
The Charity Law & Practice Review

BOOK REVIEW

The Charities Acts Handbook

Fiona Middleton and Stephen Lloyd

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It is very hard to think of anyone actively concerned in the world of charity who would not give regular thanks for the blessing of having ready access to this book. It does, as one would expect of the product of such a stable, make things as clear as they can be, and is as complete as it can be. Frequently chapters finish with a checklist of the type that reveals that the authors know that charity law is not a matter of answering abstruse questions of principle but making things work in practice in the hope of doing some good.

There is a lesson in this for those of us who tend to think that in the field of charity the best reaction is to delve into old cases and complex theories. It is not true that charity never faileth; it fails when it fails to work, and it may fail to work when we put obstacles in its way. This book is about the working of charity. But it records a multitude of obstacles.

And that is doubtless why the book leaves me with a sad sense of failure. It is not that I can find any failings in the book itself. It is simply that it is a tragic commentary on our recent reform of the charities legislation that it needs a book before one can be sure what it all means. Charity is - or ought to be - a world inhabited by well-intentioned volunteers whose energies ought to be saved for the work that they want to do. What a tragedy then that charity law surrounds such well-intentioned volunteers with regulations which are perfectly sensible in themselves but need the most careful explanation before the amateur knows what is required of him.

The fact is that the Charities Acts are another example of legislation that aims high but falls far short of its objectives. If you think that I am exaggerating, ask yourself whether you know what are the boundary lines which define the duties of

a trustee to secure the registration of his charity. If you do, please tell the Parliamentary draftsman. He has provided rules which depend on the size of the income of the charity, conveniently forgetting that he has not defined income. Is it fair on the volunteer who comes forward to serve the public interest to impose on him a duty which is not defined? Again, take the case of charities' accounts. It is clear that various obligations apply to ensure that charities keep proper accounts; and quite right too. Is it fair that charity law requires the nose of a bloodhound to follow the scent of these obligations through the various alternative possibilities of different types of charity? Should you need access to an updated law library to work out if it makes a difference whether your charity is established in trust or corporate form? It does, and this book will tell you so. Indeed, it will tell you the answers to many questions which are important. But you may think that in an ideal world you would not need to ask them. That is not the fault of the authors.

It is a reflection on all of us who have been in any way involved in the recent development of charity law. We need a charity to educate us all in the art of making charity work without the dead weight of regulation. Of course charity must be protected against abuse. But to read this book is to be reminded of the tragedy that those who mean well are often made to waste their energies on complexities that ought to have been relegated to the same deep drawers as those in which we have buried such useless learning as the study of the law of mortmain. Two authors who are concerned about making charity breathe have simply reminded this reader, at least, of the danger that charity will be throttled by those who want to protect it. Overregulation simply is unfair to those who volunteer their money or their services to the public good.

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