

---

## THE CHARITY LAW & PRACTICE REVIEW

---

C L & P R

Volume 7, Issue 1, 2001

### EDITORIAL BOARD

**Hubert Picarda QC**, BCL MA (Oxon)  
(Managing Editor)

**Robert Venables QC**, MA (Oxon) LLM (London)  
(Taxation Editor)

**Fay Lau**, Solicitor, LLM  
(Assistant Editor)

**Debra Morris**, Lecturer in Law, University of Liverpool  
(Case Note Editor)

### CONSULTING EDITORIAL BOARD

**The Right Honourable Lord Hoffmann**  
**The Right Honourable Lord Justice Mummery**  
**Sir John Knox**

*For details of the  
Advisory Editorial Board please refer over*

All editorial correspondence should be addressed to  
Hubert Picarda QC, The Managing Editor  
9 Old Square, (Third Floor North), Lincoln's Inn, London WC2A 3SR  
Facsimile (020) 7831 3584

**The Charity Law & Practice Review**  
is published by  
Key Haven Publications PLC  
7 Crescent Stables  
139 Upper Richmond Road  
London SW15 2TN  
Telephone (020) 8780 2522, Facsimile (020) 8780 1693  
Visit our Website at [www.khpplc.com](http://www.khpplc.com)

---

## Disclaimer

# DISCLAIMER

The views contained herein are put forward for further consideration only and are not to be acted upon without independent and professional advice.

Neither the Publishers nor the Authors or Contributors can accept any responsibility for any loss occasioned to any person no matter howsoever caused or arising as a result of or in consequence of action taken or refrained from in reliance on the contents hereof.

© 2001 KEY HAVEN PUBLICATIONS PLC

### **Conditions of Sale**

All rights strictly reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted, in any form or by any means, electronic, mechanical, photocopying, recording or otherwise, without the prior written permission of the publisher.

Any person infringing the publisher's copyright will be liable to criminal and/or civil proceedings.

Printed in England by The Book Factory, London.

---

## ADVISORY EDITORIAL BOARD

---

***Robert Venables QC***

Chairman of Advisory Editorial Board

***Lord Phillips of Sudbury***

Solicitor and Partner, Bates Wells & Braithwaite

***Michael Carpenter***

Legal Charity Commissioner

***Christopher McCall QC***

formerly Junior Counsel to the Attorney General in Charity Matters

***Professor Gareth Jones QC LLD***

Trinity College, Cambridge

***Professor Christopher Nobes***

Professor of Accountancy, University of Reading

***Lee Sheridan LLD***

formerly Professor of Law University College, Cardiff

***Harry Kidd***

Emeritus Fellow, St John's College, Oxford (European Developments)

***James Kessler***

Barrister

***Adrian Longley***

Solicitor and former legal adviser to NCVO

***Peter Mimir***

Solicitor and Partner, Allen & Overy

***Brian McGeough***

Solicitor and Partner, Denton Hall Burgin & Warren

***Professor Peter Luxton***

Professor of Property Law, De Montfort University, Leicester

***Jean Warburton***

Senior Lecturer in Law, University of Liverpool

***Elizabeth Cairns***

Solicitor

***Judith Hill***

Solicitor and Partner, Farrer & Co

***Jennie Gubbins***

Solicitor and Partner, Trowers & Hamlin

(Charitable Housing Associations)

***Peter Smith***

Lecturer in Law, University of Exeter  
(Universities & Ecclesiastical Charities)

***Robert Venables***

Consultant, Bircham & Co  
formerly Legal Charity Commissioner

---

## OVERSEAS CORRESPONDENTS

---

### AUSTRALIA

*Dr Myles McGregor-Lowndes*

Associate Professor, Queensland University of Technology, Brisbane

### CANADA

*E Blake Bromley*

Vancouver

### MAURITIUS

*Dr S Bhoushan Domah*

President, Intermediate Court, Judiciary of Mauritius

Lecturer, University of Mauritius

### RUSSIAN FEDERATION

*Nina Belyaeva*

President Interlegal, International Charitable Foundation  
for Political and Legal Research

Moscow

### SOUTH AFRICA

*Richard Rosenthal*

Director, Richard Rosenthal Consultancy, Cape Town

### USA

*Robert Atkinson*

Associate Professor of Law, Florida State University

*J Clifton Cox*

of The Florida Bar

*Professor Harvey Dale*

Program of Philanthropy and Law, New York University

*Professor Karla W Simon*

Executive Director, International Center for Not-for-profit Law  
Farmington, Connecticut

---

## Contents of Volume 7, Issue 1

---

# CONTENTS

	Page No
Editorial	vii
<b>SORP 2000: New Standards for Charity Accountants</b> Hubert Picarda QC	1
<b>Some Tax Planning Opportunities with the New Income Tax Relief for Gift of Shares and Securities to Charities</b> Robert Venables QC & James Kessler	23
<b>Charitable Companies Ceasing to Be Charitable</b> James Dutton	31
<b>The Definition of Religion In Charity Law in the Age of Fundamental Human Rights</b> Kathryn Bromley	39

---

## From the Managing Editor

---

### EDITORIAL

The four substantial contributions which make up this latest issue of the Review range over a heterogeneous choice of subjects or topics.

The discussion of SORP 2000 by your Managing Editor addresses the latest version of the Statement of Recommended Practice for the preparation of charity accounts which came into operation on 1st January 2001. Much work has gone into the new SORP and the changes effected by the Review Committee chaired by the Charity Commission are substantial and innovative.

The SORP has been entirely rewritten although containing much that was in the previous SORPs. Familiarity with the new structure is obviously essential and that metaphysic is at the root of what your Managing Editor has essayed.

The article "SORP 2000: New Standards for Charity Accountants" is an attempt to summarise within a decent compass two Charity Commission publications both issued in October 2000. The first of these publications is the master document "Accounting and Reporting by Charities : Statement of Recommended Practice". The second is the Charity Commission's leaflet "Charities SORP 2000 What has changed" CC62. Synthesising the key elements in both has been a labourious task. The hope is that the reader will find the layout of the article an efficient aid to the comprehension of the changes made and a sufficient pointer to the explanatory material that is to come in further Charity Commission leaflets.

One of the more significant reforms to emerge from the Government's review of charity taxation is the new income tax relief for gifts of shares and securities contained in the provisions of section 587B of the ICTA 1988 inserted by section 43 of the Finance Act 2000. This section introduced a form of qualifying investment donations relief applicable both to individuals and companies that has important tax planning implications, particularly in the field of "double dip arrangements". These are explored with their customary incisiveness and with lucid examples by two tax practitioners of great expertise, Robert Venables QC and James Kessler both of 24 Old Buildings Lincoln's Inn, in their article "Some Tax Planning Opportunities with the New Income Tax Relief for Gifts of Shares and Securities to Charities".

The Review is fortunate to have secured a contribution from James Dutton, Senior Policy Officer at the Charity Commission. In his article "Charitable Companies Ceasing to be Charitable" he discusses, and moots the possible consequences of, the various arguments concerning the proper destination of the property of a charitable company which is removed from the register of charities because it is no longer exclusively charitable.

The longest contribution to this issue is Kathryn Bromley's close discussion of the possible response of the Canadian Supreme Court to the problems posed by (as the title of her article puts it) "The Definition of Religion in Charity Law in the Age of Fundamental Human Rights". The article had its genesis in the presentation of her paper on this subject at the Fourth International Conference of the International Society for Third-Sector Research in Dublin in July 2000, substantially reproduced here. Her parade of Canadian English and American authorities is impressive and as with many comparative law studies gives much food for thought and useful leads. Its topicality in the light of the Scientologists' claims to charitable status, which are understood to be still in issue, is undeniable.

Hubert Picarda QC  
Chambers of Lord Goodhart QC  
3 New Square  
Lincoln's Inn  
London WC2A 3RS

January 2001