundering, this must be reported to the "nominated officer" as soon as practicable.

The nominated officer has the task of deciding whether the disclosure was merited in all the circumstances and if so, a further disclosure to the National Criminal Intelligence Service must be made.

## TRAINING

MLR require training of staff in the procedures and appropriate measures must be taken so that relevant employees are made aware of the provisions of MLR along with Part 7 of the Proceeds of Crime Act 2002 and section 18 and 21A of the Terrorism Act 2000. Training in how to recognise and deal with transactions which may be related to money laundering must be given. Employers must also ensure that relevant employees are aware of any internal money laundering procedures. Training is an ongoing process and training should be provided, as appropriate, to ensure that relevant employees are kept up to date.



# FLYING SCOTSMAN

Rollits and London Solicitors, Finers Stephens Innocent represented National Railway Museum and Flying Scotsman Plc, respectively in the recent high profile sale of the world famous Flying Scotsman locomotive, its tender and support coach.

Ralph Coyle, a Partner at Hull and York based solicitors Rollits led the team for the buyer; National Railway Museum said: "Rollits is delighted to have played a part in ensuring that a true national treasure remains in the United Kingdom and we cannot think of a more fitting home for it than the National Railway Museum in York".

Ashley Reeback, Partner at Finers Stephens Innocent led the team for the seller; Flying Scotsman Plc comments: "FSI was delighted to have advised our existing client on this speedy transaction."



Ralph Coyle

## INFORMATION

**If you have any queries on any aspect of Charity Law please contact:  
Ros Harwood on 01904 625790**

This bulletin is for the use of clients and will be supplied to others on request. It is for general guidance only. It provides useful information in a concise form.

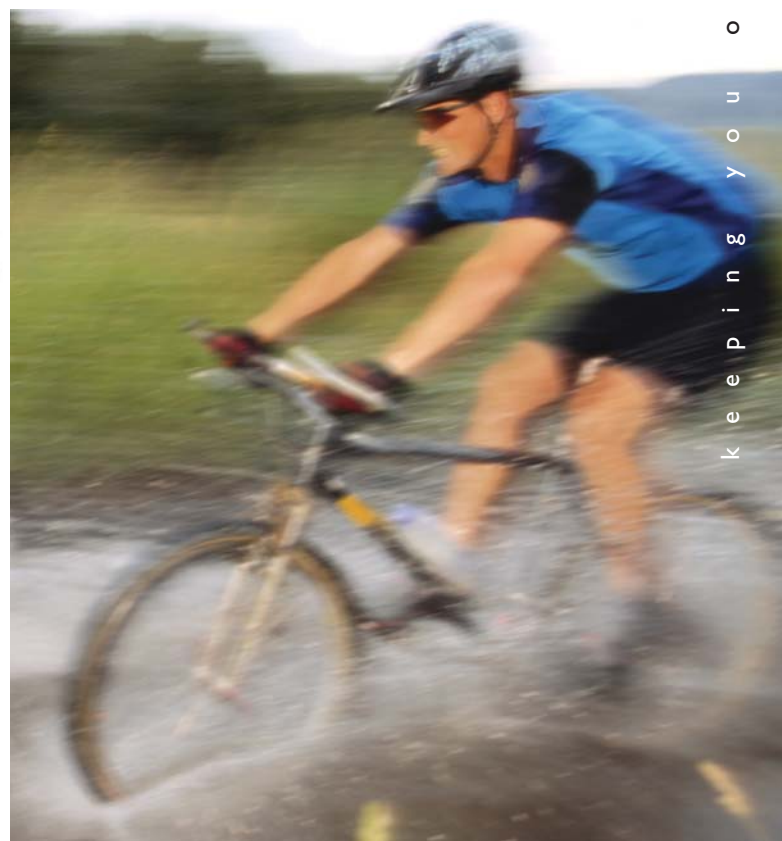
Action should not be taken without obtaining specific advice.

We hope you have found this bulletin useful. If, however, you do not wish to receive further mailings from us, please write to Mrs. Pat Coyle, Rollits, Wilberforce Court, High Street, Hull, HU1 1YJ.

**The law is stated as at 1 May 2004**

**Rowntree Wharf, Navigation Road, York YO1 9WE  
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