

Charities Bill [HL]

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Home Office, are published separately as Bill 83 – EN.

EUROPEAN CONVENTION ON HUMAN RIGHTS

Mr Secretary Clarke has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of the Charities Bill [HL] are compatible with the Convention rights.

Charities Bill [HL]

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[NOTE: The words marked in bold type were inserted by the Lords to avoid questions of privilege.]

A
B I L L

TO

Provide for the establishment and functions of the Charity Commission for England and Wales and the Charity Tribunal; to make other amendments of the law about charities, including provision about charitable incorporated organisations; to make further provision about public charitable collections and other fund-raising carried on in connection with charities and other institutions; to make other provision about the funding of such institutions; and for connected purposes.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART 1

MEANING OF "CHARITY" AND "CHARITABLE PURPOSE"

1 Meaning of "charity"

- (1) For the purposes of the law of England and Wales, "charity" means an institution which—
(a) is established for charitable purposes only, and
(b) falls to be subject to the control of the High Court in the exercise of its jurisdiction with respect to charities. 5
- (2) The definition of "charity" in subsection (1) does not apply for the purposes of an enactment if a different definition of that term applies for those purposes by virtue of that or any other enactment. 10
- (3) A reference in any enactment or document to a charity within the meaning of the Charitable Uses Act 1601 (c. 4) or the preamble to it is to be construed as a reference to a charity as defined by subsection (1).

2 Meaning of “charitable purpose”

- (1) For the purposes of the law of England and Wales, a charitable purpose is a purpose which—
- (a) falls within subsection (2), and
 - (b) is for the public benefit (see section 3). 5
- (2) A purpose falls within this subsection if it falls within any of the following descriptions of purposes—
- (a) the prevention or relief of poverty;
 - (b) the advancement of education;
 - (c) the advancement of religion; 10
 - (d) the advancement of health or the saving of lives;
 - (e) the advancement of citizenship or community development;
 - (f) the advancement of the arts, culture, heritage or science;
 - (g) the advancement of amateur sport;
 - (h) the advancement of human rights, conflict resolution or reconciliation or the promotion of religious or racial harmony or equality and diversity; 15
 - (i) the advancement of environmental protection or improvement;
 - (j) the relief of those in need by reason of youth, age, ill-health, disability, financial hardship or other disadvantage; 20
 - (k) the advancement of animal welfare;
 - (l) the promotion of the efficiency of the armed forces of the Crown;
 - (m) any other purposes within subsection (4).
- (3) In subsection (2)—
- (a) in paragraph (c) “religion” includes— 25
 - (i) a religion which involves belief in more than one god, and
 - (ii) a religion which does not involve belief in a god;
 - (b) in paragraph (d) “the advancement of health” includes the prevention or relief of sickness, disease or human suffering;
 - (c) paragraph (e) includes— 30
 - (i) rural or urban regeneration, and
 - (ii) the promotion of civic responsibility, volunteering, the voluntary sector or the effectiveness or efficiency of charities;
 - (d) in paragraph (g) “sport” means sport which involves physical skill and exertion; and 35
 - (e) paragraph (j) includes relief given by the provision of accommodation or care to the persons mentioned in that paragraph.
- (4) The purposes within this subsection (see subsection (2)(m)) are—
- (a) any purposes not within paragraphs (a) to (l) of subsection (2) but recognised as charitable purposes under existing charity law or by virtue of section 1 of the Recreational Charities Act 1958 (c. 17); 40
 - (b) any purposes that may reasonably be regarded as analogous to, or within the spirit of, any purposes falling within any of those paragraphs or paragraph (a) above; and
 - (c) any purposes that may reasonably be regarded as analogous to, or within the spirit of, any purposes which have been recognised under charity law as falling within paragraph (b) above or this paragraph. 45

- (5) Where any of the terms used in any of paragraphs (a) to (l) of subsection (2), or in subsection (3), has a particular meaning under charity law, the term is to be taken as having the same meaning where it appears in that provision.
- (6) Any reference in any enactment or document (in whatever terms) –
(a) to charitable purposes, or 5
(b) to institutions having purposes that are charitable under charity law, is to be construed in accordance with subsection (1).
- (7) Subsection (6) –
(a) applies whether the enactment or document was passed or made before or after the passing of this Act, but 10
(b) does not apply where the context otherwise requires.
- (8) In this section –
“charity law” means the law relating to charities in England and Wales;
and
“existing charity law” means charity law as in force immediately before 15
the day on which this section comes into force.

3 The “public benefit” test

- (1) This section applies in connection with the requirement in section 2(1)(b) that a purpose falling within section 2(2) must be for the public benefit if it is to be a charitable purpose. 20
- (2) In determining whether that requirement is satisfied in relation to any such purpose, it is not to be presumed that a purpose of a particular description is for the public benefit.
- (3) In this Part any reference to the public benefit is a reference to the public benefit as that term is understood for the purposes of the law relating to charities in England and Wales. 25
- (4) Subsection (3) applies subject to subsection (2).

4 Guidance as to operation of public benefit requirement

- (1) The Charity Commission for England and Wales (see section 6 of this Act) must issue guidance in pursuance of its public benefit objective. 30
- (2) That objective is to promote awareness and understanding of the operation of the requirement mentioned in section 3(1) (see section 1B(3) and (4) of the Charities Act 1993 (c. 10), as inserted by section 7 of this Act).
- (3) The Commission may from time to time revise any guidance issued under this section. 35
- (4) The Commission must carry out such public and other consultation as it considers appropriate –
(a) before issuing any guidance under this section, or
(b) (unless it considers that it is unnecessary to do so) before revising any such guidance. 40
- (5) The Commission must publish any guidance issued or revised under this section in such manner as it considers appropriate.

- (6) The charity trustees of a charity must have regard to any such guidance when exercising any powers or duties to which the guidance is relevant.

5 Special provisions about recreational charities, sports clubs etc.

- (1) The Recreational Charities Act 1958 (c. 17) is amended in accordance with subsections (2) and (3). 5
- (2) In section 1 (certain recreational and similar purposes deemed to be charitable) for subsection (2) substitute –
- “(2) The requirement in subsection (1) that the facilities are provided in the interests of social welfare cannot be satisfied if the basic conditions are not met. 10
- (2A) The basic conditions are –
- (a) that the facilities are provided with the object of improving the conditions of life for the persons for whom the facilities are primarily intended; and
- (b) that either – 15
- (i) those persons have need of the facilities by reason of their youth, age, infirmity or disability, poverty, or social and economic circumstances, or
- (ii) the facilities are to be available to members of the public at large or to male, or to female, members of the public at large.” 20
- (3) Section 2 (miners’ welfare trusts) is omitted.
- (4) A registered sports club established for charitable purposes is to be treated as not being so established, and accordingly cannot be a charity.
- (5) In subsection (4) a “registered sports club” means a club for the time being registered under Schedule 18 to the Finance Act 2002 (c. 23) (relief for community amateur sports club). 25

PART 2

REGULATION OF CHARITIES

CHAPTER 1 30

THE CHARITY COMMISSION

Establishment of Charity Commission

6 The Charity Commission

- (1) After section 1 of the 1993 Act insert –
- “1A The Charity Commission 35**
- (1) There shall be a body corporate to be known as the Charity Commission for England and Wales (in this Act referred to as “the Commission”).

- (2) In Welsh the Commission shall be known as “Comisiwn Elusennau Cymru a Lloegr”.
- (3) The functions of the Commission shall be performed on behalf of the Crown.
- (4) In the exercise of its functions the Commission shall not be subject to the direction or control of any Minister of the Crown or other government department. 5
- (5) But subsection (4) above does not affect—
- (a) any provision made by or under any enactment;
 - (b) any administrative controls exercised over the Commission’s expenditure by the Treasury. 10
- (6) The provisions of Schedule 1A to this Act shall have effect with respect to the Commission.”
- (2) Schedule 1 (which inserts the new Schedule 1A into the 1993 Act) has effect.
- (3) The office of Charity Commissioner for England and Wales is abolished. 15
- (4) The functions of the Charity Commissioners for England and Wales and their property, rights and liabilities are by virtue of this subsection transferred to the Charity Commission for England and Wales.
- (5) Any enactment or document has effect, so far as necessary for the purposes of or in consequence of the transfer effected by subsection (4), as if any reference to the Charity Commissioners for England and Wales or to any Charity Commissioner for England and Wales were a reference to the Charity Commission for England and Wales. 20
- (6) Section 1 of, and Schedule 1 to, the 1993 Act cease to have effect.
- (7) Schedule 2 (which contains supplementary provision relating to the establishment of the Charity Commission for England and Wales) has effect. 25

Commission’s objectives, general functions etc.

7 The Commission’s objectives, general functions and duties

After section 1A of the 1993 Act (inserted by section 6 above) insert—

“1B The Commission’s objectives 30

- (1) The Commission has the objectives set out in subsection (2).
- (2) The objectives are—
- 1. The public confidence objective.
 - 2. The public benefit objective.
 - 3. The compliance objective. 35
 - 4. The charitable resources objective.
 - 5. The accountability objective.
- (3) Those objectives are defined as follows—

1. The public confidence objective is to increase public trust and confidence in charities.
 2. The public benefit objective is to promote awareness and understanding of the operation of the public benefit requirement. 5
 3. The compliance objective is to promote compliance by charity trustees with their legal obligations in exercising control and management of the administration of their charities.
 4. The charitable resources objective is to promote the effective use of charitable resources. 10
 5. The accountability objective is to enhance the accountability of charities to donors, beneficiaries and the general public.
- (4) In this section “the public benefit requirement” means the requirement in section 2(1)(b) of the Charities Act 2005 that a purpose falling within section 2(2) of that Act must be for the public benefit if it is to be a charitable purpose. 15

1C The Commission’s general functions

- (1) The Commission has the general functions set out in subsection (2).
- (2) The general functions are –
 1. Determining whether institutions are or are not charities. 20
 2. Encouraging and facilitating the better administration of charities.
 3. Identifying and investigating apparent misconduct or mismanagement in the administration of charities and taking remedial or protective action in connection with misconduct or mismanagement therein. 25
 4. Determining whether public collections certificates should be issued, and remain in force, in respect of public charitable collections.
 5. Obtaining, evaluating and disseminating information in connection with the performance of any of the Commission’s functions or meeting any of its objectives. 30
 6. Giving information or advice, or making proposals, to any Minister of the Crown on matters relating to any of the Commission’s functions or meeting any of its objectives. 35
- (3) The Commission’s fifth general function includes (among other things) the maintenance of an accurate and up-to-date register of charities under section 3 below.
- (4) The Commission’s sixth general function includes (among other things) complying, so far as is reasonably practicable, with any request made by a Minister of the Crown for information or advice on any matter relating to any of its functions. 40

- (5) In this section “public charitable collection” and “public collections certificate” have the same meanings as in Chapter 1 of Part 3 of the Charities Act 2005.

1D The Commission’s general duties

- (1) The Commission has the general duties set out in subsection (2). 5
- (2) The general duties are –
1. So far as is reasonably practicable the Commission must, in performing its functions, act in a way –
 - (a) which is compatible with its objectives, and
 - (b) which it considers most appropriate for the purpose of meeting those objectives. 10
 2. So far as is reasonably practicable the Commission must, in performing its functions, act in a way which is compatible with the encouragement of –
 - (a) all forms of charitable giving, and 15
 - (b) voluntary participation in charity work.
 3. In performing its functions the Commission must have regard to the need to use its resources in the most efficient, effective and economic way.
 4. In performing its functions the Commission must, so far as relevant, have regard to the principles of best regulatory practice (including the principles under which regulatory activities should be proportionate, accountable, consistent, transparent and targeted only at cases in which action is needed). 20
 5. In performing its functions the Commission must, in appropriate cases, have regard to the desirability of facilitating innovation by or on behalf of charities.
 6. In managing its affairs the Commission must have regard to such generally accepted principles of good corporate governance as it is reasonable to regard as applicable to it. 30

1E The Commission’s incidental powers

- (1) The Commission has power to do anything which is calculated to facilitate, or is conducive or incidental to, the performance of any of its functions or general duties. 35
- (2) However, nothing in this Act authorises the Commission –
 - (a) to exercise functions corresponding to those of a charity trustee in relation to a charity, or
 - (b) otherwise to be directly involved in the administration of a charity. 40
- (3) Subsection (2) does not affect the operation of section 19A or 19B below (power of Commission to give directions as to action to be taken or as to application of charity property).”

CHAPTER 2

THE CHARITY TRIBUNAL

8 The Charity Tribunal

- (1) After section 2 of the 1993 Act insert –

“PART 1A

5

THE CHARITY TRIBUNAL

2A The Charity Tribunal

- (1) There shall be a tribunal to be known as the Charity Tribunal (in this Act referred to as “the Tribunal”).
- (2) In Welsh the Tribunal shall be known as “Tribiwnlys Elusennau”. 10
- (3) The provisions of Schedule 1B to this Act shall have effect with respect to the constitution of the Tribunal and other matters relating to it.
- (4) The Tribunal shall have jurisdiction to hear and determine –
- (a) such appeals and applications as may be made to the Tribunal in accordance with Schedule 1C to this Act, or any other enactment, in respect of decisions, orders or directions of the Commission, and 15
- (b) such matters as may be referred to the Tribunal in accordance with Schedule 1D to this Act by the Commission or the Attorney General. 20
- (5) Such appeals, applications and matters shall be heard and determined by the Tribunal in accordance with those Schedules, or any such enactment, taken with section 2B below and rules made under that section.

2B Practice and procedure 25

- (1) The Lord Chancellor may make rules –
- (a) regulating the exercise of rights to appeal or to apply to the Tribunal and matters relating to the making of references to it;
- (b) about the practice and procedure to be followed in relation to proceedings before the Tribunal. 30
- (2) Rules under subsection (1)(a) above may, in particular, make provision –
- (a) specifying steps which must be taken before appeals, applications or references are made to the Tribunal (and the period within which any such steps must be taken); 35
- (b) specifying the period following the Commission’s final decision, direction or order within which such appeals or applications may be made;
- (c) requiring the Commission to inform persons of their right to appeal or apply to the Tribunal following a final decision, direction or order of the Commission; 40

- (d) specifying the manner in which appeals, applications or references to the Tribunal are to be made.
- (3) Rules under subsection (1)(b) above may, in particular, make provision—
 - (a) for the President or a legal member of the Tribunal (see paragraph 1(2)(b) of Schedule 1B to this Act) to determine preliminary, interlocutory or ancillary matters; 5
 - (b) for matters to be determined without an oral hearing in specified circumstances;
 - (c) for the Tribunal to deal with urgent cases expeditiously; 10
 - (d) about the disclosure of documents;
 - (e) about evidence;
 - (f) about the admission of members of the public to proceedings;
 - (g) about the representation of parties to proceedings;
 - (h) about the withdrawal of appeals, applications or references; 15
 - (i) about the recording and promulgation of decisions;
 - (j) about the award of costs.
- (4) Rules under subsection (1)(a) or (b) above may confer a discretion on—
 - (a) the Tribunal,
 - (b) a member of the Tribunal, or 20
 - (c) any other person.
- (5) The Tribunal may award costs only in accordance with subsections (6) and (7) below.
- (6) If the Tribunal considers that any party to proceedings before it has acted vexatiously, frivolously or unreasonably, the Tribunal may order that party to pay to any other party to the proceedings the whole or part of the costs incurred by that other party in connection with the proceedings. 25
- (7) If the Tribunal considers that a decision, direction or order of the Commission which is the subject of proceedings before it was unreasonable, the Tribunal may order the Commission to pay to any other party to the proceedings the whole or part of the costs incurred by that other party in connection with the proceedings. 30
- (8) Rules of the Lord Chancellor under this section—
 - (a) shall be made by statutory instrument, and 35
 - (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (9) Section 86(3) below applies in relation to rules of the Lord Chancellor under this section as it applies in relation to regulations and orders of the Secretary of State under this Act. 40

2C Appeal from Tribunal

- (1) A party to proceedings before the Tribunal may appeal to the High Court against a decision of the Tribunal.
- (2) Subject to subsection (3) below, an appeal may be brought under this section against a decision of the Tribunal only on a point of law. 45

-
- (3) In the case of an appeal under this section against a decision of the Tribunal which determines a question referred to it by the Commission or the Attorney General, the High Court –
- (a) shall consider afresh the question referred to the Tribunal, and
 - (b) may take into account evidence which was not available to the Tribunal. 5
- (4) An appeal under this section may be brought only with the permission of –
- (a) the Tribunal, or
 - (b) if the Tribunal refuses permission, the High Court. 10
- (5) For the purposes of subsection (1) above –
- (a) the Commission and the Attorney General are to be treated as parties to all proceedings before the Tribunal, and
 - (b) rules under section 2B(1) above may include provision as to who else is to be treated as being (or not being) a party to proceedings before the Tribunal. 15
- 2D Intervention by Attorney General**
- (1) This section applies to any proceedings –
- (a) before the Tribunal, or
 - (b) on an appeal from the Tribunal, 20
- to which the Attorney General is not a party.
- (2) The Tribunal or, in the case of an appeal from the Tribunal, the court may at any stage of the proceedings direct that all the necessary papers in the proceedings be sent to the Attorney General.
- (3) A direction under subsection (2) may be made by the Tribunal or court – 25
- (a) of its own motion, or
 - (b) on the application of any party to the proceedings.
- (4) The Attorney General may – 30
- (a) intervene in the proceedings in such manner as he thinks necessary or expedient, and
 - (b) argue before the Tribunal or court any question in relation to the proceedings which the Tribunal or court considers it necessary to have fully argued.
- (5) Subsection (4) applies whether or not the Tribunal or court has given a direction under subsection (2).” 35
- (2) Schedule 3 (which inserts the new Schedule 1B into the 1993 Act) has effect.
- (3) Schedule 4 (which inserts the new Schedules 1C and 1D into the 1993 Act) has effect.

CHAPTER 3

REGISTRATION OF CHARITIES

General

9 Registration of charities

- For section 3 of the 1993 Act substitute – 5
- “3 Register of charities**
- (1) There shall continue to be a register of charities, which shall be kept by the Commission.
- (2) The register shall be kept by the Commission in such manner as it thinks fit. 10
- (3) The register shall contain –
- (a) the name of every charity registered in accordance with section 3A below (registration), and
- (b) such other particulars of, and such other information relating to, every such charity as the Commission thinks fit. 15
- (4) The Commission shall remove from the register –
- (a) any institution which it no longer considers is a charity, and
- (b) any charity which has ceased to exist or does not operate.
- (5) If the removal of an institution under subsection (4)(a) above is due to any change in its trusts, the removal shall take effect from the date of that change. 20
- (6) A charity which is for the time being registered under section 3A(6) below (voluntary registration) shall be removed from the register if it so requests.
- (7) The register (including the entries cancelled when institutions are removed from the register) shall be open to public inspection at all reasonable times. 25
- (8) Where any information contained in the register is not in documentary form, subsection (7) above shall be construed as requiring the information to be available for public inspection in legible form at all reasonable times. 30
- (9) If the Commission so determines, subsection (7) shall not apply to any particular information contained in the register that is specified in the determination.
- (10) Copies (or particulars) of the trusts of any registered charity as supplied to the Commission under section 3B below (applications for registration etc.) shall, so long as the charity remains on the register – 35
- (a) be kept by the Commission, and
- (b) (subject to subsection (11)) be open to public inspection at all reasonable times. 40
- (11) Subsection (10)(b) does not apply –

- (a) in relation to any charities specified, or of a description specified, in regulations made by the Secretary of State, or
- (b) in such circumstances as are so specified.

3A Registration of charities

- | | |
|--|----|
| (1) Every charity must be registered in the register of charities unless subsection (2) below applies to it. | 5 |
| (2) The following are not required to be registered – | |
| (a) any exempt charity (see Schedule 2 to this Act); | |
| (b) any charity which for the time being – | |
| (i) is permanently or temporarily excepted by order of the Commission, and | 10 |
| (ii) complies with any conditions of the exception, and whose gross income does not exceed £100,000; | |
| (c) any charity which for the time being – | |
| (i) is, or is of a description, permanently or temporarily excepted by regulations made by the Secretary of State, and | 15 |
| (ii) complies with any conditions of the exception, and whose gross income does not exceed £100,000; and | |
| (d) any charity whose gross income does not exceed £5,000. | 20 |
| (3) For the purposes of subsection (2)(b) above – | |
| (a) any order made or having effect as if made by the Commission under section 3(5)(b) of this Act (as originally enacted) and in force immediately before the appointed day has effect as from that day as if made under subsection (2)(b) (and may be varied or revoked accordingly); and | 25 |
| (b) no order may be made under subsection (2)(b) so as to except on or after the appointed day any charity that was not excepted immediately before that day. | |
| (4) For the purposes of subsection (2)(c) above – | 30 |
| (a) any regulations made or having effect as if made by the Secretary of State under section 3(5)(b) of this Act (as originally enacted) and in force immediately before the appointed day have effect as from that day as if made under subsection (2)(c) (and may be varied or revoked accordingly); | 35 |
| (b) such regulations shall be made under subsection (2)(c) as are necessary to secure that all of the formerly specified institutions are excepted under that provision (subject to compliance with any conditions of the exception and the financial limit mentioned in that provision); but | 40 |
| (c) otherwise no regulations may be made under subsection (2)(c) so as to except on or after the appointed day any description of charities that was not excepted immediately before that day. | |
| (5) In subsection (4)(b) above “formerly specified institutions” means – | |
| (a) any institution falling within section 3(5B)(a) or (b) of this Act as in force immediately before the appointed day (certain educational institutions); or | 45 |

- (b) any institution ceasing to be an exempt charity by virtue of section 11 of the Charities Act 2005 or any order made under that section.
- (6) A charity within –
 - (a) subsection (2)(b) or (c) above, or 5
 - (b) subsection (2)(d) above,must, if it so requests, be registered in the register of charities.
- (7) The Secretary of State may by order amend –
 - (a) subsection (2)(b) and (c) above, or
 - (b) subsection (2)(d) above, 10by substituting a different sum for the sum for the time being specified there.
- (8) The Secretary of State may only make an order under subsection (7) above –
 - (a) so far as it amends subsection (2)(b) and (c), if he considers it expedient to so with a view to reducing the scope of the exception provided by those provisions; 15
 - (b) so far as it amends subsection (2)(d), if he considers it expedient to do so in consequence of changes in the value of money or with a view to extending the scope of the exception provided by that provision, 20and no order may be made by him under subsection (7) unless a copy of a report under section 72 of the Charities Act 2005 (report on operation of that Act) has been laid before Parliament in accordance with that section. 25
- (9) In this section “the appointed day” means the day appointed for the coming into force of section 9 of the Charities Act 2005 (registration of charities).
- (10) In this section any reference to a charity’s “gross income” shall be construed, in relation to a particular time – 30
 - (a) as a reference to the charity’s gross income in its financial year immediately preceding that time, or
 - (b) if the Commission so determines, as a reference to the amount which the Commission estimates to be the likely amount of the charity’s gross income in such financial year of the charity as is specified in the determination. 35
- (11) The following provisions of this section –
 - (a) subsection (2)(b) and (c),
 - (b) subsections (3) to (5), and
 - (c) subsections (6)(a), (7)(a), (8)(a) and (9), 40shall cease to have effect on such day as the Secretary of State may by order appoint for the purposes of this subsection.

3B Duties of trustees in connection with registration

- (1) Where a charity required to be registered by virtue of section 3A(1) above is not registered, it is the duty of the charity trustees – 45
 - (a) to apply to the Commission for the charity to be registered, and

- (b) to supply the Commission with the required documents and information.
- (2) The “required documents and information” are –
- (a) copies of the charity’s trusts or (if they are not set out in any extant document) particulars of them, 5
 - (b) such other documents or information as may be prescribed by regulations made by the Secretary of State, and
 - (c) such other documents or information as the Commission may require for the purposes of the application.
- (3) Where an institution is for the time being registered, it is the duty of the charity trustees (or the last charity trustees) – 10
- (a) to notify the Commission if the institution ceases to exist, or if there is any change in its trusts or in the particulars of it entered in the register, and
 - (b) (so far as appropriate), to supply the Commission with particulars of any such change and copies of any new trusts or alterations of the trusts. 15
- (4) Nothing in subsection (3) above requires a person –
- (a) to supply the Commission with copies of schemes for the administration of a charity made otherwise than by the court, 20
 - (b) to notify the Commission of any change made with respect to a registered charity by such a scheme, or
 - (c) if he refers the Commission to a document or copy already in the possession of the Commission, to supply a further copy of the document. 25
- (5) Where a copy of a document relating to a registered charity –
- (a) is not required to be supplied to the Commission as the result of subsection (4) above, but
 - (b) is in the possession of the Commission,
- a copy of the document shall (subject to section 3(11) above) be open to inspection under section 3(10) above as if supplied to the Commission under this section.” 30

10 Interim changes in threshold for registration of small charities

- (1) At any time before the commencement of section 9 above, the Secretary of State may by order amend section 3 of the 1993 Act (the register of charities) so as to – 35
- (a) replace section 3(5)(c) (threshold for registration of small charities) with a provision referring to a charity whose gross income does not exceed such sum as is prescribed in the order, and
 - (b) define “gross income” for the purposes of that provision. 40
- (2) Subsection (1) does not affect the existing power under section 3(12) of that Act to increase the financial limit specified in section 3(5)(c).
- (3) This section ceases to have effect on the day on which section 9 above comes into force.

Exempt charities: registration and regulation

11 Changes in exempt charities

- (1) Schedule 2 to the 1993 Act (exempt charities) is amended as follows.
- (2) In paragraph (a) (general exemption by reference to law existing prior to Charities Act 1960 (c. 58)) after “1855” insert “(but see Note 1)”. 5
- (3) In paragraph (b) (certain specified universities, colleges and schools)—
 - (a) before “Queen Mary and Westfield College” insert “and”; and
 - (b) omit “and the colleges of Winchester and Eton”.
- (4) Before paragraph (i) insert —
“(h) a higher education corporation;”. 10
- (5) After paragraph (i) insert —
“(j) a further education corporation;”.
- (6) In paragraph (w) (exemption for institutions administered by or on behalf of institutions exempted under preceding provisions) after “last-mentioned institution” insert “(but see Note 2)”. 15
- (7) Omit paragraph (x) (Church Commissioners and institutions administered by them).
- (8) In paragraph (y) (industrial and provident societies etc.) for the words from “and any” onwards substitute “and which is also registered in the register of social landlords under Part 1 of the Housing Act 1996;”. 20
- (9) Omit paragraph (zb) (the National Lottery Charities Board).
- (10) At the end insert —
“Notes
1. Paragraph (a) above does not include —
 - (a) any Investment Fund or Deposit Fund within the meaning of the Church Funds Investment Measure 1958, 25
 - (b) any investment fund or deposit fund within the meaning of the Methodist Church Funds Act 1960, or
 - (c) the representative body of the Welsh Church or property administered by it. 30
2. Paragraph (w) above does not include any students’ union.”
- (11) In section 24 of the 1993 Act (schemes to establish common investment funds), in subsection (8) (fund is to be a charity and, if the scheme admits only exempt charities, an exempt charity) omit the words from “; and if the scheme” onwards. 35
- (12) The Secretary of State may by order make such further amendments of Schedule 2 to the 1993 Act as he considers appropriate for securing —
 - (a) that (so far as they are charities) institutions of a particular description become or (as the case may be) cease to be exempt charities, or
 - (b) that (so far as it is a charity) a particular institution becomes or (as the case may be) ceases to be an exempt charity, 40or for removing from that Schedule an institution that has ceased to exist.

-
- (13) An order under subsection (12) may only be made for the purpose mentioned in paragraph (a) or (b) of that subsection if the Secretary of State is satisfied that the order is desirable in the interests of ensuring appropriate or effective regulation of the charities or charity concerned in connection with compliance by the charity trustees of the charities or charity with their legal obligations in exercising control and management of the administration of the charities or charity. 5
- (14) The Secretary of State may by order make such amendments or other modifications of any enactment as he considers appropriate in connection with— 10
- (a) charities of a particular description becoming, or ceasing to be, exempt charities, or
- (b) a particular charity becoming, or ceasing to be, an exempt charity, by virtue of any provision made by or under this section.
- (15) In this section “exempt charity” has the same meaning as in the 1993 Act. 15
- 12 Increased regulation of exempt charities under 1993 Act**
- The 1993 Act is amended in accordance with Schedule 5 (which has effect for increasing the extent to which exempt charities are subject to regulation under that Act).
- 13 General duty of principal regulator in relation to exempt charity** 20
- (1) This section applies to any body or Minister of the Crown who is the principal regulator in relation to an exempt charity.
- (2) The body or Minister must do all that it or he reasonably can to meet the compliance objective in relation to the charity.
- (3) The compliance objective is to promote compliance by the charity trustees with their legal obligations in exercising control and management of the administration of the charity. 25
- (4) In this section—
- (a) “exempt charity” has the same meaning as in the 1993 Act; and
- (b) “principal regulator”, in relation to an exempt charity, means such body or Minister of the Crown as is prescribed as its principal regulator by regulations made by the Secretary of State. 30
- (5) Regulations under subsection (4)(b) may make such amendments or other modifications of any enactment as the Secretary of State considers appropriate for the purpose of facilitating, or otherwise in connection with, the discharge by a principal regulator of the duty under subsection (2). 35

14	Commission to consult principal regulator before exercising powers in relation to exempt charity	
	After section 86 of the 1993 Act insert –	
	“86A Consultation by Commission before exercising powers in relation to exempt charity	5
	Before exercising in relation to an exempt charity any specific power exercisable by it in relation to the charity, the Commission must consult the charity’s principal regulator.”	
CHAPTER 4		
APPLICATION OF PROPERTY CY-PRÈS		
		10
<i>Cy-près occasions</i>		
15	Application cy-près by reference to current circumstances	
(1)	Section 13 of the 1993 Act (occasions for applying property cy-près) is amended as follows.	
(2)	In subsection (1)(c), (d) and (e)(iii), for “the spirit of the gift” substitute “the appropriate considerations”.	15
(3)	After subsection (1) insert –	
	“(1A) In subsection (1) above “the appropriate considerations” means –	
	(a) (on the one hand) the spirit of the gift concerned, and	
	(b) (on the other) the social and economic circumstances prevailing at the time of the proposed alteration of the original purposes.”	20
16	Application cy-près of gifts by donors unknown or disclaiming	
(1)	Section 14 of the 1993 Act (application cy-près of gifts of donors unknown or disclaiming) is amended as follows.	
(2)	In subsection (4) (power of court to direct that property is to be treated as belonging to donors who cannot be identified) after “court”, in both places, insert “or the Commission”.	25
17	Application cy-près of gifts made in response to certain solicitations	
	After section 14 of the 1993 Act insert –	
	“14A Application cy-près of gifts made in response to certain solicitations	30
(1)	This section applies to property given –	
	(a) for specific charitable purposes, and	
	(b) in response to a solicitation within subsection (2) below.	
(2)	A solicitation is within this subsection if –	
	(a) it is made for specific charitable purposes, and	35
	(b) it is accompanied by a statement to the effect that property given in response to it will, in the event of those purposes	

failing, be applicable cy-près as if given for charitable purposes generally, unless the donor makes a relevant declaration at the time of making the gift.

- (3) A “relevant declaration” is a declaration in writing by the donor to the effect that, in the event of the specific charitable purposes failing, he wishes the trustees holding the property to give him the opportunity to request the return of the property in question (or a sum equal to its value at the time of the making of the gift). 5
- (4) Subsections (5) and (6) below apply if— 10
- (a) a person has given property as mentioned in subsection (1) above,
 - (b) the specific charitable purposes fail, and
 - (c) the donor has made a relevant declaration.
- (5) The trustees holding the property must take the prescribed steps for the purpose of— 15
- (a) informing the donor of the failure of the purposes,
 - (b) enquiring whether he wishes to request the return of the property (or a sum equal to its value), and
 - (c) if within the prescribed period he makes such a request, returning the property (or such a sum) to him. 20
- (6) If those trustees have taken all appropriate prescribed steps but—
- (a) they have failed to find the donor, or
 - (b) the donor does not within the prescribed period request the return of the property (or a sum equal to its value),
- section 14(1) above shall apply to the property as if it belonged to a donor within paragraph (b) of that subsection (application of property where donor has disclaimed right to return of property). 25
- (7) If—
- (a) a person has given property as mentioned in subsection (1) above,
 - (b) the specific charitable purposes fail, and
 - (c) the donor has not made a relevant declaration,
- section 14(1) above shall similarly apply to the property as if it belonged to a donor within paragraph (b) of that subsection. 30
- (8) For the purposes of this section— 35
- (a) “solicitation” means a solicitation made in any manner and however communicated to the persons to whom it is addressed,
 - (b) it is irrelevant whether any consideration is or is to be given in return for the property in question, and
 - (c) where any appeal consists of both solicitations that are accompanied by statements within subsection (2)(b) and solicitations that are not so accompanied, a person giving property as a result of the appeal is to be taken to have responded to the former solicitations and not the latter, unless he proves otherwise. 40
- (9) In this section “prescribed” means prescribed by regulations made by the Commission, and any such regulations shall be published by the Commission in such manner as it thinks fit. 45

- (10) Subsections (7) and (10) of section 14 shall apply for the purposes of this section as they apply for the purposes of section 14.”

Schemes

18 Cy-près schemes

After section 14A of the 1993 Act (inserted by section 17 above) insert – 5

“14B Cy-près schemes

- (1) The power of the court or the Commission to make schemes for the application of property *cy-près* shall be exercised in accordance with this section.
- (2) Where any property given for charitable purposes is applicable *cy-près*, the court or the Commission may make a scheme providing for the property to be applied – 10
- (a) for such charitable purposes, and
 - (b) (if the scheme provides for the property to be transferred to another charity) by or on trust for such other charity, 15
- as it considers appropriate, having regard to the matters set out in subsection (3).
- (3) The matters are –
- (a) the spirit of the original gift,
 - (b) the desirability of securing that the property is applied for charitable purposes which are close to the original purposes, and 20
 - (c) the need for the relevant charity to have purposes which are suitable and effective in the light of current social and economic circumstances. 25
- The “relevant charity” means the charity by or on behalf of which the property is to be applied under the scheme.
- (4) If a scheme provides for the property to be transferred to another charity, the scheme may impose on the charity trustees of that charity a duty to secure that the property is applied for purposes which are, so far as is reasonably practicable, similar in character to the original purposes. 30
- (5) In this section references to property given include the property for the time being representing the property originally given or property derived from it. 35
- (6) In this section references to the transfer of property to a charity are references to its transfer –
- (a) to the charity, or
 - (b) to the charity trustees, or
 - (c) to any trustee for the charity, or 40
 - (d) to a person nominated by the charity trustees to hold it in trust for the charity,
- as the scheme may provide.”

CHAPTER 5

ASSISTANCE AND SUPERVISION OF CHARITIES BY COURT AND COMMISSION

Suspension or removal of trustees etc. from membership

- 19 Power to suspend or remove trustees etc. from membership of charity**
- After section 18 of the 1993 Act insert – 5
- “18A Power to suspend or remove trustees etc. from membership of charity**
- (1) This section applies where the Commission makes –
- (a) an order under section 18(1) above suspending from his office or employment any trustee, charity trustee, officer, agent or employee of a charity, or 10
- (b) an order under section 18(2) above removing from his office or employment any officer, agent or employee of a charity, and the trustee, charity trustee, officer, agent or employee (as the case may be) is a member of the charity.
- (2) If the order suspends the person in question from his office or employment, the Commission may also make an order suspending his membership of the charity for the period for which he is suspended from his office or employment. 15
- (3) If the order removes the person in question from his office or employment, the Commission may also make an order – 20
- (a) terminating his membership of the charity, and
- (b) prohibiting him from resuming his membership of the charity without the Commission’s consent.
- (4) If an application for the Commission’s consent under subsection (3)(b) above is made five years or more after the order was made, the Commission must grant the application unless satisfied that, by reason of any special circumstances, it should be refused.” 25

Directions by Commission

- 20 Power to give specific directions for protection of charity**
- After section 19 of the 1993 Act insert – 30
- “19A Power to give specific directions for protection of charity**
- (1) This section applies where, at any time after the Commission has instituted an inquiry under section 8 above with respect to any charity, it is satisfied as mentioned in section 18(1)(a) or (b) above.
- (2) The Commission may by order direct – 35
- (a) the charity trustees,
- (b) any trustee for the charity,
- (c) any officer or employee of the charity, or
- (d) (if a body corporate) the charity itself,

to take any action specified in the order which the Commission considers to be expedient in the interests of the charity.

- (3) An order under this section –
- (a) may require action to be taken whether or not it would otherwise be within the powers exercisable by the person or persons concerned, or by the charity, in relation to the administration of the charity or to its property, but 5
 - (b) may not require any action to be taken which is prohibited by any Act of Parliament or expressly prohibited by the trusts of the charity or is inconsistent with its purposes. 10
- (4) Anything done by a person or body under the authority of an order under this section shall be deemed to be properly done in the exercise of the powers mentioned in subsection (3)(a) above.
- (5) Subsection (4) does not affect any contractual or other rights arising in connection with anything which has been done under the authority of such an order.” 15

21 Power to direct application of charity property

After section 19A of the 1993 Act (inserted by section 20 above) insert –

“19B Power to direct application of charity property

- (1) This section applies where the Commission is satisfied – 20
- (a) that a person or persons in possession or control of any property held by or on trust for a charity is or are unwilling to apply it properly for the purposes of the charity, and
 - (b) that it is necessary or desirable to make an order under this section for the purpose of securing a proper application of that property for the purposes of the charity. 25
- (2) The Commission may by order direct the person or persons concerned to apply the property in such manner as is specified in the order.
- (3) An order under this section –
- (a) may require action to be taken whether or not it would otherwise be within the powers exercisable by the person or persons concerned in relation to the property, but 30
 - (b) may not require any action to be taken which is prohibited by any Act of Parliament or expressly prohibited by the trusts of the charity. 35
- (4) Anything done by a person under the authority of an order under this section shall be deemed to be properly done in the exercise of the powers mentioned in subsection (3)(a) above.
- (5) Subsection (4) does not affect any contractual or other rights arising in connection with anything which has been done under the authority of such an order.” 40

Publicity relating to schemes

22 Relaxation of publicity requirements relating to schemes etc.

For section 20 of the 1993 Act substitute –

“20 Publicity relating to schemes

- (1) The Commission may not – 5
- (a) make any order under this Act to establish a scheme for the administration of a charity, or
- (b) submit such a scheme to the court or the Secretary of State for an order giving it effect,
- unless, before doing so, the Commission has complied with the publicity requirements in subsection (2) below. 10
- This is subject to any disapplication of those requirements under subsection (4) below.
- (2) The publicity requirements are – 15
- (a) that the Commission must give public notice of its proposals, inviting representations to be made to it within a period specified in the notice; and
- (b) that, in the case of a scheme relating to a local charity (other than an ecclesiastical charity) in a parish or in a community in Wales, the Commission must communicate a draft of the scheme to the parish or community council (or, where a parish has no council, to the chairman of the parish meeting). 20
- (3) The time when any such notice is given or any such communication takes place is to be decided by the Commission.
- (4) The Commission may determine that either or both of the publicity requirements is or are not to apply in relation to a particular scheme if it is satisfied that – 25
- (a) by reason of the nature of the scheme, or
- (b) for any other reason,
- compliance with the requirement or requirements is unnecessary. 30
- (5) Where the Commission gives public notice of any proposals under this section, the Commission –
- (a) must take into account any representations made to it within the period specified in the notice, and
- (b) may (without further notice) proceed with the proposals either without modifications or with such modifications as it thinks desirable. 35
- (6) Where the Commission makes an order under this Act to establish a scheme for the administration of a charity, a copy of the order must be available, for at least a month after the order is published, for public inspection at all reasonable times – 40
- (a) at the Commission’s office, and
- (b) if the charity is a local charity, at some convenient place in the area of the charity.
- Paragraph (b) does not apply if the Commission is satisfied that for any reason it is unnecessary for a copy of the scheme to be available locally. 45

- (7) Any public notice of any proposals which is to be given under this section –
- (a) is to contain such particulars of the proposals, or such directions for obtaining information about them, as the Commission thinks sufficient and appropriate, and
 - (b) is to be given in such manner as the Commission thinks sufficient and appropriate.

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20A Publicity for orders relating to trustees or other individuals

- (1) The Commission may not make any order under this Act to appoint, discharge or remove a charity trustee or trustee for a charity, other than –
- (a) an order relating to the official custodian, or
 - (b) an order under section 18(1)(ii) above,
- unless, before doing so, the Commission has complied with the publicity requirement in subsection (2) below.
- This is subject to any disapplication of that requirement under subsection (4) below.
- (2) The publicity requirement is that the Commission must give public notice of its proposals, inviting representations to be made to it within a period specified in the notice.
- (3) The time when any such notice is given is to be decided by the Commission.
- (4) The Commission may determine that the publicity requirement is not to apply in relation to a particular order if it is satisfied that for any reason compliance with the requirement is unnecessary.
- (5) Before the Commission makes an order under this Act to remove without his consent –
- (a) a charity trustee or trustee for a charity, or
 - (b) an officer, agent or employee of a charity,
- the Commission must give him not less than one month's notice of its proposals, inviting representations to be made to it within a period specified in the notice.
- This does not apply if the person cannot be found or has no known address in the United Kingdom.
- (6) Where the Commission gives notice of any proposals under this section, the Commission –
- (a) must take into account any representations made to it within the period specified in the notice, and
 - (b) may (without further notice) proceed with the proposals either without modifications or with such modifications as it thinks desirable.
- (7) Any notice of any proposals which is to be given under this section –
- (a) is to contain such particulars of the proposals, or such directions for obtaining information about them, as the Commission thinks sufficient and appropriate, and
 - (b) (in the case of a public notice) is to be given in such manner as the Commission thinks sufficient and appropriate.

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- (8) Any notice to be given under subsection (5) –
- (a) may be given by post, and
 - (b) if given by post, may be addressed to the recipient’s last known address in the United Kingdom.”

Common investment schemes

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23 Participation of Scottish and Northern Irish charities in common investment schemes etc.

- (1) After section 24(3) of the 1993 Act (common investment schemes) insert –
- “(3A) A common investment scheme may provide for appropriate bodies to be admitted to participate in the scheme (in addition to the participating charities) to such extent as the trustees appointed to manage the fund may determine. 10
- (3B) In this section “appropriate body” means –
- (a) a recognised body within the meaning of Part 1 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990, or 15
 - (b) a charity within the meaning of the Charities Act (Northern Ireland) 1964,
- and, in the application of the relevant provisions in relation to a scheme which contains provisions authorised by subsection (3A) above, “charity” includes an appropriate body. 20
- “The relevant provisions” are subsections (1) and (4) to (6) and (in relation only to a charity within paragraph (b)) subsection (7).”
- (2) In section 25(2) of that Act (application of provisions of section 24 to common deposit funds) for “subsections (2) to (4)” substitute “subsections (2), (3) and (4)”. 25
- (3) At the end of section 25 add –
- “(4) A common deposit scheme may provide for appropriate bodies to be admitted to participate in the scheme (in addition to the participating charities) to such extent as the trustees appointed to manage the fund may determine. 30
- (5) In this section “appropriate body” means –
- (a) a recognised body within the meaning of Part 1 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990, or
 - (b) a charity within the meaning of the Charities Act (Northern Ireland) 1964, 35
- and, in the application of the relevant provisions in relation to a scheme which contains provisions authorised by subsection (4) above, “charity” includes an appropriate body.
- (6) “The relevant provisions” are –
- (a) subsection (1) above, and 40
 - (b) subsections (4) and (6) of section 24 above, as they apply in accordance with subsections (2) and (3) above, and
 - (c) (in relation only to a charity within subsection (5)(b) above) subsection (7) of that section, as it so applies.”

- (4) In section 100(4) of the 1993 Act (provisions extending to Northern Ireland) for “extends” substitute “and sections 24 and 25 extend”.

Advice or other assistance

24 Power to give advice and guidance

For section 29 of the 1993 Act substitute – 5

“29 Power to give advice and guidance

- (1) The Commission may, on the written application of any charity trustee or trustee for a charity, give that person its opinion or advice in relation to any matter –
- (a) relating to the performance of any duties of his, as such a trustee, in relation to the charity concerned, or 10
- (b) otherwise relating to the proper administration of the charity.
- (2) A charity trustee or trustee for a charity who acts in accordance with any opinion or advice given by the Commission under subsection (1) above (whether to him or to another trustee) is to be taken, as regards his responsibility for so acting, to have acted in accordance with his trust. 15
- (3) But subsection (2) above does not apply to a person if, when so acting, either –
- (a) he knows or has reasonable cause to suspect that the opinion or advice was given in ignorance of material facts, or 20
- (b) a decision of the court has been obtained on the matter or proceedings are pending to obtain one.
- (4) The Commission may, in connection with its second general function mentioned in section 1C(2) above, give such advice or guidance with respect to the administration of charities as it considers appropriate. 25
- (5) Any advice or guidance so given may relate to –
- (a) charities generally,
- (b) any class of charities, or
- (c) any particular charity, 30
- and may take such form, and be given in such manner, as the Commission considers appropriate.”

25 Power to determine membership of charity

After section 29 of the 1993 Act (as substituted by section 24 of this Act) insert –

“29A Power to determine membership of charity 35

- (1) The Commission may –
- (a) on the application of a charity, or
- (b) at any time after the institution of an inquiry under section 8 above with respect to a charity,
- determine who are the members of the charity. 40

- (2) The Commission’s power under subsection (1) may also be exercised by a person appointed by the Commission for the purpose.
- (3) In a case within subsection (1)(b) the Commission may, if it thinks fit, so appoint the person appointed to conduct the inquiry.”

Powers of entry

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26 Power to enter premises and seize documents etc.

- (1) After section 31 of the 1993 Act insert –

“31A Power to enter premises

- (1) A justice of the peace may issue a warrant under this section if satisfied, on information given on oath by a member of the Commission’s staff, that there are reasonable grounds for believing that each of the conditions in subsection (2) below is satisfied. 10
- (2) The conditions are –
 - (a) that an inquiry has been instituted under section 8 above;
 - (b) that there is on the premises to be specified in the warrant any document or information relevant to that inquiry which the Commission could require to be produced or furnished under section 9(1) above; and 15
 - (c) that, if the Commission were to make an order requiring the document or information to be so produced or furnished – 20
 - (i) the order would not be complied with, or
 - (ii) the document or information would be removed, tampered with, concealed or destroyed.
- (3) A warrant under this section is a warrant authorising the member of the Commission’s staff who is named in it – 25
 - (a) to enter and search the premises specified in it;
 - (b) to take such other persons with him as the Commission considers are needed to assist him in doing anything that he is authorised to do under the warrant;
 - (c) to take possession of any documents which appear to fall within subsection (2)(b) above, or to take any other steps which appear to be necessary for preserving, or preventing interference with, any such documents; 30
 - (d) to take possession of any computer disk or other electronic storage device which appears to contain information falling within subsection (2)(b), or information contained in a document so falling, or to take any other steps which appear to be necessary for preserving, or preventing interference with, any such information; 35
 - (e) to take copies of, or extracts from, any documents or information falling within paragraph (c) or (d); 40
 - (f) to require any person on the premises to provide an explanation of any such document or information or to state where any such documents or information may be found;

- (g) to require any such person to give him such assistance as he may reasonably require for the taking of copies or extracts as mentioned in paragraph (e) above.
- (4) Entry and search under such a warrant must be at a reasonable hour and within one month of the date of its issue. 5
- (5) The member of the Commission’s staff who is authorised under such a warrant (“the authorised person”) must, if required to do so, produce—
- (a) the warrant, and
- (b) documentary evidence that he is a member of the Commission’s staff, 10
- for inspection by the occupier of the premises or anyone acting on his behalf.
- (6) The authorised person must make a written record of—
- (a) the date and time of his entry on the premises;
- (b) the number of persons (if any) who accompanied him onto the premises, and the names of any such persons; 15
- (c) the period for which he (and any such persons) remained on the premises;
- (d) what he (and any such persons) did while on the premises; and
- (e) any document or device of which he took possession while there. 20
- (7) If required to do so, the authorised person must give a copy of the record to the occupier of the premises or someone acting on his behalf.
- (8) Unless it is not reasonably practicable to do so, the authorised person must comply with the following requirements before leaving the premises, namely— 25
- (a) the requirements of subsection (6), and
- (b) any requirement made under subsection (7) before he leaves the premises.
- (9) Where possession of any document or device is taken under this section— 30
- (a) the document may be retained for so long as the Commission considers that it is necessary to retain it (rather than a copy of it) for the purposes of the relevant inquiry under section 8 above, or 35
- (b) the device may be retained for so long as the Commission considers that it is necessary to retain it for the purposes of that inquiry,
- as the case may be.
- (10) Once it appears to the Commission that the retention of any document or device has ceased to be so necessary, it shall arrange for the document or device to be returned as soon as is reasonably practicable— 40
- (a) to the person from whose possession it was taken, or
- (b) to any of the charity trustees of the charity to which it belonged or related. 45

- (11) A person who intentionally obstructs the exercise of any rights conferred by a warrant under this section is guilty of an offence and liable on summary conviction—
- (a) to imprisonment for a term not exceeding 51 weeks, or
 - (b) to a fine not exceeding level 5 on the standard scale, or to both.” 5
- (2) In Part 1 of Schedule 1 to the Criminal Justice and Police Act 2001 (c. 16) (powers of seizure to which section 50 applies), after paragraph 56 insert—
- “Charities Act 1993 (c. 10)
- 56A The power of seizure conferred by section 31A(3) of the Charities Act 1993 (seizure of material for the purposes of an inquiry under section 8 of that Act).” 10

Mortgages of charity land

27 Restrictions on mortgaging

- (1) Section 38 of the 1993 Act (restrictions on mortgaging) is amended as follows. 15
- (2) For subsections (2) and (3) substitute—
- “(2) Subsection (1) above shall not apply to a mortgage of any such land if the charity trustees have, before executing the mortgage, obtained and considered proper advice, given to them in writing, on the relevant matters or matter mentioned in subsection (3) or (3A) below (as the case may be). 20
- (3) In the case of a mortgage to secure the repayment of a proposed loan or grant, the relevant matters are—
- (a) whether the loan or grant is necessary in order for the charity trustees to be able to pursue the particular course of action in connection with which they are seeking the loan or grant; 25
 - (b) whether the terms of the loan or grant are reasonable having regard to the status of the charity as the prospective recipient of the loan or grant; and
 - (c) the ability of the charity to repay on those terms the sum proposed to be paid by way of loan or grant. 30
- (3A) In the case of a mortgage to secure the discharge of any other proposed obligation, the relevant matter is whether it is reasonable for the charity trustees to undertake to discharge the obligation, having regard to the charity’s purposes. 35
- (3B) Subsection (3) or (as the case may be) subsection (3A) above applies in relation to such a mortgage as is mentioned in that subsection whether the mortgage—
- (a) would only have effect to secure the repayment of the proposed loan or grant or the discharge of the proposed obligation, or 40
 - (b) would also have effect to secure the repayment of sums paid by way of loan or grant, or the discharge of other obligations undertaken, after the date of its execution.

- (3C) Subsection (3D) below applies where –
- (a) the charity trustees of a charity have executed a mortgage of land held by or in trust for a charity in accordance with subsection (2) above, and
 - (b) the mortgage has effect to secure the repayment of sums paid by way of loan or grant, or the discharge of other obligations undertaken, after the date of its execution. 5
- (3D) In such a case, the charity trustees must not after that date enter into any transaction involving –
- (a) the payment of any such sums, or 10
 - (b) the undertaking of any such obligations, unless they have, before entering into the transaction, obtained and considered proper advice, given to them in writing, on the matters or matter mentioned in subsection (3)(a) to (c) or (3A) above (as the case may be).” 15
- (3) In subsection (4) (meaning of “proper advice”) –
- (a) for “subsection (2)” substitute “this section”; and
 - (b) for “the making of the loan in question” substitute “relation to the loan, grant or other transaction in connection with which his advice is given”. 20

CHAPTER 6

AUDIT OR EXAMINATION OF ACCOUNTS WHERE CHARITY IS NOT A COMPANY

28 Annual audit or examination of accounts of charities which are not companies

- (1) Section 43 of the 1993 Act (annual audit or examination of accounts of charities which are not companies) is amended as follows. 25
- (2) For subsection (1) substitute –
- “(1) Subsection (2) below applies to a financial year of a charity if –
- (a) the charity’s gross income in that year exceeds £500,000; or
 - (b) the charity’s gross income in that year exceeds the accounts threshold and at the end of the year the aggregate value of its assets (before deduction of liabilities) exceeds £2.8 million. 30
- “The accounts threshold” means £100,000 or such other sum as is for the time being specified in section 42(3) above.”
- (3) In subsection (2) (accounts required to be audited) for paragraph (a) substitute – 35
- “(a) would be eligible for appointment as auditor of the charity under Part 2 of the Companies Act 1989 if the charity were a company, or”.
- (4) In subsection (3) (independent examinations instead of audits) –
- (a) for the words from “and its gross income” to “subsection (4) below)” substitute “but its gross income in that year exceeds £10,000;” and 40
 - (b) at the end insert –

“This is subject to the requirements of subsection (3A) below where the gross income exceeds £250,000, and to any order under subsection (4) below.”

(5) After subsection (3) insert –

“(3A) If subsection (3) above applies to the accounts of a charity for a year and the charity’s gross income in that year exceeds £250,000, a person qualifies as an independent examiner for the purposes of paragraph (a) of that subsection if (and only if) he is an independent person who is –

- (a) a member of a body for the time being specified in section 249D(3) of the Companies Act 1985 (reporting accountants);
- (b) a member of the Chartered Institute of Public Finance and Accountancy; or
- (c) a Fellow of the Association of Charity Independent Examiners.”

(6) For subsection (8) substitute –

“(8) The Secretary of State may by order –

- (a) amend subsection (1)(a) or (b), (3) or (3A) above by substituting a different sum for any sum for the time being specified there;
- (b) amend subsection (3A) by adding or removing a description of person to or from the list in that subsection or by varying any entry for the time being included in that list.”

29 Duty of auditor etc. of charity which is not a company to report matters to Commission

(1) After section 44 of the 1993 Act insert –

“44A Duty of auditors etc. to report matters to Commission

- (1) This section applies to –
 - (a) a person acting as an auditor or independent examiner appointed by or in relation to a charity under section 43 above,
 - (b) a person acting as an auditor or examiner appointed under section 43A(2) or (3) above, and
 - (c) the Auditor General for Wales acting under section 43B(2) or (3) above.
- (2) If, in the course of acting in the capacity mentioned in subsection (1) above, a person to whom this section applies becomes aware of a matter –
 - (a) which relates to the activities or affairs of the charity or of any connected institution or body, and
 - (b) which he has reasonable cause to believe is likely to be of material significance for the purposes of the exercise by the Commission of its functions under section 8 or 18 above,
 he must immediately make a written report on the matter to the Commission.
- (3) If, in the course of acting in the capacity mentioned in subsection (1) above, a person to whom this section applies becomes aware of any matter –
 - (a) which does not appear to him to be one that he is required to report under subsection (2) above, but

- (b) which he has reasonable cause to believe is likely to be relevant for the purposes of the exercise by the Commission of any of its functions,
he may make a report on the matter to the Commission.
- (4) Where the duty or power under subsection (2) or (3) above has arisen in relation to a person acting in the capacity mentioned in subsection (1), the duty or power is not affected by his subsequently ceasing to act in that capacity. 5
- (5) Where a person makes a report as required or authorised by subsection (2) or (3), no duty to which he is subject is to be regarded as contravened merely because of any information or opinion contained in the report. 10
- (6) In this section “connected institution or body”, in relation to a charity, means –
- (a) an institution which is controlled by, or
- (b) a body corporate in which a substantial interest is held by, the charity or any one or more of the charity trustees acting in his or their capacity as such. 15
- (7) Paragraphs 3 and 4 of Schedule 5 to this Act apply for the purposes of subsection (6) above as they apply for the purposes of provisions of that Schedule. 20
- (8) Nothing in this section applies to a charity which is a company.”
- (2) In section 46 of the 1993 Act (special provisions as respects accounts and annual reports of exempt and excepted charities) –
- (a) in subsection (1) for “sections 41 to 45” substitute “sections 41 to 44 or section 45”; and 25
- (b) after subsection (2) insert –
- “(2A) Section 44A(2) to (7) above shall apply in relation to a person appointed to audit, or report on, the accounts of an exempt charity which is not a company as they apply in relation to a person such as is mentioned in section 44A(1). 30
- (2B) But section 44A(2) to (7) so apply with the following modifications –
- (a) any reference to a person acting in the capacity mentioned in section 44A(1) is to be read as a reference to his acting as a person appointed as mentioned in subsection (2A) above; and 35
- (b) any reference to the Commission or to any of its functions is to be read as a reference to the charity’s principal regulator or to any of that person’s functions in relation to the charity as such.” 40
- 30 Group accounts**
- (1) After section 49 of the 1993 Act insert –
- “49A Group accounts**
- (2) The provisions of Schedule 5A to this Act shall have effect with respect to – 45

- (a) the preparation and auditing of accounts in respect of groups consisting of parent charities and their subsidiary undertakings (within the meaning of that Schedule), and
 - (b) other matters relating to such groups.”
- (3) Schedule 6 (which inserts the new Schedule 5A into the 1993 Act) has effect. 5

CHAPTER 7

CHARITABLE COMPANIES

31 Relaxation of restriction on altering memorandum etc. of charitable company

- (1) Section 64 of the 1993 Act (alteration of objects clause etc.) is amended as follows. 10
- (2) For subsection (2) substitute –
- “(2) Where a charity is a company, any regulated alteration by the company –
- (a) requires the prior written consent of the Commission, and
 - (b) is ineffective if such consent has not been obtained. 15
- (2A) The following are “regulated alterations” –
- (a) any alteration of the objects clause in the company’s memorandum of association,
 - (b) any alteration of any provision of its memorandum or articles of association directing the application of property of the company on its dissolution, and 20
 - (c) any alteration of any provision of its memorandum or articles of association where the alteration would provide authorisation for any benefit to be obtained by directors or members of the company or persons connected with them. 25
- (2B) For the purposes of subsection (2A) above –
- (a) “benefit” means a direct or indirect benefit of any nature, except that it does not include any remuneration (within the meaning of section 73A below) whose receipt may be authorised under that section; and 30
 - (b) the same rules apply for determining whether a person is connected with a director or member of the company as apply, in accordance with section 73B(6) and (7) below, for determining whether a person is connected with a charity trustee for the purposes of section 73A.” 35
- (3) In subsection (3) (documents required to be delivered to registrar of companies), for “any such alteration” substitute “a regulated alteration”.

32 Annual audit or examination of accounts of charitable companies

- (1) In section 249A(4) of the Companies Act 1985 (c. 6) (circumstances in which charitable company’s accounts may be subject to an accountant’s report instead of an audit) – 40
- (a) in paragraph (b) (gross income between £90,000 and £250,000) for “£250,000” substitute “£500,000”; and

- (b) in paragraph (c) (balance sheet total not more than £1.4 million) for “£1.4 million” substitute “£2.8 million”.
- (2) In section 249B(1C) of that Act (circumstances in which parent company or subsidiary not disqualified for exemption from auditing requirement), in paragraph (b) (group’s aggregate turnover not more than £350,000 net or £420,000 gross in case of charity), for “£350,000 net (or £420,000 gross)” substitute “£700,000 net (or £840,000 gross)”.
- 33 Duty of auditor etc. of charitable company to report matters to Commission**
- After section 68 of the 1993 Act insert –
- “68A Duty of charity’s auditors etc. to report matters to Commission**
- (1) Section 44A(2) to (7) above shall apply in relation to a person acting as –
- (a) an auditor of a charitable company appointed under Chapter 5 of Part 11 of the Companies Act 1985 (auditors), or
- (b) a reporting accountant appointed by a charitable company for the purposes of section 249C of that Act (report required instead of audit),
- as they apply in relation to a person such as is mentioned in section 44A(1).
- (2) For this purpose any reference in section 44A to a person acting in the capacity mentioned in section 44A(1) is to be read as a reference to his acting in the capacity mentioned in subsection (1) of this section.
- (3) In this section “charitable company” means a charity which is a company.”

CHAPTER 8 25

CHARITABLE INCORPORATED ORGANISATIONS

34 Charitable incorporated organisations

Schedule 7, which makes provision about charitable incorporated organisations, has effect.

CHAPTER 9 30

CHARITY TRUSTEES ETC.

Waiver of disqualification

35 Waiver of trustee’s disqualification

In section 72 of the 1993 Act (disqualification for being trustee of a charity) after subsection (4) insert –

“(4A) If –

- (a) a person disqualified under subsection (1)(d) or (e) makes an application under subsection (4) above five years or more after the date on which his disqualification took effect, and
 - (b) the Commission is not prevented from granting the application by virtue of paragraphs (a) and (b) of subsection (4),
- the Commission must grant the application unless satisfied that, by reason of any special circumstances, it should be refused.” 5

Remuneration of trustees etc.

36 Remuneration of trustees etc. providing services to charity

After section 73 of the 1993 Act insert – 10

“73A Remuneration of trustees etc. providing services to charity

- (1) This section applies to remuneration for services provided by a person to or on behalf of a charity where –
 - (a) he is a charity trustee or trustee for the charity, or
 - (b) he is connected with a charity trustee or trustee for the charity and the remuneration might result in that trustee obtaining any benefit. 15

This is subject to subsection (7) below.
- (2) If conditions A to D are met in relation to remuneration within subsection (1), the person providing the services (“the relevant person”) is entitled to receive the remuneration out of the funds of the charity. 20
- (3) Condition A is that the amount or maximum amount of the remuneration –
 - (a) is set out in an agreement in writing between –
 - (i) the charity or its charity trustees (as the case may be), and
 - (ii) the relevant person,
 under which the relevant person is to provide the services in question to or on behalf of the charity, and
 - (b) does not exceed what is reasonable in the circumstances for the provision by that person of the services in question. 25
- (4) Condition B is that, before entering into that agreement, the charity trustees decided that they were satisfied that it would be in the best interests of the charity for the services to be provided by the relevant person to or on behalf of the charity for the amount or maximum amount of remuneration set out in the agreement. 35
- (5) Condition C is that if immediately after the agreement is entered into there is, in the case of the charity, more than one person who is a charity trustee and is –
 - (a) a person in respect of whom an agreement within subsection (3) above is in force, or
 - (b) a person who is entitled to receive remuneration out of the funds of the charity otherwise than by virtue of such an agreement, or 40

- (c) a person connected with a person falling within paragraph (a) or (b) above,
the total number of them constitute a minority of the persons for the time being holding office as charity trustees of the charity.
- (6) Condition D is that the trusts of the charity do not contain any express provision that prohibits the relevant person from receiving the remuneration. 5
- (7) Nothing in this section applies to –
- (a) any remuneration for services provided by a person in his capacity as a charity trustee or trustee for a charity or under a contract of employment, or 10
- (b) any remuneration not within paragraph (a) which a person is entitled to receive out of the funds of a charity by virtue of any provision or order within subsection (8).
- (8) The provisions or orders within this subsection are – 15
- (a) any provision contained in the trusts of the charity,
- (b) any order of the court or the Commission,
- (c) any statutory provision contained in or having effect under an Act of Parliament other than this section.
- (9) Section 73B below applies for the purposes of this section. 20
- 73B Supplementary provisions for purposes of section 73A**
- (1) Before entering into an agreement within section 73A(3) the charity trustees must have regard to any guidance given by the Commission concerning the making of such agreements.
- (2) The duty of care in section 1(1) of the Trustee Act 2000 applies to a charity trustee when making such a decision as is mentioned in section 73A(4). 25
- (3) For the purposes of section 73A(5) an agreement within section 73A(3) is in force so long as any obligations under the agreement have not been fully discharged by a party to it. 30
- (4) In section 73A –
- “benefit” means a direct or indirect benefit of any nature;
- “maximum amount”, in relation to remuneration, means the maximum amount of the remuneration whether specified in or ascertainable under the terms of the agreement in question; 35
- “remuneration” includes any benefit in kind (and “amount” accordingly includes monetary value);
- “services”, in the context of remuneration for services, includes goods that are supplied in connection with the provision of services. 40
- (5) For the purposes of section 73A the following persons are “connected” with a charity trustee or trustee for a charity –
- (a) a child, parent, grandchild, grandparent, brother or sister of the trustee;
- (b) the spouse or civil partner of the trustee or of any person falling within paragraph (a); 45

- (c) a person carrying on business in partnership with the trustee or with any person falling within paragraph (a) or (b);
- (d) an institution which is controlled –
 - (i) by the trustee or by any person falling within paragraph (a), (b) or (c), or 5
 - (ii) by two or more persons falling within sub-paragraph (i), when taken together.
- (e) a body corporate in which –
 - (i) the trustee or any connected person falling within any of paragraphs (a) to (c) has a substantial interest, or 10
 - (ii) two or more persons falling within sub-paragraph (i), when taken together, have a substantial interest.
- (6) Paragraphs 2 to 4 of Schedule 5 to this Act apply for the purposes of subsection (5) above as they apply for the purposes of provisions of that Schedule.” 15

37 Disqualification of trustee receiving remuneration by virtue of section 36

After section 73B of the 1993 Act (inserted by section 36 above) insert –

“73C Disqualification of trustee receiving remuneration under section 73A

- (1) This section applies to any charity trustee or trustee for a charity –
 - (a) who is or would be entitled to remuneration under an agreement or proposed agreement within section 73A(3) above, or 20
 - (b) who is connected with a person who is or would be so entitled.
- (2) The charity trustee or trustee for a charity is disqualified from acting as such in relation to any decision or other matter connected with the agreement. 25
- (3) But any act done by such a person which he is disqualified from doing by virtue of subsection (2) above shall not be invalid by reason only of that disqualification.
- (4) Where the Commission is satisfied – 30
 - (a) that a person (“the disqualified trustee”) has done any act which he was disqualified from doing by virtue of subsection (2) above, and
 - (b) that the disqualified trustee or a person connected with him has received or is to receive from the charity any remuneration under the agreement in question, 35
 it may make an order under subsection (5) or (6) below (as appropriate).
- (5) An order under this subsection is one requiring the disqualified trustee –
 - (a) to reimburse to the charity the whole or part of the remuneration received as mentioned in subsection (4)(b) above; 40
 - (b) to the extent that the remuneration consists of a benefit in kind, to reimburse to the charity the whole or part of the monetary value (as determined by the Commission) of the benefit in kind.

- (6) An order under this subsection is one directing that the disqualified trustee or (as the case may be) connected person is not to be paid the whole or part of the remuneration mentioned in subsection (4)(b) above.
- (7) If the Commission makes an order under subsection (5) or (6) above, the disqualified trustee or (as the case may be) connected person accordingly ceases to have any entitlement under the agreement to so much of the remuneration (or its monetary value) as the order requires him to reimburse to the charity or (as the case may be) as it directs is not to be paid to him.
- (8) Subsections (5) to (7) of section 73B above apply for the purposes of this section as they apply for the purposes of section 73A above.”

Liability of trustees etc.

38 Power of Commission to relieve trustees, auditors etc. from liability for breach of trust or duty

After section 73C of the 1993 Act (inserted by section 37 above) insert –

73D Power to relieve trustees, auditors etc. from liability for breach of trust or duty

- (1) This section applies to a person who is or has been –
- (a) a charity trustee or trustee for a charity,
 - (b) a person appointed to audit a charity’s accounts (whether appointed under an enactment or otherwise), or
 - (c) an independent examiner, reporting accountant or other person appointed to examine or report on a charity’s accounts (whether appointed under an enactment or otherwise).
- (2) If the Commission considers –
- (a) that a person to whom this section applies is or may be personally liable for a breach of trust or breach of duty committed in his capacity as a person within paragraph (a), (b) or (c) of subsection (1) above, but
 - (b) that he has acted honestly and reasonably and ought fairly to be excused for the breach of trust or duty,
- the Commission may make an order relieving him wholly or partly from any such liability.
- (3) An order under subsection (2) above may grant the relief on such terms as the Commission thinks fit.
- (4) Subsection (2) does not apply in relation to any personal contractual liability of a charity trustee or trustee for a charity.
- (5) For the purposes of this section and section 73E below –
- (a) subsection (1)(b) above is to be read as including a reference to the Auditor General for Wales acting as auditor under section 43B above, and
 - (b) subsection (1)(c) above is to be read as including a reference to the Auditor General for Wales acting as examiner under that section;

and in subsection (1)(b) and (c) any reference to a charity’s accounts is to be read as including any group accounts prepared by the charity trustees or directors of a charity.

- (6) This section does not affect the operation of –
- (a) section 61 of the Trustee Act 1925 (power of court to grant relief to trustees), 5
 - (b) section 727 of the Companies Act 1985 (power of court to grant relief to officers or auditors of companies), or
 - (c) section 73E(2) below (which extends section 727 to auditors etc. of charities which are not companies). 10

73E Court’s power to grant relief to apply to all auditors etc. of charities which are not companies

- (1) This section applies to a person acting in a capacity within section 73D(1)(b) or (c) above in relation to –
- (a) the accounts of a charity which is not a company, or 15
 - (b) any group accounts prepared by the charity trustees of such a charity.
- (2) Section 727 of the Companies Act 1985 (power of court to grant relief to officers or auditors of companies) shall have effect in relation to a person to whom this section applies as it has effect in relation to a person employed as auditor by a company.” 20

39 Trustees’ indemnity insurance

After section 73E of the 1993 Act (inserted by section 38 above) insert –

“73F Trustees’ indemnity insurance

- (1) The charity trustees of a charity may arrange for the purchase, out of the funds of the charity, of insurance designed to indemnify the charity trustees or any trustees for the charity against any personal liability in respect of – 25
- (a) any breach of trust or breach of duty committed by them in their capacity as charity trustees or trustees for the charity, or 30
 - (b) any negligence, default, breach of duty or breach of trust committed by them in their capacity as directors or officers of the charity (if it is a body corporate) or of any body corporate carrying on any activities on behalf of the charity.
- (2) The terms of such insurance must, however, be so framed as to exclude the provision of any indemnity for a person in respect of – 35
- (a) any liability incurred by him to pay –
 - (i) a fine imposed in criminal proceedings, or
 - (ii) a sum payable to a regulatory authority by way of a penalty in respect of non-compliance with any requirement of a regulatory nature (however arising); 40
 - (b) any liability incurred by him in defending any criminal proceedings in which he is convicted of an offence arising out of any fraud or dishonesty, or wilful or reckless misconduct, by him; or 45

- (c) any liability incurred by him to the charity that arises out of any conduct which he knew (or must reasonably be assumed to have known) was not in the interests of the charity or in the case of which he did not care whether it was in the best interests of the charity or not. 5
- (3) For the purposes of subsection (2)(b) above—
 - (a) the reference to any such conviction is a reference to one that has become final;
 - (b) a conviction becomes final—
 - (i) if not appealed against, at the end of the period for bringing an appeal, or 10
 - (ii) if appealed against, at the time when the appeal (or any further appeal) is disposed of; and
 - (c) an appeal is disposed of—
 - (i) if it is determined and the period for bringing any further appeal has ended, or 15
 - (ii) if it is abandoned or otherwise ceases to have effect.
- (4) The charity trustees of a charity may not purchase insurance under this section unless they decide that they are satisfied that it is in the best interests of the charity for them to do so. 20
- (5) The duty of care in section 1(1) of the Trustee Act 2000 applies to a charity trustee when making such a decision.
- (6) The Secretary of State may by order make such amendments of subsections (2) and (3) above as he considers appropriate.
- (7) No order may be made under subsection (6) above unless a draft of the order has been laid before and approved by a resolution of each House of Parliament. 25
- (8) This section—
 - (a) does not authorise the purchase of any insurance whose purchase is expressly prohibited by the trusts of the charity, but 30
 - (b) has effect despite any provision prohibiting the charity trustees or trustees for the charity receiving any personal benefit out of the funds of the charity.”

CHAPTER 10

POWERS OF UNINCORPORATED CHARITIES 35

40 Power to transfer all property

For section 74 of the 1993 Act substitute—

“74 Power to transfer all property of unincorporated charity

- (1) This section applies to a charity if—
 - (a) its gross income in its last financial year did not exceed £10,000, 40
 - (b) it does not hold any designated land, and
 - (c) it is not a company or other body corporate.

- “Designated land” means land held on trusts which stipulate that it is to be used for the purposes, or any particular purposes, of the charity.
- (2) The charity trustees of such a charity may resolve for the purposes of this section –
 - (a) that all the property of the charity should be transferred to another charity specified in the resolution, or 5
 - (b) that all the property of the charity should be transferred to two or more charities specified in the resolution in accordance with such division of the property between them as is so specified.
 - (3) Any charity so specified may be either a registered charity or a charity which is not required to be registered. 10
 - (4) But the charity trustees of a charity (“the transferor charity”) do not have power to pass a resolution under subsection (2) above unless they are satisfied –
 - (a) that it is expedient in the interests of furthering the purposes for which the property is held by the transferor charity for the property to be transferred in accordance with the resolution, and 15
 - (b) that the purposes (or any of the purposes) of any charity to which property is to be transferred under the resolution are substantially similar to the purposes (or any of the purposes) of the transferor charity. 20
 - (5) Any resolution under subsection (2) above must be passed by a majority of not less than two-thirds of the charity trustees who vote on the resolution. 25
 - (6) Where charity trustees have passed a resolution under subsection (2), they must send a copy of it to the Commission, together with a statement of their reasons for passing it.
 - (7) Having received the copy of the resolution, the Commission –
 - (a) may direct the charity trustees to give public notice of the resolution in such manner as is specified in the direction, and 30
 - (b) if it gives such a direction, must take into account any representations made to it by persons appearing to it to be interested in the charity, where those representations are made to it within the period of 28 days beginning with the date when public notice of the resolution is given by the charity trustees. 35
 - (8) The Commission may also direct the charity trustees to provide the Commission with additional information or explanations relating to –
 - (a) the circumstances in and by reference to which they have decided to act under this section, or 40
 - (b) their compliance with any obligation imposed on them by or under this section in connection with the resolution.
 - (9) Subject to the provisions of section 74A below, a resolution under subsection (2) above takes effect at the end of the period of 60 days beginning with the date on which the copy of it was received by the Commission. 45
 - (10) Where such a resolution has taken effect, the charity trustees must arrange for all the property of the transferor charity to be transferred in

- accordance with the resolution, and on terms that any property so transferred –
- (a) is to be held by the charity to which it is transferred (“the transferee charity”) in accordance with subsection (11) below, but
 - (b) when so held is nevertheless to be subject to any restrictions on expenditure to which it was subject as property of the transferor charity;
- and the charity trustees must arrange for the property to be so transferred by such date after the resolution takes effect as they agree with the charity trustees of the transferee charity or charities concerned.
- (11) The charity trustees of any charity to which property is transferred under this section must secure, so far as is reasonably practicable, that the property is applied for such of its purposes as are substantially similar to those of the transferor charity.
- But this requirement does not apply if those charity trustees consider that complying with it would not result in a suitable and effective method of applying the property.
- (12) For the purpose of enabling any property to be transferred to a charity under this section, the Commission may, at the request of the charity trustees of that charity, make orders vesting any property of the transferor charity –
- (a) in the transferee charity, in its charity trustees or in any trustee for that charity, or
 - (b) in any other person nominated by those charity trustees to hold property in trust for that charity.
- (13) The Secretary of State may by order amend subsection (1) above by substituting a different sum for the sum for the time being specified there.
- (14) In this section references to the transfer of property to a charity are references to its transfer –
- (a) to the charity, or
 - (b) to the charity trustees, or
 - (c) to any trustee for the charity, or
 - (d) to a person nominated by the charity trustees to hold it in trust for the charity,
- as the charity trustees may determine.
- (15) Where a charity has a permanent endowment, this section has effect in accordance with section 74B.
- 74A Resolution not to take effect or to take effect at later date**
- (1) This section deals with circumstances in which a resolution under section 74(2) above either –
- (a) does not take effect under section 74(9) above, or
 - (b) takes effect at a time later than that mentioned in section 74(9).
- (2) A resolution does not take effect under section 74(9) above if before the end of –

- (a) the period of 60 days mentioned in section 74(9) (“the 60-day period”), or
- (b) that period as modified by subsection (3) or (4) below,
- the Commission notifies the charity trustees in writing that it objects to the resolution, either on procedural grounds or on the merits of the proposals contained in the resolution. 5
- “On procedural grounds” means on the grounds that any obligation imposed on the charity trustees by or under section 74 above has not been complied with in connection with the resolution.
- (3) If under section 74(7) above the Commission directs the charity trustees to give public notice of a resolution, the running of the 60-day period is suspended by virtue of this subsection – 10
- (a) as from the date on which the direction is given to the charity trustees, and
- (b) until the end of the period of 42 days beginning with the date on which public notice of the resolution is given by the charity trustees. 15
- (4) If under section 74(8) above the Commission directs the charity trustees to provide any information or explanations, the running of the 60-day period is suspended by virtue of this subsection – 20
- (a) as from the date on which the direction is given to the charity trustees, and
- (b) until the date on which the information or explanations is or are provided to the Commission.
- (5) Subsection (6) below applies once the period of time, or the total period of time, during which the 60-day period is suspended by virtue of either or both of subsections (3) and (4) above exceeds 120 days. 25
- (6) At that point the resolution (if not previously objected to by the Commission) is to be treated as if it had never been passed.
- 74B Transfer where charity has permanent endowment** 30
- (1) This section provides for the operation of section 74 above where a charity within section 74(1) has a permanent endowment (whether or not the charity’s trusts contain provision for the termination of the charity).
- (2) In such a case section 74 applies as follows – 35
- (a) if the charity has both a permanent endowment and other property (“unrestricted property”) –
- (i) a resolution under section 74(2) must relate to both its permanent endowment and its unrestricted property, and 40
- (ii) that section applies in relation to its unrestricted property in accordance with subsection (3) below and in relation to its permanent endowment in accordance with subsections (4) to (11) below;
- (b) if all of the property of the charity is comprised in its permanent endowment, that section applies in relation to its permanent endowment in accordance with subsections (4) to (11) below. 45

- (3) Section 74 applies in relation to unrestricted property of the charity as if references in that section to all or any of the property of the charity were references to all or any of its unrestricted property.
- (4) Section 74 applies in relation to the permanent endowment of the charity with the following modifications. 5
- (5) References in that section to all or any of the property of the charity are references to all or any of the property comprised in its permanent endowment.
- (6) If the property comprised in its permanent endowment is to be transferred to a single charity, the charity trustees must (instead of being satisfied as mentioned in section 74(4)(b)) be satisfied that the proposed transferee charity has purposes which are substantially similar to all of the purposes of the transferor charity. 10
- (7) If the property comprised in its permanent endowment is to be transferred to two or more charities, the charity trustees must (instead of being satisfied as mentioned in section 74(4)(b)) be satisfied – 15
 - (a) that the proposed transferee charities, taken together, have purposes which are substantially similar to all of the purposes of the transferor charity, and
 - (b) that each of the proposed transferee charities has purposes which are substantially similar to one or more of the purposes of the transferor charity. 20
- (8) In the case of a transfer to which subsection (7) above applies, the resolution under section 74(2) must provide for the property comprised in the permanent endowment of the charity to be divided between the transferee charities in such a way as to take account of such guidance as may be given by the Commission for the purposes of this section. 25
- (9) The requirement in section 74(11) shall apply in the case of every such transfer, and in complying with that requirement the charity trustees of a transferee charity must secure that the application of property transferred to the charity takes account of any such guidance. 30
- (10) Any guidance given by the Commission for the purposes of this section may take such form and be given in such manner as the Commission considers appropriate.
- (11) For the purposes of sections 74 and 74A above, any reference to any obligation imposed on the charity trustees by or under section 74 includes a reference to any obligation imposed on them by virtue of any of subsections (6) to (8) above. 35
- (12) Section 74(14) applies for the purposes of this section as it applies for the purposes of section 74.” 40

41 Power to replace purposes

After section 74B of the 1993 Act (inserted by section 40 above) insert –

“74C Power to replace purposes of unincorporated charity

- (1) This section applies to a charity if –
 - (a) its gross income in its last financial year did not exceed £10,000, 45

- (b) it does not hold any designated land, and
 (c) it is not a company or other body corporate.
- “Designated land” means land held on trusts which stipulate that it is to be used for the purposes, or any particular purposes, of the charity.
- (2) The charity trustees of such a charity may resolve for the purposes of this section that the trusts of the charity should be modified by replacing all or any of the purposes of the charity with other purposes specified in the resolution. 5
- (3) The other purposes so specified must be charitable purposes.
- (4) But the charity trustees of a charity do not have power to pass a resolution under subsection (2) above unless they are satisfied – 10
- (a) that it is expedient in the interests of the charity for the purposes in question to be replaced, and
- (b) that, so far as is reasonably practicable, the new purposes consist of or include purposes that are similar in character to those that are to be replaced. 15
- (5) Any resolution under subsection (2) above must be passed by a majority of not less than two-thirds of the charity trustees who vote on the resolution.
- (6) Where charity trustees have passed a resolution under subsection (2), they must send a copy of it to the Commission, together with a statement of their reasons for passing it. 20
- (7) Having received the copy of the resolution, the Commission –
- (a) may direct the charity trustees to give public notice of the resolution in such manner as is specified in the direction, and 25
- (b) if it gives such a direction, must take into account any representations made to it by persons appearing to it to be interested in the charity, where those representations are made to it within the period of 28 days beginning with the date when public notice of the resolution is given by the charity trustees. 30
- (8) The Commission may also direct the charity trustees to provide the Commission with additional information or explanations relating to –
- (a) the circumstances in and by reference to which they have decided to act under this section, or
- (b) their compliance with any obligation imposed on them by or under this section in connection with the resolution. 35
- (9) Subject to the provisions of section 74A above (as they apply in accordance with subsection (10) below), a resolution under subsection (2) above takes effect at the end of the period of 60 days beginning with the date on which the copy of it was received by the Commission. 40
- (10) Section 74A above applies to a resolution under subsection (2) of this section as it applies to a resolution under subsection (2) of section 74 above, except that any reference to section 74(7), (8) or (9) is to be read as a reference to subsection (7), (8) or (9) above.
- (11) As from the time when a resolution takes effect under subsection (9) above, the trusts of the charity concerned are to be taken to have been modified in accordance with the terms of the resolution. 45

- (12) The Secretary of State may by order amend subsection (1) above by substituting a different sum for the sum for the time being specified there.”

42 Power to modify powers or procedures

After section 74C of the 1993 Act (inserted by section 41 above) insert – 5

“74D Power to modify powers or procedures of unincorporated charity

- (1) This section applies to any charity which is not a company or other body corporate.
- (2) The charity trustees of such a charity may resolve for the purposes of this section that any provision of the trusts of the charity – 10
- (a) relating to any of the powers exercisable by the charity trustees in the administration of the charity, or
 - (b) regulating the procedure to be followed in any respect in connection with its administration,
- should be modified in such manner as is specified in the resolution. 15
- (3) Subsection (4) applies if the charity is an unincorporated association with a body of members distinct from the charity trustees.
- (4) Any resolution of the charity trustees under subsection (2) must be approved by a further resolution which is passed at a general meeting of the body either – 20
- (a) by a majority of not less than two-thirds of the members entitled to attend and vote at the meeting who vote on the resolution, or
 - (b) by a decision taken without a vote and without any expression of dissent.
- (5) Where – 25
- (a) the charity trustees have passed a resolution under subsection (2), and
 - (b) (if subsection (4) applies) a further resolution has been passed under that subsection,
- the trusts of the charity are to be taken to have been modified in accordance with the terms of the resolution. 30
- (6) The trusts are to be taken to have been so modified as from such date as is specified for this purpose in the resolution under subsection (2), or (if later) the date when any such further resolution was passed under subsection (4).” 35

CHAPTER 11

POWERS TO SPEND CAPITAL AND MERGERS

Spending of capital

43 Power to spend capital

For section 75 of the 1993 Act substitute – 5

“75 Power of unincorporated charities to spend capital: general

- (1) This section applies to any available endowment fund of a charity which is not a company or other body corporate. 10
- (2) But this section does not apply to a fund if section 75A below (power of larger charities to spend capital given for particular purpose) applies to it. 15
- (3) Where the condition in subsection (4) below is met in relation to the charity, the charity trustees may resolve for the purposes of this section that the fund, or a portion of it, ought to be freed from the restrictions with respect to expenditure of capital that apply to it. 20
- (4) The condition in this subsection is that the charity trustees are satisfied that the purposes set out in the trusts to which the fund is subject could be carried out more effectively if the capital of the fund, or the relevant portion of the capital, could be expended as well as income accruing to it, rather than just such income. 25
- (5) Once the charity trustees have passed a resolution under subsection (3) above, the fund or portion may by virtue of this section be expended in carrying out the purposes set out in the trusts to which the fund is subject without regard to the restrictions mentioned in that subsection. 30
- (6) The fund or portion may be so expended as from such date as is specified for this purpose in the resolution. 35
- (7) In this section “available endowment fund”, in relation to a charity, means –
 - (a) the whole of the charity’s permanent endowment if it is all subject to the same trusts, or
 - (b) any part of its permanent endowment which is subject to any particular trusts that are different from those to which any other part is subject,
 excluding (in either case) so much of that endowment or part as consists of land held on trusts which stipulate that it is to be used for the purposes, or any particular purposes, of the charity.

75A Power of larger unincorporated charities to spend capital given for particular purpose

- (1) This section applies to any available endowment fund of a charity which is not a company or other body corporate if – 40
 - (a) the capital of the fund consists entirely of property given –
 - (i) by a particular individual,

- (ii) by a particular institution (by way of grant or otherwise), or
 - (iii) by two or more individuals or institutions in pursuit of a common purpose, and
 - (b) the financial condition in subsection (2) below is met. 5
- (2) The financial condition in this subsection is met if –
 - (a) the relevant charity’s gross income in its last financial year exceeded £1,000, and
 - (b) the market value of the endowment fund exceeds £10,000.
- (3) Where the condition in subsection (4) below is met in relation to the charity, the charity trustees may resolve for the purposes of this section that the fund, or a portion of it, ought to be freed from the restrictions with respect to expenditure of capital that apply to it. 10
- (4) The condition in this subsection is that the charity trustees are satisfied that the purposes set out in the trusts to which the fund is subject could be carried out more effectively if the capital of the fund, or the relevant portion of the capital, could be expended as well as income accruing to it, rather than just such income. 15
- (5) The charity trustees –
 - (a) must send a copy of any resolution under subsection (3) above to the Commission, together with a statement of their reasons for passing it, and 20
 - (b) may not implement the resolution except in accordance with the following provisions of this section.
- (6) Having received the copy of the resolution the Commission may – 25
 - (a) direct the charity trustees to give public notice of the resolution in such manner as is specified in the direction, and
 - (b) if it gives such a direction, must take into account any representations made to it by persons appearing to it to be interested in the charity, where those representations are made to it within the period of 28 days beginning with the date when public notice of the resolution is given by the charity trustees. 30
- (7) The Commission may also direct the charity trustees to provide the Commission with additional information or explanations relating to – 35
 - (a) the circumstances in and by reference to which they have decided to act under this section, or
 - (b) their compliance with any obligation imposed on them by or under this section in connection with the resolution.
- (8) When considering whether to concur with the resolution the Commission must take into account – 40
 - (a) any evidence available to it as to the wishes of the donor or donors mentioned in subsection (1)(a) above, and
 - (b) any changes in the circumstances relating to the charity since the making of the gift or gifts (including, in particular, its financial position, the needs of its beneficiaries, and the social, economic and legal environment in which it operates). 45
- (9) The Commission must not concur with the resolution unless it is satisfied –

- (a) that its implementation would accord with the spirit of the gift or gifts mentioned in subsection (1)(a) above (even though it would be inconsistent with the restrictions mentioned in subsection (3) above), and
 - (b) that the charity trustees have complied with the obligations imposed on them by or under this section in connection with the resolution. 5
- (10) Before the end of the period of three months beginning with the relevant date, the Commission must notify the charity trustees in writing either – 10
 - (a) that the Commission concurs with the resolution, or
 - (b) that it does not concur with it.
- (11) In subsection (10) “the relevant date” means –
 - (a) in a case where the Commission directs the charity trustees under subsection (6) above to give public notice of the resolution, the date when that notice is given, and 15
 - (b) in any other case, the date on which the Commission receives the copy of the resolution in accordance with subsection (5) above.
- (12) Where – 20
 - (a) the charity trustees are notified by the Commission that it concurs with the resolution, or
 - (b) the period of three months mentioned in subsection (10) above has elapsed without the Commission notifying them that it does not concur with the resolution, 25

the fund or portion may, by virtue of this section, be expended in carrying out the purposes set out in the trusts to which the fund is subject without regard to the restrictions mentioned in subsection (3).
- (13) The Secretary of State may by order amend subsection (2) above by substituting a different sum for any sum specified there. 30
- (14) In this section –
 - (a) “available endowment fund” has the same meaning as in section 75 above,
 - (b) “market value”, in relation to an endowment fund, means – 35
 - (i) the market value of the fund as recorded in the accounts for the last financial year of the relevant charity, or
 - (ii) if no such value was so recorded, the current market value of the fund as determined on a valuation carried out for the purpose, and
 - (c) the reference in subsection (1) to the giving of property by an individual includes his giving it under his will. 40

75B Power to spend capital subject to special trusts

- (1) This section applies to any available endowment fund of a special trust which, as the result of a direction under section 96(5) below, is to be treated as a separate charity (“the relevant charity”) for the purposes of this section. 45
- (2) Where the condition in subsection (3) below is met in relation to the relevant charity, the charity trustees may resolve for the purposes of

- this section that the fund, or a portion of it, ought to be freed from the restrictions with respect to expenditure of capital that apply to it.
- (3) The condition in this subsection is that the charity trustees are satisfied that the purposes set out in the trusts to which the fund is subject could be carried out more effectively if the capital of the fund, or the relevant portion of the capital, could be expended as well as income accruing to it, rather than just such income. 5
- (4) Where the market value of the fund exceeds £10,000 and the capital of the fund consists entirely of property given – 10
- (a) by a particular individual,
 - (b) by a particular institution (by way of grant or otherwise), or
 - (c) by two or more individuals or institutions in pursuit of a common purpose,
- subsections (5) to (11) of section 75A above apply in relation to the resolution and that gift or gifts as they apply in relation to a resolution under section 75A(3) and the gift or gifts mentioned in section 75A(1)(a). 15
- (5) Where –
- (a) the charity trustees have passed a resolution under subsection (2) above, and 20
 - (b) (in a case where section 75A(5) to (11) above apply in accordance with subsection (4) above) either –
 - (i) the charity trustees are notified by the Commission that it concurs with the resolution, or
 - (ii) the period of three months mentioned in section 75A(10) has elapsed without the Commission notifying them that it does not concur with the resolution, 25
- the fund or portion may, by virtue of this section, be expended in carrying out the purposes set out in the trusts to which the fund is subject without regard to the restrictions mentioned in subsection (2). 30
- (6) The fund or portion may be so expended as from such date as is specified for this purpose in the resolution.
- (7) The Secretary of State may by order amend subsection (4) above by substituting a different sum for the sum specified there.
- (8) In this section – 35
- (a) “available endowment fund” has the same meaning as in section 75 above,
 - (b) “market value” has the same meaning as in section 75A above, and
 - (c) the reference in subsection (4) to the giving of property by an individual includes his giving it under his will.” 40

Mergers

44 Merger of charities

After section 75B of the 1993 Act (inserted by section 43 above) insert –

“Mergers

- | | |
|--|----|
| 75C Register of charity mergers | 5 |
| (1) The Commission shall establish and maintain a register of charity mergers. | |
| (2) The register shall be kept by the Commission in such manner as it thinks fit. | |
| (3) The register shall contain an entry in respect of every relevant charity merger which is notified to the Commission in accordance with subsections (6) to (9) and such procedures as it may determine. | 10 |
| (4) In this section “relevant charity merger” means – | |
| (a) a merger of two or more charities in connection with which one of them (“the transferee”) has transferred to it all the property of the other or others, each of which (a “transferor”) ceases to exist, or is to cease to exist, on or after the transfer of its property to the transferee, or | 15 |
| (b) a merger of two or more charities (“transferors”) in connection with which both or all of them cease to exist, or are to cease to exist, on or after the transfer of all of their property to a new charity (“the transferee”). | 20 |
| (5) In the case of a merger involving the transfer of property of any charity which has both a permanent endowment and other property (“unrestricted property”) and whose trusts do not contain provision for the termination of the charity, subsection (4)(a) or (b) applies in relation to any such charity as if – | 25 |
| (a) the reference to all of its property were a reference to all of its unrestricted property, and | |
| (b) any reference to its ceasing to exist were omitted. | 30 |
| (6) A notification under subsection (3) above may be given in respect of a relevant charity merger at any time after – | |
| (a) the transfer of property involved in the merger has taken place, or | |
| (b) (if more than one transfer of property is so involved) the last of those transfers has taken place. | 35 |
| (7) If a vesting declaration is made in connection with a relevant charity merger, a notification under subsection (3) above must be given in respect of the merger once the transfer, or the last of the transfers, mentioned in subsection (6) above has taken place. | 40 |
| (8) A notification under subsection (3) is to be given by the charity trustees of the transferee and must – | |
| (a) specify the transfer or transfers of property involved in the merger and the date or dates on which it or they took place; | |

- (b) include a statement that appropriate arrangements have been made with respect to the discharge of any liabilities of the transferor charity or charities; and
 - (c) in the case of a notification required by subsection (7), set out the matters mentioned in subsection (9). 5
- (9) The matters are –
 - (a) the fact that the vesting declaration in question has been made;
 - (b) the date when the declaration was made; and
 - (c) the date on which the vesting of title under the declaration took place by virtue of section 75E(2) below. 10
- (10) In this section and section 75D –
 - (a) any reference to a transfer of property includes a transfer effected by a vesting declaration; and
 - (b) “vesting declaration” means a declaration to which section 75E(2) below applies. 15
- (11) Nothing in this section or section 75E or 75F applies in a case where section 69K (amalgamation of CIOs) or 69M (transfer of CIO’s undertaking) applies.

75D Register of charity mergers: supplementary

- (1) Subsection (2) applies to the entry to be made in the register in respect of a relevant charity merger, as required by section 75C(3) above. 20
- (2) The entry must –
 - (a) specify the date when the transfer or transfers of property involved in the merger took place,
 - (b) if a vesting declaration was made in connection with the merger, set out the matters mentioned in section 75C(9) above, and 25
 - (c) contain such other particulars of the merger as the Commission thinks fit.
- (3) The register shall be open to public inspection at all reasonable times. 30
- (4) Where any information contained in the register is not in documentary form, subsection (3) above shall be construed as requiring the information to be available for public inspection in legible form at all reasonable times.
- (5) In this section – 35
 - “the register” means the register of charity mergers;
 - “relevant charity merger” has the same meaning as in section 75C.

75E Pre-merger vesting declarations

- (1) Subsection (2) below applies to a declaration which –
 - (a) is made by deed for the purposes of this section by the charity trustees of the transferor, 40
 - (b) is made in connection with a relevant charity merger, and
 - (c) is to the effect that (subject to subsections (3) and (4)) all of the transferor’s property is to vest in the transferee on such date as is specified in the declaration (“the specified date”). 45

-
- (2) The declaration operates on the specified date to vest the legal title to all of the transferor’s property in the transferee, without the need for any further document transferring it.
This is subject to subsections (3) and (4).
- (3) Subsection (2) does not apply to – 5
- (a) any land held by the transferor as security for money subject to the trusts of the transferor (other than land held on trust for securing debentures or debenture stock);
- (b) any land held by the transferor under a lease or agreement which contains any covenant (however described) against assignment of the transferor’s interest without the consent of some other person, unless that consent has been obtained before the specified date; or 10
- (c) any shares, stock, annuity or other property which is only transferable in books kept by a company or other body or in a manner directed by or under any enactment. 15
- (4) In its application to registered land within the meaning of the Land Registration Act 2002, subsection (2) has effect subject to section 27 of that Act (dispositions required to be registered).
- (5) In this section “relevant charity merger” has the same meaning as in section 75C. 20
- (6) In this section –
- (a) any reference to the transferor, in relation to a relevant charity merger, is a reference to the transferor (or one of the transferors) within the meaning of section 75C above, and 25
- (b) any reference to all of the transferor’s property, where the transferor is a charity within section 75C(5), is a reference to all of the transferor’s unrestricted property (within the meaning of that provision).
- (7) In this section any reference to the transferee, in relation to a relevant charity merger, is a reference to – 30
- (a) the transferee (within the meaning of section 75C above), if it is a company or other body corporate, and
- (b) otherwise, to the charity trustees of the transferee (within the meaning of that section). 35
- 75F Effect of registering charity merger on gifts to transferor**
- (1) This section applies where a relevant charity merger is registered in the register of charity mergers.
- (2) Any gift which – 40
- (a) is expressed as a gift to the transferor, and
- (b) takes effect on or after the date of registration of the merger, takes effect as a gift to the transferee, unless it is an excluded gift.
- (3) A gift is an “excluded gift” if – 45
- (a) the transferor is a charity within section 75C(5), and
- (b) the gift is intended to be held subject to the trusts on which the whole or part of the charity’s permanent endowment is held.

- (4) In this section –
“relevant charity merger” has the same meaning as in section 75C;
and
“transferor” and “transferee” have the same meanings as in section 75E.”

5

PART 3

FUNDING FOR CHARITABLE, BENEVOLENT OR PHILANTHROPIC INSTITUTIONS

CHAPTER 1

PUBLIC CHARITABLE COLLECTIONS

Preliminary

10

45 Regulation of public charitable collections

- (1) This Chapter regulates public charitable collections, which are of the following two types –
(a) collections in a public place; and
(b) door to door collections. 15
- (2) For the purposes of this Chapter –
(a) “public charitable collection” means (subject to section 46) a charitable appeal which is made –
(i) in any public place, or
(ii) by means of visits to houses or business premises (or both); 20
(b) “charitable appeal” means an appeal to members of the public to give money or other property which is made in association with a representation that the whole or any part of its proceeds is to be applied for charitable, benevolent or philanthropic purposes;
(c) a “collection in a public place” is a public charitable collection that is made in a public place, as mentioned in paragraph (a)(i); 25
(d) a “door to door collection” is a public charitable collection that is made by means of visits to houses or business premises (or both), as mentioned in paragraph (a)(ii).
- (3) For the purposes of subsection (2)(b) – 30
(a) the reference to the giving of money is to doing so by whatever means; and
(b) it does not matter whether the giving of money or other property is for consideration or otherwise.
- (4) An appeal to members of the public (other than one falling within section 46(1)) is a public charitable collection for the purposes of this Chapter if – 35
(a) it consists in or includes the making of an offer to sell goods or to supply services, or the exposing of goods for sale, to members of the public, and
(b) it is made as mentioned in sub-paragraph (i) or (ii) of subsection (2)(a) and in association with a representation that the whole or any part of its proceeds is to be applied for charitable, benevolent or philanthropic purposes. 40

- (5) Subsection (4) is not to be taken to prejudice the generality of subsection (2)(b).
- (6) In this section –
- “business premises” means any premises used for business or other commercial purposes;
 - “house” includes any part of a building constituting a separate dwelling; 5
 - “public place” means –
 - (a) any highway, and
 - (b) (subject to subsection (7)) any other place to which, at any time when the appeal is made, members of the public have or are permitted to have access and which either –
 - (i) is not within a building, or
 - (ii) if within a building, is a public area within any station, airport or shopping precinct or any other similar public area. 10
- (7) In subsection (6), paragraph (b) of the definition of “public place” does not include – 15
- (a) any place to which members of the public are permitted to have access only if any payment or ticket required as a condition of access has been made or purchased; or
 - (b) any place to which members of the public are permitted to have access only by virtue of permission given for the purposes of the appeal in question. 20

46 Charitable appeals that are not public charitable collections

- (1) A charitable appeal is not a public charitable collection if the appeal –
- (a) is made in the course of a public meeting; or 25
 - (b) is made –
 - (i) on land within a churchyard or burial ground contiguous or adjacent to a place of public worship, or
 - (ii) on other land occupied for the purposes of a place of public worship and contiguous or adjacent to it, 30
 where the land is enclosed or substantially enclosed (whether by any wall or building or otherwise); or
 - (c) is made on land to which members of the public have access only –
 - (i) by virtue of the express or implied permission of the occupier of the land, or 35
 - (ii) by virtue of any enactment, and the occupier is the promoter of the collection; or
 - (d) is an appeal to members of the public to give money or other property by placing it in an unattended receptacle.
- (2) For the purposes of subsection (1)(c) “the occupier”, in relation to unoccupied land, means the person entitled to occupy it. 40
- (3) For the purposes of subsection (1)(d) a receptacle is unattended if it is not in the possession or custody of a person acting as a collector.

47 Other definitions for purposes of this Chapter

- (1) In this Chapter – 45

- “charitable, benevolent or philanthropic institution” means –
- (a) a charity, or
 - (b) an institution (other than a charity) which is established for charitable, benevolent, or philanthropic purposes;
- “collector”, in relation to a public charitable collection, means any person by whom the appeal in question is made (whether made by him alone or with others and whether made by him for remuneration or otherwise); 5
- “local authority” means a unitary authority, the council of a district so far as it is not a unitary authority, the council of a London borough or of a Welsh county or county borough, the Common Council of the City of London or the Council of the Isles of Scilly; 10
- “prescribed” means prescribed by regulations under section 63;
- “proceeds”, in relation to a public charitable collection, means all money or other property given (whether for consideration or otherwise) in response to the charitable appeal in question; 15
- “promoter”, in relation to a public charitable collection, means –
- (a) a person who (whether alone or with others and whether for remuneration or otherwise) organises or controls the conduct of the charitable appeal in question, or 20
 - (b) where there is no person acting as mentioned in paragraph (a), any person who acts as a collector in respect of the collection, and associated expressions are to be construed accordingly;
- “public collections certificate” means a certificate issued by the Commission under section 52. 25
- (2) In subsection (1) “unitary authority” means –
- (a) the council of a county so far as it is the council for an area for which there are no district councils;
 - (b) the council of any district comprised in an area for which there is no county council. 30
- (3) The functions exercisable under this Chapter by a local authority are to be exercisable –
- (a) as respects the Inner Temple, by its Sub-Treasurer, and
 - (b) as respects the Middle Temple, by its Under Treasurer;
- and references in this Chapter to a local authority or to the area of a local authority are to be construed accordingly. 35

Restrictions on conducting collections

48 Restrictions on conducting collections in a public place

- (1) A collection in a public place must not be conducted unless –
- (a) the promoters of the collection hold a public collections certificate in force under section 52 in respect of the collection, and 40
 - (b) the collection is conducted in accordance with a permit issued under section 59 by the local authority in whose area it is conducted.
- (2) Subsection (1) does not apply to a public charitable collection which is an exempt collection by virtue of section 50 (local, short-term collections). 45
- (3) Where –

- (a) a collection in a public place is conducted in contravention of subsection (1), and
 - (b) the circumstances of the case do not fall within section 50(6),
- every promoter of the collection is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale. 5

49 Restrictions on conducting door to door collections

- (1) A door to door collection must not be conducted unless the promoters of the collection –
 - (a) hold a public collections certificate in force under section 52 in respect of the collection, and 10
 - (b) have within the prescribed period falling before the day (or the first of the days) on which the collection takes place –
 - (i) notified the local authority in whose area the collection is to be conducted of the matters mentioned in subsection (3), and
 - (ii) provided that authority with a copy of the certificate mentioned in paragraph (a). 15
- (2) Subsection (1) does not apply to a door to door collection which is an exempt collection by virtue of section 50 (local, short-term collections).
- (3) The matters referred to in subsection (1)(b)(i) are –
 - (a) the purpose for which the proceeds of the appeal are to be applied; 20
 - (b) the prescribed particulars of when the collection is to be conducted;
 - (c) the locality within which the collection is to be conducted; and
 - (d) such other matters as may be prescribed.
- (4) Where –
 - (a) a door to door collection is conducted in contravention of subsection (1), and 25
 - (b) the circumstances of the case do not fall within section 50(6),

every promoter of the collection is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale. 30

This is subject to subsection (5).
- (5) Where –
 - (a) a door to door collection is conducted in contravention of subsection (1),
 - (b) the appeal is for goods only, and
 - (c) the circumstances of the case do not fall within section 50(6), 35

every promoter of the collection is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (6) In subsection (5) “goods” includes all personal chattels other than things in action and money.

50 Exemption for local, short-term collections

- (1) A public charitable collection is an exempt collection if –
 - (a) it is a local, short-term collection (see subsection (2)), and
 - (b) the promoters notify the local authority in whose area it is to be conducted of the matters mentioned in subsection (3) within the

prescribed period falling before the day (or the first of the days) on which the collection takes place,
unless, within the prescribed period beginning with the date when they are so notified, the local authority serve a notice under subsection (4) on the promoters.

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- (2) A public charitable collection is a local, short term collection if –
- (a) the appeal is local in character; and
 - (b) the duration of the appeal does not exceed the prescribed period of time.

- (3) The matters referred to in subsection (1)(b) are –
- (a) the purpose for which the proceeds of the appeal are to be applied;
 - (b) the date or dates on which the collection is to be conducted;
 - (c) the place at which, or the locality within which, the collection is to be conducted; and
 - (d) such other matters as may be prescribed.

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- (4) Where it appears to the local authority –
- (a) that the collection is not a local, short-term collection, or
 - (b) that the promoters or any of them have or has on any occasion –
 - (i) breached any provision of regulations made under section 63, or
 - (ii) been convicted of an offence within section 53(2)(a)(i) to (v),they must serve on the promoters written notice of their decision to that effect and the reasons for their decision.

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- (5) That notice must also state the right of appeal conferred by section 62(1) and the time within which such an appeal must be brought.

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- (6) Where –
- (a) a collection in a public place is conducted otherwise than in accordance with section 48(1) or a door to door collection is conducted otherwise than in accordance with section 49(1), and
 - (b) the collection is a local, short term collection but the promoters do not notify the local authority as mentioned in subsection (1)(b),
- every promoter of the collection is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

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Public collections certificates

51 Applications for certificates

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- (1) A person or persons proposing to promote public charitable collections (other than exempt collections) may apply to the Charity Commission for a public collections certificate in respect of those collections.

- (2) The application must be made –
- (a) within the specified period falling before the first of the collections is to commence, or
 - (b) before such later date as the Commission may allow in the case of that application.

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- (3) The application must –

- (a) be made in such form as may be specified,
 - (b) specify the period for which the certificate is sought (which must be no more than 5 years), and
 - (c) contain such other information as may be specified.
- (4) An application under this section may be made for a public collections certificate in respect of a single collection; and the references in this Chapter, in the context of such certificates, to public charitable collections are to be read accordingly. 5
- (5) In subsections (2) and (3) “specified” means specified in regulations made by the Commission after consulting such persons or bodies of persons as it considers appropriate. 10
- (6) Regulations under subsection (5)–
- (a) must be published in such manner as the Commission considers appropriate,
 - (b) may make different provision for different cases or descriptions of case, and 15
 - (c) may make such incidental, supplementary, consequential or transitional provision as the Commission considers appropriate.
- (7) In this section “exempt collection” means a public charitable collection which is an exempt collection by virtue of section 50. 20

52 Determination of applications and issue of certificates

- (1) On receiving an application for a public collections certificate made in accordance with section 51, the Commission may make such inquiries (whether under section 54 or otherwise) as it thinks fit.
- (2) The Commission must, after making any such inquiries, determine the application by either – 25
- (a) issuing a public collections certificate in respect of the collections, or
 - (b) refusing the application on one or more of the grounds specified in section 53(1).
- (3) A public collections certificate – 30
- (a) must specify such matters as may be prescribed, and
 - (b) shall (subject to section 56) be in force for – 35
 - (i) the period specified in the application in accordance with section 51(3)(b), or
 - (ii) such shorter period as the Commission thinks fit.
- (4) The Commission may, at the time of issuing a public collections certificate, attach to it such conditions as it thinks fit.
- (5) Conditions attached under subsection (4) may include conditions prescribed for the purposes of that subsection.
- (6) The Commission must secure that the terms of any conditions attached under subsection (4) are consistent with the provisions of any regulations under section 63 (whether or not prescribing conditions for the purposes of that subsection). 40
- (7) Where the Commission –

- (a) refuses to issue a certificate, or
 - (b) attaches any condition to it,
- it must serve on the applicant written notice of its decision and the reasons for its decision.
- (8) That notice must also state the right of appeal conferred by section 57(1) and the time within which such an appeal must be brought. 5

53 Grounds for refusing to issue a certificate

- (1) The grounds on which the Commission may refuse an application for a public collections certificate are—
- (a) that the applicant has been convicted of a relevant offence; 10
 - (b) where the applicant is a person other than a charitable, benevolent or philanthropic institution for whose benefit the collections are proposed to be conducted, that the Commission is not satisfied that the applicant is authorised (whether by any such institution or by any person acting on behalf of any such institution) to promote the collections; 15
 - (c) that it appears to the Commission that the applicant, in promoting any other collection authorised under this Chapter or under section 119 of the 1982 Act, failed to exercise the required due diligence;
 - (d) that the Commission is not satisfied that the applicant will exercise the required due diligence in promoting the proposed collections; 20
 - (e) that it appears to the Commission that the amount likely to be applied for charitable, benevolent or philanthropic purposes in consequence of the proposed collections would be inadequate, having regard to the likely amount of the proceeds of the collections;
 - (f) that it appears to the Commission that the applicant or any other person would be likely to receive an amount by way of remuneration in connection with the collections that would be excessive, having regard to all the circumstances; 25
 - (g) that the applicant has failed to provide information—
 - (i) required for the purposes of the application for the certificate or a previous application, or
 - (ii) in response to a request under section 54(1);
 - (h) that it appears to the Commission that information so provided to it by the applicant is false or misleading in a material particular;
 - (i) that it appears to the Commission that the applicant or any person authorised by him— 35
 - (i) has breached any conditions attached to a previous public collections certificate, or
 - (ii) has persistently breached any conditions attached to a permit issued under section 59; 40
 - (j) that it appears to the Commission that the applicant or any person authorised by him has on any occasion breached any provision of regulations made under section 63(1)(b).
- (2) For the purposes of subsection (1)—
- (a) a “relevant offence” is— 45
 - (i) an offence under section 5 of the 1916 Act;
 - (ii) an offence under the 1939 Act;

-
- (iii) an offence under section 119 of the 1982 Act or regulations made under it;
 - (iv) an offence under this Chapter;
 - (v) an offence involving dishonesty; or
 - (vi) an offence of a kind the commission of which would, in the opinion of the Commission, be likely to be facilitated by the issuing to the applicant of a public collections certificate; and 5
- (b) the “required due diligence” is due diligence –
- (i) to secure that persons authorised by the applicant to act as collectors for the purposes of the collection were (or will be) fit and proper persons; 10
 - (ii) to secure that such persons complied (or will comply) with the provisions of regulations under section 63(1)(b) of this Act or (as the case may be) section 119 of the 1982 Act; or
 - (iii) to prevent badges or certificates of authority being obtained by persons other than those the applicant had so authorised. 15
- (3) Where an application for a certificate is made by more than one person, any reference to the applicant in subsection (1) or (2) is to be construed as a reference to any of the applicants.
- (4) Subject to subsections (5) and (6), the reference in subsection (2)(b)(iii) to badges or certificates of authority is a reference to badges or certificates of authority in a form prescribed by regulations under section 63(1)(b) of this Act or (as the case may be) under section 119 of the 1982 Act. 20
- (5) Subsection (2)(b) applies to the conduct of the applicant (or any of the applicants) in relation to any public charitable collection authorised – 25
- (a) under regulations made under section 5 of the 1916 Act (collection of money or sale of articles in a street or other public place), or
 - (b) under the 1939 Act (collection of money or other property by means of visits from house to house),
- as it applies to his conduct in relation to a collection authorised under this Chapter, but subject to the modifications set out in subsection (6). 30
- (6) The modifications are –
- (a) in the case of a collection authorised under regulations made under the 1916 Act –
 - (i) the reference in subsection (2)(b)(ii) to regulations under section 63(1)(b) of this Act is to be construed as a reference to the regulations under which the collection in question was authorised, and 35
 - (ii) the reference in subsection (2)(b)(iii) to badges or certificates of authority is to be construed as a reference to any written authority provided to a collector pursuant to those regulations; and 40
 - (b) in the case of a collection authorised under the 1939 Act –
 - (i) the reference in subsection (2)(b)(ii) to regulations under section 63(1)(b) of this Act is to be construed as a reference to regulations under section 4 of that Act, and 45
 - (ii) the reference in subsection (2)(b)(iii) to badges or certificates of authority is to be construed as a reference to badges or certificates of authority in a form prescribed by such regulations. 50

- (7) In subsections (1)(c) and (5) a reference to a collection authorised under this Chapter is a reference to a public charitable collection that –
- (a) is conducted in accordance with section 48 or section 49 (as the case may be), or
 - (b) is an exempt collection by virtue of section 50. 5
- (8) In this section –
- “the 1916 Act” means the Police, Factories, &c (Miscellaneous Provisions) Act 1916 (c. 31);
 - “the 1939 Act” means the House to House Collections Act 1939 (c. 44); and
 - “the 1982 Act” means the Civic Government (Scotland) Act 1982 (c. 45). 10
- 54 Power to call for information and documents**
- (1) The Commission may request –
- (a) any applicant for a public collections certificate, or
 - (b) any person to whom such a certificate has been issued,
- to provide it with any information in his possession, or document in his custody or under this control, which is relevant to the exercise of any of its functions under this Chapter. 15
- (2) Nothing in this section affects the power conferred on the Commission by section 9 of the 1993 Act.
- 55 Transfer of certificate between trustees of unincorporated charity** 20
- (1) One or more individuals to whom a public collections certificate has been issued (“the holders”) may apply to the Commission for a direction that the certificate be transferred to one or more other individuals (“the recipients”).
- (2) An application under subsection (1) must –
- (a) be in such form as may be specified, and 25
 - (b) contain such information as may be specified.
- (3) The Commission may direct that the certificate be transferred if it is satisfied that –
- (a) each of the holders is or was a trustee of a charity which is not a body corporate; 30
 - (b) each of the recipients is a trustee of that charity and consents to the transfer; and
 - (c) the charity trustees consent to the transfer.
- (4) Where the Commission refuses to direct that a certificate be transferred, it must serve on the holders written notice of – 35
- (a) its decision, and
 - (b) the reasons for its decision.
- (5) That notice must also state the right of appeal conferred by section 57(2) and the time within which such an appeal must be brought.
- (6) Subsections (5) and (6) of section 51 apply for the purposes of subsection (2) of this section as they apply for the purposes of subsection (3) of that section. 40
- (7) Except as provided by this section, a public collections certificate is not transferable.

56 Withdrawal or variation etc. of certificates

- (1) Where subsection (2), (3) or (4) applies, the Commission may –
- (a) withdraw a public collections certificate,
 - (b) suspend such a certificate,
 - (c) attach any condition (or further condition) to such a certificate, or 5
 - (d) vary any existing condition of such a certificate.
- (2) This subsection applies where the Commission –
- (a) has reason to believe there has been a change in the circumstances which prevailed at the time when it issued the certificate, and
 - (b) is of the opinion that, if the application for the certificate had been made 10
in the new circumstances, it would not have issued the certificate or would have issued it subject to different or additional conditions.
- (3) This subsection applies where –
- (a) the holder of a certificate has unreasonably refused to provide any information or document in response to a request under section 54(1), or 15
 - (b) the Commission has reason to believe that information provided to it by the holder of a certificate (or, where there is more than one holder, by any of them) for the purposes of the application for the certificate, or in response to such a request, was false or misleading in a material particular. 20
- (4) This subsection applies where the Commission has reason to believe that there has been or is likely to be a breach of any condition of a certificate, or that a breach of such a condition is continuing.
- (5) Any condition imposed at any time by the Commission under subsection (1) (whether by attaching a new condition to the certificate or by varying an existing condition) must be one that it would be appropriate for the Commission to attach to the certificate under section 52(4) if the holder was applying for it in the circumstances prevailing at that time. 25
- (6) The exercise by the Commission of the power conferred by paragraph (b), (c) or (d) of subsection (1) on one occasion does not prevent it from exercising any of the powers conferred by that subsection on a subsequent occasion; and on any subsequent occasion the reference in subsection (2)(a) to the time when the Commission issued the certificate is a reference to the time when it last exercised any of those powers. 30 35
- (7) Where the Commission –
- (a) withdraws or suspends a certificate,
 - (b) attaches a condition to a certificate, or
 - (c) varies an existing condition of a certificate,
- it must serve on the holder written notice of its decision and the reasons for its decision. 40
- (8) That notice must also state the right of appeal conferred by section 57(3) and the time within which such an appeal must be brought.
- (9) If the Commission –
- (a) considers that the interests of the public require a decision by it under this section to have immediate effect, and 45

- (b) includes a statement to that effect and the reasons for it in the notice served under subsection (7),
the decision takes effect when that notice is served on the holder.
- (10) In any other case the certificate shall continue to have effect as if it had not been withdrawn or suspended or (as the case may be) as if the condition had not been attached or varied – 5
- (a) until the time for bringing an appeal under section 57(3) has expired, or
(b) if such an appeal is duly brought, until the determination or abandonment of the appeal.
- (11) A certificate suspended under this section shall (subject to any appeal and any withdrawal of the certificate) remain suspended until – 10
- (a) such time as the Commission may by notice direct that the certificate is again in force, or
(b) the end of the period of six months beginning with the date on which the suspension takes effect, 15
whichever is the sooner.

57 Appeals against decisions of the Commission

- (1) A person who has duly applied to the Commission for a public collections certificate may appeal to the Charity Tribunal (“the Tribunal”) against a decision of the Commission under section 52 – 20
- (a) to refuse to issue the certificate, or
(b) to attach any condition to it.
- (2) A person to whom a public collections certificate has been issued may appeal to the Tribunal against a decision of the Commission not to direct that the certificate be transferred under section 55. 25
- (3) A person to whom a public collections certificate has been issued may appeal to the Tribunal against a decision of the Commission under section 56 –
- (a) to withdraw or suspend the certificate,
(b) to attach a condition to the certificate, or
(c) to vary an existing condition of the certificate. 30
- (4) The Attorney General may appeal to the Tribunal against a decision of the Commission –
- (a) to issue, or to refuse to issue, a certificate,
(b) to attach, or not to attach, any condition to a certificate (whether under section 52 or section 56), 35
(c) to direct, or not to direct, that a certificate be transferred under section 55,
(d) to withdraw or suspend, or not to withdraw or suspend, a certificate, or
(e) to vary, or not to vary, an existing condition of a certificate.
- (5) In determining an appeal under this section, the Tribunal – 40
- (a) must consider afresh the decision appealed against, and
(b) may take into account evidence which was not available to the Commission.
- (6) On an appeal under this section, the Tribunal may –
- (a) dismiss the appeal, 45

- (b) quash the decision, or
 - (c) substitute for the decision another decision of a kind that the Commission could have made;
- and in any case the Tribunal may give such directions as it thinks fit, having regard to the provisions of this Chapter and of regulations under section 63. 5
- (7) If the Tribunal quashes the decision, it may remit the matter to the Commission (either generally or for determination in accordance with a finding made or direction given by the Tribunal).

Permits

58 Applications for permits to conduct collections in public places 10

- (1) A person or persons proposing to promote a collection in a public place (other than an exempt collection) in the area of a local authority may apply to the authority for a permit to conduct that collection.
- (2) The application must be made within the prescribed period falling before the day (or the first of the days) on which the collection is to take place, except as provided in subsection (4). 15
- (3) The application must –
- (a) specify the date or dates in respect of which it is desired that the permit, if issued, should have effect (which, in the case of two or more dates, must not span a period of more than 12 months); 20
 - (b) be accompanied by a copy of the public collections certificate in force under section 52 in respect of the proposed collection; and
 - (c) contain such information as may be prescribed.
- (4) Where an application (“the certificate application”) has been made in accordance with section 51 for a public collections certificate in respect of the collection and either – 25
- (a) the certificate application has not been determined by the end of the period mentioned in subsection (2) above, or
 - (b) the certificate application has been determined by the issue of such a certificate but at a time when there is insufficient time remaining for the application mentioned in subsection (2) (“the permit application”) to be made by the end of that period, 30
- the permit application must be made as early as practicable before the day (or the first of the days) on which the collection is to take place.
- (5) In this section “exempt collection” means a collection in a public place which is an exempt collection by virtue of section 50. 35

59 Determination of applications and issue of permits

- (1) On receiving an application made in accordance with section 58 for a permit in respect of a collection in a public place, a local authority must determine the application within the prescribed period by either – 40
- (a) issuing a permit in respect of the collection, or
 - (b) refusing the application on the ground specified in section 60(1).

- (2) Where a local authority issue such a permit, it shall (subject to section 61) have effect in respect of the date or dates specified in the application in accordance with section 58(3)(a).
- (3) At the time of issuing a permit under this section, a local authority may attach to it such conditions within paragraphs (a) to (d) below as they think fit, having regard to the local circumstances of the collection – 5
- (a) conditions specifying the day of the week, date, time or frequency of the collection;
 - (b) conditions specifying the locality or localities within their area in which the collection may be conducted; 10
 - (c) conditions regulating the manner in which the collection is to be conducted;
 - (d) such other conditions as may be prescribed for the purposes of this subsection.
- (4) A local authority must secure that the terms of any conditions attached under subsection (3) are consistent with the provisions of any regulations under section 63 (whether or not prescribing conditions for the purposes of that subsection). 15
- (5) Where a local authority –
- (a) refuse to issue a permit, or 20
 - (b) attach any condition to it,
- they must serve on the applicant written notice of their decision and the reasons for their decision.
- (6) That notice must also state the right of appeal conferred by section 62(2) and the time within which such an appeal must be brought. 25

60 Refusal of permits

- (1) The only ground on which a local authority may refuse an application for a permit to conduct a collection in a public place is that it appears to them that the collection would cause undue inconvenience to members of the public by reason of – 30
- (a) the day or the week or date on or in which,
 - (b) the time at which,
 - (c) the frequency with which, or
 - (d) the locality or localities in which,
- it is proposed to be conducted. 35
- (2) In making a decision under subsection (1), a local authority may have regard to the fact (where it is the case) that the collection is proposed to be conducted –
- (a) wholly or partly in a locality in which another collection in a public place is already authorised to be conducted under this Chapter, and 40
 - (b) on a day on which that other collection is already so authorised, or on the day falling immediately before, or immediately after, any such day.
- (3) A local authority must not, however, have regard to the matters mentioned in subsection (2) if it appears to them –

-
- (a) that the proposed collection would be conducted only in one location, which is on land to which members of the public would have access only –
- (i) by virtue of the express or implied permission of the occupier of the land, or 5
- (ii) by virtue of any enactment, and
- (b) that the occupier of the land consents to that collection being conducted there;
- and for this purpose “the occupier”, in relation to unoccupied land, means the person entitled to occupy it. 10
- (4) In this section a reference to a collection in a public place authorised under this Chapter is a reference to a collection in a public place that –
- (a) is conducted in accordance with section 48, or
- (b) is an exempt collection by virtue of section 50.
- 61 Withdrawal or variation etc. of permits** 15
- (1) Where subsection (2), (3) or (4) applies, a local authority who have issued a permit under section 59 may –
- (a) withdraw the permit,
- (b) attach any condition (or further condition) to the permit, or
- (c) vary any existing condition of the permit. 20
- (2) This subsection applies where the local authority –
- (a) have reason to believe that there has been a change in the circumstances which prevailed at the time when they issued the permit, and
- (b) are of the opinion that, if the application for the permit had been made in the new circumstances, they would not have issued the permit or would have issued it subject to different or additional conditions. 25
- (3) This subsection applies where the local authority have reason to believe that any information provided to them by the holder of a permit (or, where there is more than one holder, by any of them) for the purposes of the application for the permit was false or misleading in a material particular. 30
- (4) This subsection applies where the local authority have reason to believe that there has been or is likely to be a breach of any condition of a permit issued by them, or that a breach of such a condition is continuing.
- (5) Any condition imposed at any time by a local authority under subsection (1) (whether by attaching a new condition to the permit or by varying an existing condition) must be one that it would be appropriate for the authority to attach to the permit under section 59(3) if the holder was applying for it in the circumstances prevailing at that time. 35
- (6) The exercise by a local authority of the power conferred by paragraph (b) or (c) of subsection (1) on one occasion does not prevent them from exercising any of the powers conferred by that subsection on a subsequent occasion; and on any subsequent occasion the reference in subsection (2)(a) to the time when the local authority issued the permit is a reference to the time when they last exercised any of those powers. 40
- (7) Where under this section a local authority – 45
- (a) withdraw a permit,

- (b) attach a condition to a permit, or
 - (c) vary an existing condition of a permit,
- they must serve on the holder written notice of their decision and the reasons for their decision.
- (8) That notice must also state the right of appeal conferred by section 62(3) and the time within which such an appeal must be brought. 5
 - (9) Where a local authority withdraw a permit under this section, they must send a copy of their decision and the reasons for it to the Commission.
 - (10) Where a local authority under this section withdraw a permit, attach any condition to a permit, or vary an existing condition of a permit, the permit shall continue to have effect as if it had not been withdrawn or (as the case may be) as if the condition had not been attached or varied – 10
 - (a) until the time for bringing an appeal under section 62(3) has expired, or
 - (b) if such an appeal is duly brought, until the determination or abandonment of the appeal. 15

62 Appeals against decisions of local authority

- (1) A person who, in relation to a public charitable collection, has duly notified a local authority of the matters mentioned in section 50(3) may appeal to a magistrates' court against a decision of the local authority under section 50(4) – 20
 - (a) that the collection is not a local, short-term collection, or
 - (b) that the promoters or any of them has breached any such provision, or been convicted of any such offence, as is mentioned in paragraph (b) of that subsection.
- (2) A person who has duly applied to a local authority for a permit to conduct a collection in a public place in the authority's area may appeal to a magistrates' court against a decision of the authority under section 59 – 25
 - (a) to refuse to issue a permit, or
 - (b) to attach any condition to it.
- (3) A person to whom a permit has been issued may appeal to a magistrates' court against a decision of the local authority under section 61 – 30
 - (a) to withdraw the permit,
 - (b) to attach a condition to the permit, or
 - (c) to vary an existing condition of the permit.
- (4) An appeal under subsection (1), (2) or (3) shall be by way of complaint for an order, and the Magistrates' Courts Act 1980 (c.43) shall apply to the proceedings. 35
- (5) Any such appeal shall be brought within 14 days of the date of service on the person in question of the relevant notice under section 50(4), section 59(5) or (as the case may be) section 61(7); and for the purposes of this section an appeal shall be taken to be brought when the complaint is made. 40
- (6) An appeal against the decision of a magistrates' court on an appeal under subsection (1), (2) or (3) may be brought to the Crown Court.
- (7) On an appeal to a magistrates' court or the Crown Court under this section, the court may confirm, vary or reverse the local authority's decision and generally 45

give such directions as it thinks fit, having regard to the provisions of this Chapter and of any regulations under section 63.

- (8) On an appeal against a decision of a local authority under section 50(4), directions under subsection (7) may include a direction that the collection may be conducted – 5
- (a) on the date or dates notified in accordance with section 50(3)(b), or
 - (b) on such other date or dates as may be specified in the direction;
- and if so conducted the collection is to be regarded as one that is an exempt collection by virtue of section 50.
- (9) It shall be the duty of the local authority to comply with any directions given by the court under subsection (7); but the authority need not comply with any directions given by a magistrates' court – 10
- (a) until the time for bringing an appeal under subsection (6) has expired, or
 - (b) if such an appeal is duly brought, until the determination or abandonment of the appeal. 15

Supplementary

63 Regulations

- (1) The Secretary of State may make regulations – 20
- (a) prescribing the matters which a local authority are to take into account in determining whether a collection is local in character for the purposes of section 50(2)(a);
 - (b) for the purpose of regulating the conduct of public charitable collections;
 - (c) prescribing anything falling to be prescribed by virtue of any provision of this Chapter. 25
- (2) The matters which may be prescribed by regulations under subsection (1)(a) include – 30
- (a) the extent of the area within which the appeal is to be conducted;
 - (b) whether the appeal forms part of a series of appeals;
 - (c) the number of collectors making the appeal and whether they are acting for remuneration or otherwise;
 - (d) the financial resources (of any description) of any charitable, benevolent or philanthropic institution for whose benefit the appeal is to be conducted; 35
 - (e) where the promoters live or have any place of business.
- (3) Regulations under subsection (1)(b) may make provision – 40
- (a) about the keeping and publication of accounts;
 - (b) for the prevention of annoyance to members of the public;
 - (c) with respect to the use by collectors of badges and certificates of authority, or badges incorporating such certificates, including, in particular, provision – 45
 - (i) prescribing the form of such badges and certificates;
 - (ii) requiring a collector, on request, to permit his badge, or any certificate of authority held by him of the purposes of the collection, to be inspected by a constable or a duly authorised

- officer of a local authority, or by an occupier of any premises visited by him in the course of the collection;
- (d) for prohibiting persons under a prescribed age from acting as collectors, and prohibiting others from causing them so to act.
- (4) Nothing in subsection (2) or (3) prejudices the generality of subsection (1)(a) or (b). 5
- (5) Regulations under this section may provide that any failure to comply with a specified provision of the regulations is to be an offence punishable on summary conviction by a fine not exceeding level 2 on the standard scale.
- (6) Before making regulations under this section the Secretary of State must consult such persons or bodies of persons as he considers appropriate. 10

64 Offences

- (1) A person commits an offence if, in connection with any charitable appeal, he displays or uses –
- (a) a prescribed badge or prescribed certificate of authority which is not for the time being held by him for the purposes of the appeal pursuant to regulations under section 63, or 15
- (b) any badge or article, or any certificate or other document, so nearly resembling a prescribed badge or (as the case may be) a prescribed certificate of authority as to be likely to deceive a member of the public. 20
- (2) A person commits an offence if –
- (a) for the purposes of an application made under section 51 or section 58, or
- (b) for the purposes of section 49 or section 50,
- he knowingly or recklessly furnishes any information which is false or misleading in a material particular. 25
- (3) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (4) In subsection (1) “prescribed badge” and “prescribed certificate of authority” mean respectively a badge and a certificate of authority in such form as may be prescribed. 30

65 Offences by bodies corporate

- (1) Where any offence under this Chapter or any regulations made under it –
- (a) is committed by a body corporate, and
- (b) is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, 35
- he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly. 40
- (2) In subsection (1) “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

66 Service of documents

- (1) This section applies to any notice required to be served under this Chapter.
- (2) A notice to which this section applies may be served on a person (other than a body corporate) –
 - (a) by delivering it to that person; 5
 - (b) by leaving it at his last known address in the United Kingdom; or
 - (c) by sending it by post to him at that address.
- (3) A notice to which this section applies may be served on a body corporate by delivering it or sending it by post –
 - (a) to the registered or principal office of the body in the United Kingdom, or 10
 - (b) if it has no such office in the United Kingdom, to any place in the United Kingdom where it carries on business or conducts its activities (as the case may be).
- (4) A notice to which this section applies may also be served on a person (including a body corporate) by sending it by post to that person at an address notified by that person for the purposes of this subsection to the person or persons by whom it is required to be served. 15

CHAPTER 2

FUND-RAISING 20

67 Statements indicating benefits for charitable institutions and fund-raisers

- (1) Section 60 of the Charities Act 1992 (c. 41) (fund-raisers required to indicate institutions benefiting and arrangements for remuneration) is amended as follows.
- (2) In subsection (1) (statements by professional fund-raisers raising money for particular charitable institutions), for paragraph (c) substitute –
 - “(c) the method by which the fund-raiser’s remuneration in connection with the appeal is to be determined and the notifiable amount of that remuneration.” 25
- (3) In subsection (2) (statements by professional fund-raisers raising money for charitable purposes etc.), for paragraph (c) substitute –
 - “(c) the method by which his remuneration in connection with the appeal is to be determined and the notifiable amount of that remuneration.” 30
- (4) In subsection (3) (statements by commercial participators raising money for particular charitable institutions), for paragraph (c) substitute –
 - “(c) the notifiable amount of whichever of the following sums is applicable in the circumstances –
 - (i) the sum representing so much of the consideration given for goods or services sold or supplied by him as is to be given to or applied for the benefit of the institution or institutions concerned, 40

	(ii) the sum representing so much of any other proceeds of a promotional venture undertaken by him as is to be so given or applied, or	
	(iii) the sum of the donations by him in connection with the sale or supply of any such goods or services which are to be so given or supplied.”	5
(5)	After subsection (3) insert –	
	“(3A) In subsections (1) to (3) a reference to the “notifiable amount” of any remuneration or other sum is a reference –	
	(a) to the actual amount of the remuneration or sum, if that is known at the time when the statement is made; and	10
	(b) otherwise to the estimated amount of the remuneration or sum, calculated as accurately as is reasonably possible in the circumstances.”	
68	Statements indicating benefits for charitable institutions and collectors	15
	After section 60 of the 1992 Act insert –	
	“60A Other persons making appeals required to indicate institutions benefiting and arrangements for remuneration	
	(1) Subsections (1) and (2) of section 60 apply to a person acting for reward as a collector in respect of a public charitable collection as they apply to a professional fund-raiser.	20
	(2) But those subsections do not so apply to a person excluded by virtue of –	
	(a) subsection (3) below, or	
	(b) section 60B(1) (exclusion of lower-paid collectors).	25
	(3) Those subsections do not so apply to a person if –	
	(a) section 60(1) or (2) applies apart from subsection (1) (by virtue of the exception in section 58(2)(c) for persons treated as promoters), or	
	(b) subsection (4) or (5) applies,	30
	in relation to his acting for reward as a collector in respect of the collection mentioned in subsection (1) above.	
	(4) Where a person within subsection (6) solicits money or other property for the benefit of one or more particular charitable institutions, the solicitation shall be accompanied by a statement clearly indicating –	35
	(a) the name or names of the institution or institutions for whose benefit the solicitation is being made;	
	(b) if there is more than one such institution, the proportions in which the institutions are respectively to benefit;	
	(c) the fact that he is an officer, employee or trustee of the institution or company mentioned in subsection (6); and	40
	(d) the fact that he is receiving remuneration as an officer, employee or trustee or (as the case may be) for acting as a collector.	
	(5) Where a person within subsection (6) solicits money or other property for charitable, benevolent or philanthropic purposes of any description	45

- (rather than for the benefit of one or more particular charitable institutions), the solicitation shall be accompanied by a statement clearly indicating –
- (a) the fact that he is soliciting money or other property for those purposes and not for the benefit of any particular charitable institution or institutions; 5
 - (b) the method by which it is to be determined how the proceeds of the appeal are to be distributed between different charitable institutions; 10
 - (c) the fact that he is an officer, employee or trustee of the institution or company mentioned in subsection (6); and 10
 - (d) the fact that he is receiving remuneration as an officer, employee or trustee or (as the case may be) for acting as a collector. 5
- (6) A person is within this subsection if – 15
- (a) he is an officer or employee of a charitable institution or a company connected with any such institution, or a trustee of any such institution,
 - (b) he is acting as a collector in that capacity, and
 - (c) he receives remuneration either in his capacity as officer, employee or trustee or for acting as a collector. 20
- (7) But a person is not within subsection (6) if he is excluded by virtue of section 60B(4).
- (8) Where any requirement of – 25
- (a) subsection (1) or (2) of section 60, as it applies by virtue of subsection (1) above, or
 - (b) subsection (4) or (5) above,
- is not complied with in relation to any solicitation, the collector concerned shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale. 30
- (9) Section 60(8) and (9) apply in relation to an offence under subsection (8) above as they apply in relation to an offence under section 60(7).
- (10) In this section – 35
- “the appeal”, in relation to any solicitation by a collector, means the campaign or other fund-raising venture in the course of which the solicitation is made;
 - “collector” has the meaning given by section 47(1) of the Charities Act 2005;
 - “public charitable collection” has the meaning given by section 45 of that Act. 40
- 60B Exclusion of lower-paid collectors from provisions of section 60A**
- (1) Section 60(1) and (2) do not apply (by virtue of section 60A(1)) to a person who is under the earnings limit in subsection (2) below.
 - (2) A person is under the earnings limit in this subsection if he does not receive – 45
 - (a) more than –
 - (i) £5 per day, or

- (ii) £500 per year,
by way of remuneration for acting as a collector in relation to relevant collections, or
 - (b) more than £500 by way of remuneration for acting as a collector in relation to the collection mentioned in section 60A(1). 5
- (3) In subsection (2) “relevant collections” means public charitable collections conducted for the benefit of –
 - (a) the charitable institution or institutions, or
 - (b) the charitable, benevolent or philanthropic purposes,
for whose benefit the collection mentioned in section 60A(1) is conducted. 10
- (4) A person is not within section 60A(6) if he is under the earnings limit in subsection (5) below.
- (5) A person is under the earnings limit in this subsection if the remuneration received by him as mentioned in section 60A(6)(c) – 15
 - (a) is not more than –
 - (i) £5 per day, or
 - (ii) £500 per year, or
 - (b) if a lump sum, is not more than £500.
- (6) The Secretary of State may by order amend subsections (2) and (5) by substituting a different sum for any sum for the time being specified there.” 20

69 Reserve power to control fund-raising by charitable institutions

After section 64 of the 1992 Act insert –

- “64A Reserve power to control fund-raising by charitable institutions 25**
- (1) The Secretary of State may make such regulations as appear to him to be necessary or desirable for or in connection with regulating charity fund-raising.
 - (2) In this section “charity fund-raising” means activities which are carried on by – 30
 - (a) charitable institutions,
 - (b) persons managing charitable institutions, or
 - (c) persons or companies connected with such institutions,
and involve soliciting or otherwise procuring funds for the benefit of such institutions or companies connected with them, or for general charitable, benevolent or philanthropic purposes. 35But “activities” does not include primary purpose trading.
 - (3) Regulations under this section may, in particular, impose a good practice requirement on the persons managing charitable institutions in circumstances where – 40
 - (a) those institutions,
 - (b) the persons managing them, or
 - (c) persons or companies connected with such institutions,
are engaged in charity fund-raising.

- (4) A “good practice requirement” is a requirement to take all reasonable steps to ensure that the fund-raising is carried out in such a way that—
- (a) it does not unreasonably intrude on the privacy of those from whom funds are being solicited or procured;
 - (b) it does not involve the making of unreasonably persistent approaches to persons to donate funds; 5
 - (c) it does not result in undue pressure being placed on persons to donate funds;
 - (d) it does not involve the making of any false or misleading representation about any of the matters mentioned in subsection (5). 10
- (5) The matters are—
- (a) the extent or urgency of any need for funds on the part of any charitable institution or company connected with such an institution; 15
 - (b) any use to which funds donated in response to the fund-raising are to be put by such an institution or company;
 - (c) the activities, achievements or finances of such an institution or company.
- (6) Regulations under this section may provide that a person who persistently fails, without reasonable excuse, to comply with any specified requirement of the regulations is to be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale. 20
- (7) For the purposes of this section— 25
- (a) “funds” means money or other property;
 - (b) “general charitable, benevolent or philanthropic purposes” means charitable, benevolent or philanthropic purposes other than those associated with one or more particular institutions;
 - (c) the persons “managing” a charitable institution are the charity trustees or other persons having the general control and management of the administration of the institution; and 30
 - (d) a person is “connected” with a charitable institution if he is an employee or agent of—
 - (i) the institution, 35
 - (ii) the persons managing it, or
 - (iii) a company connected with it,
 or he is a volunteer acting on behalf of the institution or such a company.
- (8) In this section “primary purpose trading”, in relation to a charitable institution, means any trade carried on by the institution or a company connected with it where—
- (a) the trade is carried on in the course of the actual carrying out of a primary purpose of the institution; or
 - (b) the work in connection with the trade is mainly carried out by beneficiaries of the institution.” 45

CHAPTER 3

FINANCIAL ASSISTANCE

- 70 Power of Secretary of State to give financial assistance to charitable, benevolent or philanthropic institutions**
- (1) The Secretary of State may give financial assistance to any charitable, benevolent or philanthropic institution in respect of any of the institution's activities which directly or indirectly benefit the whole or any part of England (whether or not they also benefit any other area). 5
- (2) Financial assistance under subsection (1) may be given in any form and, in particular, may be given by way of – 10
- (a) grants,
 - (b) loans,
 - (c) guarantees, or
 - (d) incurring expenditure for the benefit of the person assisted.
- (3) Financial assistance under subsection (1) may be given on such terms and conditions as the Secretary of State considers appropriate. 15
- (4) Those terms and conditions may, in particular, include provision as to –
- (a) the purposes for which the assistance may be used;
 - (b) circumstances in which the assistance is to be repaid, or otherwise made good, to the Secretary of State, and the manner in which that is to be done; 20
 - (c) the making of reports to the Secretary of State regarding the uses to which the assistance has been put;
 - (d) the keeping, and making available for inspection, of accounts and other records; 25
 - (e) the carrying out of examinations by the Comptroller and Auditor General into the economy, efficiency and effectiveness with which the assistance has been used;
 - (f) the giving by the institution of financial assistance in any form to other persons on such terms and conditions as the institution or the Secretary of State considers appropriate. 30
- (5) A person receiving assistance under this section must comply with the terms and conditions on which it is given, and compliance may be enforced by the Secretary of State.
- (6) The Secretary of State may make arrangements for – 35
- (a) assistance under subsection (1) to be given, or
 - (b) any other of his functions under this section to be exercised, by some other person.
- (7) Arrangements under subsection (6) may make provision for the functions concerned to be so exercised – 40
- (a) either wholly or to such extent as may be specified in the arrangements, and
 - (b) either generally or in such cases or circumstances as may be so specified,

but do not prevent the functions concerned from being exercised by the Secretary of State.

- (8) As soon as possible after 31st March in each year, the Secretary of State must make a report on the exercise of powers under this section during the period of 12 months ending on that day. 5
- (9) The Secretary of State must lay a copy of the report before each House of Parliament.
- (10) In this section “charitable, benevolent or philanthropic institution” means –
- (a) a charity, or
 - (b) an institution (other than a charity) which is established for charitable, benevolent or philanthropic purposes. 10

71 Power of National Assembly for Wales to give financial assistance to charitable, benevolent or philanthropic institutions

- (1) The National Assembly for Wales may give financial assistance to any charitable, benevolent or philanthropic institution in respect of any of the institution’s activities which directly or indirectly benefit the whole or any part of Wales (whether or not they also benefit any other area). 15
- (2) Financial assistance under subsection (1) may be given in any form and, in particular, may be given by way of –
- (a) grants, 20
 - (b) loans,
 - (c) guarantees, or
 - (d) incurring expenditure for the benefit of the person assisted.
- (3) Financial assistance under subsection (1) may be given on such terms and conditions as the Assembly considers appropriate. 25
- (4) Those terms and conditions may, in particular, include provision as to –
- (a) the purposes for which the assistance may be used;
 - (b) circumstances in which the assistance is to be repaid, or otherwise made good, to the Assembly, and the manner in which that is to be done; 30
 - (c) the making of reports to the Assembly regarding the uses to which the assistance has been put;
 - (d) the keeping, and making available for inspection, of accounts and other records;
 - (e) the carrying out of examinations by the Auditor General for Wales into the economy, efficiency and effectiveness with which the assistance has been used; 35
 - (f) the giving by the institution of financial assistance in any form to other persons on such terms and conditions as the institution or the Assembly considers appropriate. 40
- (5) A person receiving assistance under this section must comply with the terms and conditions on which it is given, and compliance may be enforced by the Assembly.
- (6) The Assembly may make arrangements for –
- (a) assistance under subsection (1) to be given, or 45

- (b) any other of its functions under this section to be exercised, by some other person.
- (7) Arrangements under subsection (6) may make provision for the functions concerned to be so exercised –
 - (a) either wholly or to such extent as may be specified in the arrangements, and 5
 - (b) either generally or in such cases or circumstances as may be so specified, but do not prevent the functions concerned from being exercised by the Assembly. 10
- (8) After 31st March in each year, the Assembly must publish a report on the exercise of powers under this section during the period of 12 months ending on that day.
- (9) In this section “charitable, benevolent or philanthropic institution” means –
 - (a) a charity, or 15
 - (b) an institution (other than a charity) which is established for charitable, benevolent or philanthropic purposes.

PART 4

FINAL PROVISIONS

- 72 Report on operation of this Act** 20
- (1) The Secretary of State must, before the end of the period of five years beginning with the day on which this Act is passed, appoint a person to review generally the operation of this Act.
 - (2) The review must address, in particular, the following matters –
 - (a) the effect of the Act on – 25
 - (i) excepted charities,
 - (ii) public confidence in charities,
 - (iii) the level of charitable donations, and
 - (iv) the willingness of individuals to volunteer,
 - (b) the status of the Charity Commission as a government department, and 30
 - (c) any other matters the Secretary of State considers appropriate.
 - (3) After the person appointed under subsection (1) has completed his review, he must compile a report of his conclusions.
 - (4) The Secretary of State must lay before Parliament a copy of the report mentioned in subsection (3). 35
 - (5) For the purposes of this section a charity is an excepted charity if –
 - (a) it falls within paragraph (b) or (c) of section 3A(2) of the 1993 Act (as amended by section 9 of this Act), or
 - (b) it does not fall within either of those paragraphs but, immediately before the coming into force of section 9 of this Act, it fell within section 3(5)(b) or (5B)(b) of the 1993 Act. 40

73 Orders and regulations

- (1) Any power of the Secretary of State to make an order or regulations under this Act is exercisable by statutory instrument.
- (2) Any such power –
- (a) may be exercised so as to make different provision for different cases or descriptions of case or different purposes or areas, and 5
 - (b) includes power to make such incidental, supplementary, consequential, transitory, transitional or saving provision as the Secretary of State considers appropriate.
- (3) Subject to subsection (4), orders or regulations made by the Secretary of State under this Act are to be subject to annulment in pursuance of a resolution of either House of Parliament. 10
- (4) Subsection (3) does not apply to –
- (a) any order under section 11,
 - (b) any regulations under section 13(4)(b) which amend any provision of an Act, 15
 - (c) any order under section 74(4) which amends or repeals any provision of an Act or an Act of the Scottish Parliament,
 - (d) any order under section 75, or
 - (e) any order under section 77(2). 20
- (5) No order or regulations within subsection (4)(a), (b), (c) or (d) may be made by the Secretary of State (whether alone or with other provisions) unless a draft of the order or regulations has been laid before, and approved by resolution of, each House of Parliament.
- (6) If a draft of an instrument containing an order under section 11 would, apart from this subsection, be treated for the purposes of the Standing Orders of either House of Parliament as a hybrid instrument, it is to proceed in that House as if it were not such an instrument. 25

74 Amendments, repeals, revocations and transitional provisions

- (1) Schedule 8 contains minor and consequential amendments. 30
- (2) Schedule 9 makes provision for the repeal and revocation of enactments (including enactments which are spent).
- (3) Schedule 10 contains transitional provisions and savings.
- (4) The Secretary of State may by order make –
- (a) such supplementary, incidental or consequential provision, or 35
 - (b) such transitory, transitional or saving provision,
- as he considers appropriate for the general purposes, or any particular purposes, of this Act or in consequence of, or for giving full effect to, any provision made by this Act.
- (5) An order under subsection (4) may amend, repeal, revoke or otherwise modify any enactment. 40

75 Pre-consolidation amendments

- (1) The Secretary of State may by order make such amendments of the enactments relating to charities as in his opinion facilitate, or are otherwise desirable in connection with, the consolidation of the whole or part of those enactments.
- (2) An order under this section shall not come into force unless – 5
(a) a single Act, or
(b) a group of two or more Acts,
is passed consolidating the whole or part of the enactments relating to charities (with or without any other enactments).
- (3) If such an Act or group of Acts is passed, the order shall (by virtue of this subsection) come into force immediately before the Act or group of Acts comes into force. 10
- (4) Once an order under this section has come into force, no further order may be made under this section.
- (5) In this section – 15
“amendments” includes repeals, revocations and modifications, and
“the enactments relating to charities” means –
(a) the Charities Act 1992 (c. 41), the Charities Act 1993 (c. 10) and this Act,
(b) any other enactment relating to institutions which fall within 20
section 1(1) of this Act, and
(c) any other enactment, so far as forming part of the law of England and Wales, which makes provision relating to bodies or other institutions which are charities under the law of Scotland or Northern Ireland, 25
and section 76(2)(a) (definition of “charity”) does not apply for the purposes of this section.

76 Interpretation

- (1) In this Act – 30
“the 1992 Act” means the Charities Act 1992;
“the 1993 Act” means the Charities Act 1993.
- (2) In this Act – 35
(a) “charity” has the meaning given by section 1(1);
(b) “charitable purposes” has (in accordance with section 2(6)) the meaning given by section 2(1); and
(c) “charity trustees” has the same meaning as in the 1993 Act;
but (subject to subsection (3) below) the exclusions contained in section 96(2) of the 1993 Act (ecclesiastical corporations etc.) have effect in relation to references to a charity in this Act as they have effect in relation to such references in that Act. 40
- (3) Those exclusions do not have effect in relation to references in section 1 or any reference to the law relating to charities in England and Wales.
- (4) In this Act “enactment” includes – 45
(a) any provision of subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)),

-
- (b) a provision of a Measure of the Church Assembly or of the General Synod of the Church of England, and
- (c) (in the context of section 6(5) or 74(5)) any provision made by or under an Act of the Scottish Parliament or Northern Ireland legislation, and references to enactments include enactments passed or made after the passing of this Act. 5
- (5) In this Act “institution” means an institution whether incorporated or not, and includes a trust or undertaking.
- (6) Subsections (2) to (5) apply except where the context otherwise requires.
- 77 Commencement 10**
- (1) The following provisions come into force on the day on which this Act is passed –
- (a) section 13(4) and (5),
- (b) section 73,
- (c) section 74(4) and (5), 15
- (d) section 76, and
- (e) this section and section 78.
- (2) Otherwise, this Act comes into force on such day as the Secretary of State may by order appoint.
- (3) An order under subsection (2) – 20
- (a) may appoint different days for different purposes or different areas;
- (b) make such provision as the Secretary of State considers necessary or expedient for transitory, transitional or saving purposes in connection with the coming into force of any provision of this Act.
- 78 Short title and extent 25**
- (1) This Act may be cited as the Charities Act 2005.
- (2) Subject to subsections (3) to (5), this Act extends to England and Wales only.
- (3) The following provisions extend also to Scotland and Northern Ireland –
- (a) section 6(5), and
- (b) (subject to subsections (5) and (6)) this Part. 30
- (4) Section 23 extends also to Northern Ireland.
- (5) Any amendment, repeal or revocation made by this Act has the same extent as the enactment to which it relates.
- (6) But this does not apply to the amendments made by section 32 in the Companies Act 1985 (c. 6), which extend to England and Wales only. 35
- (7) Any amendment, repeal or revocation made by this Act in the Recreational Charities Act 1958 (c. 17) affects the law of Scotland or Northern Ireland in relation only to the operation of the Income Tax Acts.
- (8) **Nothing in this Act shall impose any charge on the people or on public funds, or vary the amount or incidence of or otherwise alter any such charge in any manner, or affect the assessment, levying, administration or application of any money raised by any such charge.** 40

SCHEDULES

SCHEDULE 1

Section 6

THE CHARITY COMMISSION

1 After Schedule 1 to the 1993 Act insert –

“SCHEDULE 1A

5

Section 1A

THE CHARITY COMMISSION

Membership

- 1 (1) The Commission shall consist of a chairman and at least four, but not more than eight, other members. 10
- (2) The members shall be appointed by the Secretary of State.
- (3) The Secretary of State shall exercise the power in sub-paragraph (2) so as to secure that –
- (a) the knowledge and experience of the members of the Commission (taken together) includes knowledge and experience of the matters mentioned in sub-paragraph (4), 15
 - (b) at least two members have a seven year general qualification within the meaning of section 71 of the Courts and Legal Services Act 1990, and
 - (c) at least one member knows about conditions in Wales and has been appointed following consultation with the National Assembly for Wales. 20
- (4) The matters mentioned in this sub-paragraph are –
- (a) the law relating to charities,
 - (b) charity accounts and the financing of charities, and 25
 - (c) the operation and regulation of charities of different sizes and descriptions.
- (5) In sub-paragraph (3)(c) “member” does not include the chairman of the Commission.

Terms of appointment and remuneration

30

- 2 The members of the Commission shall hold and vacate office as such in accordance with the terms of their respective appointments.

-
- 3 (1) An appointment of a person to hold office as a member of the Commission shall be for a term not exceeding three years.
- (2) A person holding office as a member of the Commission –
- (a) may resign that office by giving notice in writing to the Secretary of State, and 5
- (b) may be removed from office by the Secretary of State on the ground of incapacity or misbehaviour.
- (3) Before removing a member of the Commission the Secretary of State shall consult –
- (a) the Commission, and 10
- (b) if the member was appointed following consultation with the National Assembly for Wales, the Assembly.
- (4) No person may hold office as a member of the Commission for more than ten years in total.
- (5) For the purposes of sub-paragraph (4), time spent holding office as a Charity Commissioner for England and Wales shall be counted as time spent holding office as a member of the Commission. 15
- 4 (1) The Commission shall pay to its members such remuneration, and such other allowances, as may be determined by the Secretary of State. 20
- (2) The Commission shall, if required to do so by the Secretary of State –
- (a) pay such pension, allowances or gratuities as may be determined by the Secretary of State to or in respect of a person who is or has been a member of the Commission, or 25
- (b) make such payments as may be so determined towards provision for the payment of a pension, allowances or gratuities to or in respect of such a person.
- (3) If the Secretary of State determines that there are special circumstances which make it right for a person ceasing to hold office as a member of the Commission to receive compensation, the Commission shall pay to him a sum by way of compensation of such amount as may be determined by the Secretary of State. 30

Staff

- 5 (1) The Commission – 35
- (a) shall appoint a chief executive, and
- (b) may appoint such other staff as it may determine.
- (2) The appointment of a chief executive requires the approval of the Minister for the Civil Service as to the chief executive's terms and conditions of service. 40
- (3) The appointment and retention of other staff must as regards remuneration be within the total remuneration budget agreed annually with the Treasury.

Committees

- 6 (1) The Commission may establish committees and any committee of the Commission may establish sub-committees.
- (2) The members of a committee of the Commission may include persons who are not members of the Commission (and the members of a sub-committee may include persons who are not members of the committee or of the Commission). 5

Procedure etc.

- 7 (1) The Commission may regulate its own procedure (including quorum). 10
- (2) The validity of anything done by the Commission is not affected by a vacancy among its members or by a defect in the appointment of a member.

Performance of functions

- 8 Anything authorised or required to be done by the Commission may be done by – 15
- (a) any member or member of staff of the Commission who is authorised for that purpose by the Commission, whether generally or specially;
- (b) any committee of the Commission which has been so authorised. 20

Evidence

- 9 The Documentary Evidence Act 1868 shall have effect as if –
- (a) the Commission were mentioned in the first column of the Schedule to that Act, 25
- (b) any member or member of staff of the Commission authorised to act on behalf of the Commission were specified in the second column of that Schedule in connection with the Commission, and
- (c) the regulations referred to in that Act included any document issued by or under the authority of the Commission. 30

Execution of documents

- 10 (1) A document is executed by the Commission by the fixing of its common seal to the document. 35
- (2) But the fixing of that seal to a document must be authenticated by the signature of –
- (a) any member of the Commission, or
- (b) any member of its staff, 40
- who is authorised for the purpose by the Commission.
- (3) A document which is expressed (in whatever form of words) to be executed by the Commission and is signed by –

-
- (a) any member of the Commission, or
(b) any member of its staff,
who is authorised for the purpose by the Commission has the same effect as if executed in accordance with sub-paragraphs (1) and (2). 5
- (4) A document executed by the Commission which makes it clear on its face that it is intended to be a deed has effect, upon delivery, as a deed; and it is to be presumed (unless a contrary intention is proved) to be delivered upon its being executed.
- (5) In favour of a purchaser a document is to be deemed to have been duly executed by the Commission if it purports to be signed on its behalf by – 10
(a) any member of the Commission, or
(b) any member of its staff;
and, where it makes it clear on its face that it is intended to be a deed, it is to be deemed to have been delivered upon its being executed. 15
- (6) For the purposes of this paragraph –
“authorised” means authorised whether generally or specially; and 20
“purchaser” means a purchaser in good faith for valuable consideration and includes a lessee, mortgagee or other person who for valuable consideration acquired an interest in property.
- Annual report* 25
- 11 (1) As soon as practicable after the end of each financial year the Commission shall publish a report on –
(a) the discharge of its functions,
(b) the extent to which, in its opinion, its objectives (see section 1B of this Act) have been met, 30
(c) the performance of its general duties (see section 1D of this Act), and
(d) the management of its affairs,
during that year.
- (2) The Commission shall lay a copy of each such report before Parliament. 35
- (3) In sub-paragraph (1) above, “financial year” means –
(a) the period beginning with the date on which the Commission is established and ending with the next 31st March following that date, and 40
(b) each successive period of 12 months ending with 31st March.

Annual public meeting

- 12 (1) The Commission shall hold a public meeting (“the annual meeting”) for the purpose of enabling a report under paragraph 11 above to be considered.
- (2) The annual meeting shall be held within the period of three months beginning with the day on which the report is published. 5
- (3) The Commission shall organise the annual meeting so as to allow –
- (a) a general discussion of the contents of the report which is being considered, and 10
- (b) a reasonable opportunity for those attending the meeting to put questions to the Commission about matters to which the report relates.
- (4) But subject to sub-paragraph (3) above the annual meeting is to be organised and conducted in such a way as the Commission considers appropriate. 15
- (5) The Commission shall –
- (a) take such steps as are reasonable in the circumstances to ensure that notice of the annual meeting is given to every registered charity, and 20
- (b) publish notice of the annual meeting in the way appearing to it to be best calculated to bring it to the attention of members of the public.
- (6) Each such notice shall –
- (a) give details of the time and place at which the meeting is to be held, 25
- (b) set out the proposed agenda for the meeting,
- (c) indicate the proposed duration of the meeting, and
- (d) give details of the Commission’s arrangements for enabling persons to attend. 30
- (7) If the Commission proposes to alter any of the arrangements which have been included in notices given or published under sub-paragraph (5) above it shall –
- (a) give reasonable notice of the alteration, and
- (b) publish the notice in the way appearing to it to be best calculated to bring it to the attention of registered charities and members of the public.” 35

House of Commons Disqualification Act 1975 (c. 24)

- 2 In Part 2 of Schedule 1 to the House of Commons Disqualification Act 1975 (bodies of which all members are disqualified) insert at the appropriate place – 40
- “The Charity Commission.”

Northern Ireland Assembly Disqualification Act 1975 (c. 25)

- 3 In Part 2 of Schedule 1 to the Northern Ireland Assembly Disqualification

Act 1975 (bodies of which all members are disqualified) insert at the appropriate place—
“The Charity Commission.”

SCHEDULE 2

Section 6

ESTABLISHMENT OF THE CHARITY COMMISSION: SUPPLEMENTARY 5

- 1 In this Schedule—
“commencement” means the coming into force of section 6, and
“the Commission” means the Charity Commission.

Appointments to Commission

- 2 (1) The person who immediately before commencement was the Chief Charity Commissioner for England and Wales is on commencement to become the chairman of the Commission as if duly appointed under paragraph 1 of Schedule 1A to the 1993 Act. 10
- (2) Any other person who immediately before commencement was a Charity Commissioner for England and Wales is on commencement to become a member of the Commission as if duly appointed under that paragraph. 15
- (3) While a person holds office as a member of the Commission by virtue of this paragraph he shall—
(a) continue to be deemed to be employed in the civil service of the Crown, and 20
(b) hold that office on the terms on which he held office as a Charity Commissioner for England and Wales immediately before commencement.
- (4) Sub-paragraph (3)(b) is subject to—
(a) sub-paragraph (5), 25
(b) paragraph 3(4) and (5) of Schedule 1A to the 1993 Act, and
(c) any necessary modifications to the terms in question.
- (5) No person may hold office as a member of the Commission by virtue of this paragraph for a term exceeding three years from commencement.
- (6) Paragraphs 2 and 3(1) to (3) of Schedule 1A to the 1993 Act, and paragraphs 2 and 3 of Schedule 1 to this Act, shall not apply in relation to a person while he holds office as a member of the Commission by virtue of this paragraph. 30

Effect of transfers under section 6

- 3 (1) Anything which—
(a) has been done (or has effect as if done) by or in relation to the Commissioners, and 35
(b) is in effect immediately before commencement,
is to be treated as if done by or in relation to the Commission.
- (2) Anything (including legal proceedings) which—
(a) relates to anything transferred by section 6(4), and 40

- (b) is in the process of being done by or in relation to the Commissioners, may be continued by or in relation to the Commission.
- (3) But nothing in section 6 or this paragraph affects the validity of anything done by or in relation to the Commissioners.
- (4) In this paragraph “the Commissioners” means the Charity Commissioners for England and Wales (and includes any person acting for them by virtue of paragraph 3(3) of Schedule 1 to the 1993 Act). 5

First annual report of Commission

- 4 (1) This paragraph applies if there is a period of one or more days which –
- (a) began on the day after the end of the last year for which the Charity Commissioners for England and Wales made a report under section 1(5) of the 1993 Act, and 10
- (b) ended on the day before commencement.
- (2) The first report published by the Commission under paragraph 11 of Schedule 1A to the 1993 Act shall also be a report on the operations of the Charity Commissioners for England and Wales during the period mentioned in sub-paragraph (1). 15

Resource accounts of Commission

- 5 (1) The new Commission and the old Commission shall be treated as being the same government department for the purposes of section 5 of the Government Resources and Accounts Act 2000 (c. 20). 20
- (2) Resource accounts sent to the Comptroller and Auditor General by the new Commission in respect of any period before commencement shall be resource accounts in the name of the new Commission.
- (3) In this paragraph – 25
- “the new Commission” means the Charity Commission established by section 6, and
- “the old Commission” means the government department known as the Charity Commission and existing immediately before commencement. 30

SCHEDULE 3

Section 8

THE CHARITY TRIBUNAL

- 1 After Schedule 1A to the 1993 Act (inserted by Schedule 1 to this Act)

insert –

“SCHEDULE 1B

Section 2A(3)

THE CHARITY TRIBUNAL

<i>Membership</i>		5
1	(1) The Tribunal shall consist of the President and its other members.	
	(2) The Lord Chancellor shall appoint –	
	(a) a President of the Tribunal,	
	(b) legal members of the Tribunal, and	
	(c) ordinary members of the Tribunal.	10
	(3) A person may be appointed as the President or a legal member of the Tribunal only if he has a seven year general qualification within the meaning of section 71 of the Courts and Legal Services Act 1990.	
	(4) A person may be appointed as an ordinary member of the Tribunal only if he appears to the Lord Chancellor to have appropriate knowledge or experience relating to charities.	15
<i>Deputy President</i>		
2	(1) The Lord Chancellor may appoint a legal member as deputy President of the Tribunal.	20
	(2) The deputy President –	
	(a) may act for the President when he is unable to act or unavailable, and	
	(b) shall perform such other functions as the President may delegate or assign to him.	25
<i>Terms of appointment</i>		
3	(1) The members of the Tribunal shall hold and vacate office as such in accordance with the terms of their respective appointments.	
	(2) A person holding office as a member of the Tribunal –	
	(a) may resign that office by giving notice in writing to the Lord Chancellor, and	30
	(b) may be removed from office by the Lord Chancellor on the ground of incapacity or misbehaviour.	
	(3) A previous appointment of a person as a member of the Tribunal does not affect his eligibility for re-appointment as a member of the Tribunal.	35

Retirement etc.

- 4 (1) A person shall not hold office as a member of the Tribunal after reaching the age of 70.
- (2) Section 26(5) and (6) of the Judicial Pensions and Retirement Act 1993 (extension to age 75) apply in relation to a member of the Tribunal as they apply in relation to a holder of a relevant office. 5

Remuneration etc.

- 5 (1) The Lord Chancellor may pay to the members of the Tribunal such remuneration, and such other allowances, as he may determine.
- (2) The Lord Chancellor may – 10
- (a) pay such pension, allowances or gratuities as he may determine to or in respect of a person who is or has been a member of the Tribunal, or
- (b) make such payments as he may determine towards provision for the payment of a pension, allowances or gratuities to or in respect of such a person. 15
- (3) If the Lord Chancellor determines that there are special circumstances which make it right for a person ceasing to hold office as a member of the Tribunal to receive compensation, the Lord Chancellor may pay to him a sum by way of compensation of such amount as may be determined by the Lord Chancellor. 20

Staff and facilities

- 6 The Lord Chancellor may make staff and facilities available to the Tribunal.

Panels 25

- 7 (1) The functions of the Tribunal shall be exercised by panels of the Tribunal.
- (2) Panels of the Tribunal shall sit at such times and in such places as the President may direct.
- (3) Before giving a direction under sub-paragraph (2) above the President shall consult the Lord Chancellor. 30
- (4) More than one panel may sit at a time.
- 8 (1) The President shall make arrangements for determining which of the members of the Tribunal are to constitute a panel of the Tribunal in relation to the exercise of any function. 35
- (2) Those arrangements shall, in particular, ensure that each panel is constituted in one of the following ways –
- (a) as the President sitting alone,
- (b) as a legal member sitting alone,
- (c) as the President sitting with two other members, 40
- (d) as a legal member sitting with two other members,
- (e) as the President sitting with one other member,

(f) as a legal member sitting with one other member,
(and references in paragraphs (d) and (f) to other members do not
include the President).

(3) The President shall publish arrangements made under this
paragraph. 5

Practice and procedure

9 (1) Decisions of the Tribunal may be taken by majority vote.

(2) In the case of a panel constituted in accordance with paragraph
8(2)(e), the President shall have a casting vote.

(3) In the case of a panel constituted in accordance with paragraph 10
8(2)(f) which consists of a legal member and an ordinary member,
the legal member shall have a casting vote.

(4) The President shall make and publish arrangements as to who is
to have a casting vote in the case of a panel constituted in
accordance with paragraph 8(2)(f) which consists of two legal 15
members.

10 The President may, subject to rules under section 2B of this Act,
give directions about the practice and procedure of the Tribunal.”

House of Commons Disqualification Act 1975 (c. 24)

2 In Part 2 of Schedule 1 to the House of Commons Disqualification Act 1975 20
(bodies of which all members are disqualified) insert at the appropriate
place—
“The Charity Tribunal.”

Northern Ireland Assembly Disqualification Act 1975 (c. 25)

3 In Part 2 of Schedule 1 to the Northern Ireland Assembly Disqualification 25
Act 1975 (bodies of which all members are disqualified) insert at the
appropriate place—
“The Charity Tribunal.”

Courts and Legal Services Act 1990 (c.41)

4 In Schedule 11 to the Courts and Legal Services Act 1990 (judges etc. barred 30
from legal practice) insert at the end—
“President or other member of the Charity Tribunal”.

Tribunals and Inquiries Act 1992 (c. 53)

5 In Part 1 of Schedule 1 to the Tribunals and Inquiries Act 1992 (tribunals

under general supervision of Council) before paragraph 7 insert –

“Charities	6A. The Charity Tribunal constituted under section 2A of, and Schedule 1B to, the Charities Act 1993.”	5
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SCHEDULE 4

Section 8

APPEALS AND APPLICATIONS TO CHARITY TRIBUNAL

After Schedule 1B to the 1993 Act (inserted by Schedule 3 to this Act) insert –

“SCHEDULE 1C

Section 2A(4) 10

APPEALS AND APPLICATIONS TO CHARITY TRIBUNAL

Appeals: general

- 1 (1) Except in the case of a reviewable matter (see paragraph 3) an appeal may be brought to the Tribunal against any decision, direction or order mentioned in column 1 of the Table. 15
- (2) Such an appeal may be brought by –
 - (a) the Attorney General, or
 - (b) any person specified in the corresponding entry in column 2 of the Table.
- (3) The Commission shall be the respondent to such an appeal. 20
- (4) In determining such an appeal the Tribunal –
 - (a) shall consider afresh the decision, direction or order appealed against, and
 - (b) may take into account evidence which was not available to the Commission. 25
- (5) The Tribunal may –
 - (a) dismiss the appeal, or
 - (b) if it allows the appeal, exercise any power specified in the corresponding entry in column 3 of the Table.

Appeals: orders under section 9 30

- 2 (1) Paragraph 1(4)(a) above does not apply in relation to an appeal against an order made under section 9 of this Act.
- (2) On such an appeal the Tribunal shall consider whether the information or document in question –
 - (a) relates to a charity; 35

- (b) is relevant to the discharge of the functions of the Commission or the official custodian.
- (3) The Tribunal may allow such an appeal only if it is satisfied that the information or document in question does not fall within either paragraph (a) or paragraph (b) of sub-paragraph (2) above. 5

Reviewable matters

- 3 (1) In this Schedule references to “reviewable matters” are to –
- (a) decisions to which sub-paragraph (2) applies, and
 - (b) orders to which sub-paragraph (3) applies.
- (2) This sub-paragraph applies to decisions of the Commission – 10
- (a) to institute an inquiry under section 8 of this Act with regard to a particular institution,
 - (b) to institute an inquiry under section 8 of this Act with regard to a class of institutions,
 - (c) not to make a common investment scheme under section 24 of this Act, 15
 - (d) not to make a common deposit scheme under section 25 of this Act,
 - (e) not to make an order under section 26 of this Act in relation to a charity, 20
 - (f) not to make an order under section 36 of this Act in relation to land held by or in trust for a charity,
 - (g) not to make an order under section 38 of this Act in relation to a mortgage of land held by or in trust for a charity.
- (3) This sub-paragraph applies to an order made by the Commission under section 69(1) of this Act in relation to a company which is a charity. 25

Reviews

- 4 (1) An application may be made to the Tribunal for the review of a reviewable matter. 30
- (2) Such an application may be made by –
- (a) the Attorney General, or
 - (b) any person mentioned in the entry in column 2 of the Table which corresponds to the entry in column 1 which relates to the reviewable matter. 35
- (3) The Commission shall be the respondent to such an application.
- (4) In determining such an application the Tribunal shall apply the principles which would be applied by the High Court on an application for judicial review.
- (5) The Tribunal may – 40
- (a) dismiss the application, or
 - (b) if it allows the application, exercise any power mentioned in the entry in column 3 of the Table which corresponds to

the entry in column 1 which relates to the reviewable matter.

Interpretation: remission of matters to Commission

- 5 References in column 3 of the Table to the power to remit a matter to the Commission are to the power to remit the matter either –
- (a) generally, or
 - (b) for determination in accordance with a finding made or direction given by the Tribunal.

5

TABLE

1	2	3	
Decision of the Commission under section 3 or 3A of this Act— (a) to enter or not to enter an institution in the register of charities, or (b) to remove or not to remove an institution from the register.	The persons are— (a) the persons who are or claim to be the charity trustees of the institution, (b) (if a body corporate) the institution itself, and (c) any other person who is or may be affected by the decision.	Power to quash the decision and (if appropriate)— (a) remit the matter to the Commission, (b) direct the Commission to rectify the register.	5 10
Decision of the Commission not to make a determination under section 3(9) of this Act in relation to particular information contained in the register.	The persons are— (a) the charity trustees of the charity to which the information relates, (b) (if a body corporate) the charity itself, and (c) any other person who is or may be affected by the decision.	Power to quash the decision and (if appropriate) remit the matter to the Commission.	15
Direction given by the Commission under section 6 of this Act requiring the name of a charity to be changed.	The persons are— (a) the charity trustees of the charity to which the direction relates, (b) (if a body corporate) the charity itself, and (c) any other person who is or may be affected by the direction.	Power to— (a) quash the direction and (if appropriate) remit the matter to the Commission, (b) substitute for the direction any other direction which could have been given by the Commission.	20
Decision of the Commission to institute an inquiry under section 8 of this Act with regard to a particular institution.	The persons are— (a) the persons who have control or management of the institution, and (b) (if a body corporate) the institution itself.	Power to— (a) quash the direction and (if appropriate) remit the matter to the Commission, (b) substitute for the direction any other direction which could have been given by the Commission.	25 30
Decision of the Commission to institute an inquiry under section 8 of this Act with regard to a class of institutions.	The persons are— (a) the persons who have control or management of any institution which is a member of the class of institutions, and (b) (if a body corporate) any such institution.	Power to direct the Commission to end the inquiry.	35
Order made by the Commission under section 9 of this Act requiring a person to supply information or a document.	The persons are— (a) the persons who have control or management of any institution which is a member of the class of institutions, and (b) (if a body corporate) any such institution.	Power to— (a) direct the Commission that the inquiry should not consider a particular institution, (b) direct the Commission to end the inquiry.	40 45
Order made by the Commission under section 9 of this Act requiring a person to supply information or a document.	The persons are any person who is required to supply the information or document.	Power to— (a) quash the order, (b) substitute for all or part of the order any other order which could have been made by the Commission.	50

Schedule 4 – Appeals and applications to Charity Tribunal

1	2	3
Order made by the Commission under section 16(1) of this Act (including such an order made by virtue of section 23(1)).	<p>The persons are –</p> <p>(a) in a section 16(1)(a) case, the charity trustees of the charity to which the order relates or (if a body corporate) the charity itself,</p> <p>(b) in a section 16(1)(b) case, any person discharged or removed by the order, and</p> <p>(c) any other person who is or may be affected by the order.</p>	<p>Power to –</p> <p>(a) quash the order in whole or in part and (if appropriate) remit the matter to the Commission, 5</p> <p>(b) substitute for all or part of the order any other order which could have been made by the Commission, 10</p> <p>(c) add to the order anything which could have been contained in an order made by the Commission. 15</p>
Order made by the Commission under section 18(1) of this Act in relation to a charity.	<p>The persons are –</p> <p>(a) the charity trustees of the charity,</p> <p>(b) (if a body corporate) the charity itself,</p> <p>(c) in a section 18(1)(i) case, any person suspended by the order, and</p> <p>(d) any other person who is or may be affected by the order.</p>	<p>Power to –</p> <p>(a) quash the order in whole or in part and (if appropriate) remit the matter to the Commission, 20</p> <p>(b) substitute for all or part of the order any other order which could have been made by the Commission, 25</p> <p>(c) add to the order anything which could have been contained in an order made by the Commission. 30</p>
Order made by the Commission under section 18(2) of this Act in relation to a charity.	<p>The persons are –</p> <p>(a) the charity trustees of the charity,</p> <p>(b) (if a body corporate) the charity itself,</p> <p>(c) in a section 18(2)(i) case, any person removed by the order, and</p> <p>(d) any other person who is or may be affected by the order.</p>	<p>Power to –</p> <p>(a) quash the order in whole or in part and (if appropriate) remit the matter to the Commission, 35</p> <p>(b) substitute for all or part of the order any other order which could have been made by the Commission, 40</p> <p>(c) add to the order anything which could have been contained in an order made by the Commission. 45</p>
Order made by the Commission under section 18(4) of this Act removing a charity trustee.	<p>The persons are –</p> <p>(a) the charity trustee,</p> <p>(b) the remaining charity trustees of the charity of which he was a charity trustee,</p> <p>(c) (if a body corporate) the charity itself, and</p> <p>(d) any other person who is or may be affected by the order.</p>	<p>Power to –</p> <p>(a) quash the order in whole or in part and (if appropriate) remit the matter to the Commission, 50</p> <p>(b) substitute for all or part of the order any other order which could have been made by the Commission, 55</p> <p>(c) add to the order anything which could have been contained in an order made by the Commission. 60</p>

1	2	3
Order made by the Commission under section 18(5) of this Act appointing a charity trustee.	The persons are— (a) the other charity trustees of the charity, (b) (if a body corporate) the charity itself, and (c) any other person who is or may be affected by the order.	Power to— (a) quash the order in whole or in part and (if appropriate) remit the matter to the Commission, 5 (b) substitute for all or part of the order any other order which could have been made by the Commission, 10 (c) add to the order anything which could have been contained in an order made by the Commission. 15
Decision of the Commission— (a) to discharge an order following a review under section 18(13) of this Act, or (b) not to discharge an order following such a review.	The persons are— (a) the charity trustees of the charity to which the order relates, (b) (if a body corporate) the charity itself, (c) if the order in question was made under section 18(1)(i), any person suspended by it, and (d) any other person who is or may be affected by the order.	Power to— (a) quash the decision and (if appropriate) remit the matter to the Commission, 20 (b) make the discharge of the order subject to savings or other transitional provisions, 25 (c) remove any savings or other transitional provisions to which the discharge of the order was subject, 30 (d) discharge the order in whole or in part (whether subject to any savings or other transitional provisions or not). 35
Order made by the Commission under section 18A(2) of this Act which suspends a person's membership of a charity.	The persons are— (a) the person whose membership is suspended by the order, and (b) any other person who is or may be affected by the order.	Power to quash the order and (if appropriate) remit the matter to the Commission. 40 45
Order made by the Commission under section 19A(2) of this Act which directs a person to take action specified in the order.	The persons are any person who is directed by the order to take the specified action.	Power to quash the order and (if appropriate) remit the matter to the Commission. 50
Order made by the Commission under section 19B(2) of this Act which directs a person to apply property in a specified manner.	The persons are any person who is directed by the order to apply the property in the specified manner.	Power to quash the order and (if appropriate) remit the matter to the Commission. 50
Order made by the Commission under section 23(2) of this Act in relation to any land vested in the official custodian in trust for a charity.	The persons are— (a) the charity trustees of the charity, (b) (if a body corporate) the charity itself, and (c) any other person who is or may be affected by the order.	Power to— (a) quash the order and (if appropriate) remit the matter to the Commission, 55 (b) substitute for the order any other order which could have been made by the Commission, 60 (c) add to the order anything which could have been contained in an order made by the Commission. 65

Schedule 4 – Appeals and applications to Charity Tribunal

1	2	3	
Decision of the Commission not to make a common investment scheme under section 24 of this Act.	The persons are – (a) the charity trustees of a charity which applied to the Commission for the scheme, (b) (if a body corporate) the charity itself, and (c) any other person who is or may be affected by the decision.	Power to quash the decision and (if appropriate) remit the matter to the Commission.	5
Decision of the Commission not to make a common deposit scheme under section 25 of this Act.	The persons are – (a) the charity trustees of a charity which applied to the Commission for the scheme, (b) (if a body corporate) the charity itself, and (c) any other person who is or may be affected by the decision.	Power to quash the decision and (if appropriate) remit the matter to the Commission.	10 15
Decision by the Commission not to make an order under section 26 of this Act in relation to a charity.	The persons are – (a) the charity trustees of the charity, and (b) (if a body corporate) the charity itself.	Power to quash the decision and (if appropriate) remit the matter to the Commission.	20 25
Direction given by the Commission under section 28 of this Act in relation to an account held in the name of or on behalf of a charity.	The persons are – (a) the charity trustees of the charity, (b) (if a body corporate) the charity itself, and (c) any other person who is or may be affected by the order.	Power to – (a) quash the direction and (if appropriate) remit the matter to the Commission, (b) substitute for the direction any other direction which could have been given by the Commission, (c) add to the direction anything which could have been contained in a direction given by the Commission.	30 35 40
Order made by the Commission under section 31 of this Act for the taxation of a solicitor's bill.	The persons are – (a) the solicitor, (b) any person for whom the work was done by the solicitor, and (c) any other person who is or may be affected by the order.	Power to – (a) quash the order, (b) substitute for the order any other order which could have been made by the Commission, (c) add to the order anything which could have been contained in an order made by the Commission.	45 50
Decision of the Commission not to make an order under section 36 of this Act in relation to land held by or in trust for a charity.	The persons are – (a) the charity trustees of the charity, (b) (if a body corporate) the charity itself, and (c) any other person who is or may be affected by the decision.	Power to quash the decision and (if appropriate) remit the matter to the Commission.	55 60

Schedule 4 – Appeals and applications to Charity Tribunal

1	2	3
Order of the Commission under section 61(1) or (2) of this Act which dissolves a charity which is an incorporated body.	The persons are – (a) the trustees of the charity, (b) the charity itself, and (c) any other person who is or may be affected by the order.	Power to – (a) quash the order and (if appropriate) remit the matter to the Commission, 5 (b) substitute for the order any other order which could have been made by the Commission, 10 (c) add to the order anything which could have been contained in an order made by the Commission. 15
Decision of the Commission to give, or withhold, consent under section 64(2), 65(4) or 66(1) of this Act in relation to a body corporate which is a charity.	The persons are – (a) the charity trustees of the charity, (b) the body corporate itself, and (c) any other person who is or may be affected by the decision.	Power to quash the decision and (if appropriate) remit the matter to the Commission. 20
Order made by the Commission under section 69(1) of this Act in relation to a company which is a charity.	The persons are – (a) the directors of the company, (b) the company itself, and (c) any other person who is or may be affected by the order.	Power to – (a) quash the order and (if appropriate) remit the matter to the Commission, 25 (b) substitute for the order any other order which could have been made by the Commission, 30 (c) add to the order anything which could have been contained in an order made by the Commission. 35
Order made by the Commission under section 69(4) of this Act which gives directions to a person or to charity trustees.	The persons are – (a) in the case of directions given to a person, that person, (b) in the case of directions given to charity trustees, those charity trustees and (if a body corporate) the charity of which they are charity trustees, and (c) any other person who is or may be affected by the directions.	Power to – (a) quash the order, 40 (b) substitute for the order any other order which could have been made by the Commission, (c) add to the order anything which could have been contained in an order made by the Commission. 45
Decision of the Commission under section 69E of this Act to grant an application for the constitution of a CIO and its registration as a charity.	The persons are any person (other than the persons who made the application) who is or may be affected by the decision.	Power to quash the decision and (if appropriate) – (a) remit the matter to the Commission, 55 (b) direct the Commission to rectify the register of charities.
Decision of the Commission under section 69E of this Act not to grant an application for the constitution of a CIO and its registration as a charity.	The persons are – (a) the persons who made the application, and (b) any other person who is or may be affected by the decision.	Power to – (a) quash the decision and (if appropriate) remit the matter to the Commission, 60 (b) direct the Commission to grant the application. 65

1	2	3	
Decision of the Commission under section 69H of this Act not to grant an application for the conversion of a charitable company or a registered society into a CIO and the CIO's registration as a charity.	The persons are – (a) the charity which made the application, (b) the charity trustees of the charity, and (c) any other person who is or may be affected by the decision.	Power to – (a) quash the decision and (if appropriate) remit the matter to the Commission, (b) direct the Commission to grant the application.	5
Decision of the Commission under section 69K of this Act to grant an application for the amalgamation of two or more CIOs and the incorporation and registration as a charity of a new CIO as their successor.	The persons are any creditor of any of the CIOs being amalgamated.	Power to quash the decision and (if appropriate) remit the matter to the Commission.	10
Decision of the Commission under section 69K of this Act not to grant an application for the amalgamation of two or more CIOs and the incorporation and registration as a charity of a new CIO as their successor.	The persons are – (a) the CIOs which applied for the amalgamation, (b) the charity trustees of the CIOs, and (c) any other person who is or may be affected by the decision.	Power to – (a) quash the decision and (if appropriate) remit the matter to the Commission, (b) direct the Commission to grant the application.	15
Decision of the Commission to confirm a resolution passed by a CIO under section 69M(1) of this Act.	The persons are any creditor of the CIO.	Power to quash the decision and (if appropriate) remit the matter to the Commission.	20
Decision of the Commission not to confirm a resolution passed by a CIO under section 69M(1) of this Act.	The persons are – (a) the CIO, (b) the charity trustees of the CIO, and (c) any other person who is or may be affected by the decision.	Power to – (a) quash the decision and (if appropriate) remit the matter to the Commission, (b) direct the Commission to confirm the resolution.	25
Decision of the Commission under section 72(4) of this Act to waive, or not to waive, a person's disqualification.	The persons are – (a) the person who applied for the waiver, and (b) any other person who is or may be affected by the decision.	Power to – (a) quash the decision and (if appropriate) remit the matter to the Commission, (b) substitute for the decision any other decision of a kind which could have been made by the Commission.	30
Order made by the Commission under section 73(4) of this Act in relation to a person who has acted as charity trustee or trustee for a charity.	The persons are – (a) the person subject to the order, and (b) any other person who is or may be affected by the order.	Power to – (a) quash the order and (if appropriate) remit the matter to the Commission, (b) substitute for the order any other order which could have been made by the Commission.	35
Order made by the Commission under section 73C(5) or (6) of this Act requiring a trustee or connected person to repay, or not to receive, remuneration.	The persons are – (a) the trustee or connected person, (b) the other charity trustees of the charity concerned, and (c) any other person who is or may be affected by the order.	Power to – (a) quash the order and (if appropriate) remit the matter to the Commission, (b) substitute for the order any other order which could have been made by the Commission.	40
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			60

Schedule 4 – Appeals and applications to Charity Tribunal

1	2	3	
Decision of the Commission to notify charity trustees under section 74A(2) of this Act that it objects to a resolution of the charity trustees under section 74(2) or 74C(2).	The persons are – (a) the charity trustees, and (b) any other person who is or may be affected by the decision.	Power to quash the decision.	5
Decision of the Commission not to concur under section 75A of this Act with a resolution of charity trustees under section 75A(3) or 75B(2).	The persons are – (a) the charity trustees, (b) (if a body corporate) the charity itself, and (c) any other person who is or may be affected by the decision.	Power to quash the decision and (if appropriate) remit the matter to the Commission.	10
Decision of the Commission to withhold approval for the transfer of property from trustees to a parish council under section 79(1) of this Act.	The persons are – (a) the trustees, (b) the parish council, and (c) any other person who is or may be affected by the decision.	Power to quash the decision and (if appropriate) remit the matter to the Commission.	15
Order made by the Commission under section 80(2) of this Act in relation to a person holding property on behalf of a recognised body or of any person concerned in its management or control.	The persons are – (a) the person holding the property in question, and (b) any other person who is or may be affected by the order.	Power to quash the order and (if appropriate) remit the matter to the Commission.	20
Decision of the Commission not to give a direction under section 96(5) or (6) of this Act in relation to an institution or a charity.	The persons are the trustees of the institution or charity concerned.	Power to quash the decision and (if appropriate) remit the matter to the Commission.	25
Decision of the Commission under paragraph 15 of Schedule 5B to this Act to refuse to register an amendment to the constitution of a CIO.	The persons are – (a) the CIO, (b) the charity trustees of the CIO, and (c) any other person who is or may be affected by the decision.	Power to quash the decision and (if appropriate) – (a) remit the matter to the Commission, (b) direct the Commission to register the amendment.	30

Power to amend Table etc.

- | | | |
|---|---|----|
| 6 | (1) The Secretary of State may by order –
(a) amend or otherwise modify an entry in the Table,
(b) add an entry to the Table, or
(c) remove an entry from the Table. | 40 |
| | (2) An order under sub-paragraph (1) may make such amendments, repeals or other modifications of paragraphs 1 to 5 of this Schedule, or of an enactment which applies this Schedule, as the Secretary of State considers appropriate in consequence of any change in the Table made by the order. | 45 |
| | (3) No order shall be made under this paragraph unless a draft of the order has been laid before and approved by a resolution of each House of Parliament. | 50 |
| 7 | Paragraph 6 above applies (with the necessary modifications) in relation to section 57 of the Charities Act 2005 as if –
(a) the provisions of that section were contained in this Schedule, and | 55 |

- (b) the reference in that paragraph to paragraphs 1 to 5 of this Schedule included a reference to any other provision relating to appeals to the Tribunal which is contained in Chapter 1 of Part 3 of the Charities Act 2005.

SCHEDULE 1D

5

Section 2A(4)

REFERENCES TO CHARITY TRIBUNAL

References by Commission

- 1 (1) A question which –
- (a) has arisen in connection with the exercise by the Commission of any of its functions, and
 - (b) involves either the operation of charity law in any respect or its application to a particular state of affairs,
- may be referred to the Tribunal by the Commission if the Commission considers it desirable to refer the question to the Tribunal. 10
- (2) The Commission may make such a reference only with the consent of the Attorney General. 15
- (3) The Commission shall be a party to proceedings before the Tribunal on the reference. 20
- (4) The following shall be entitled to be parties to proceedings before the Tribunal on the reference –
- (a) the Attorney General, and
 - (b) with the Tribunal’s permission –
 - (i) the charity trustees of any charity which is likely to be affected by the Tribunal’s decision on the reference, 25
 - (ii) any such charity which is a body corporate, and
 - (iii) any other person who is likely to be so affected.

References by Attorney General

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- 2 (1) A question which involves either –
- (a) the operation of charity law in any respect, or
 - (b) the application of charity law to a particular state of affairs,
- may be referred to the Tribunal by the Attorney General if the Attorney General considers it desirable to refer the question to the Tribunal. 35
- (2) The Attorney General shall be a party to proceedings before the Tribunal on the reference.
- (3) The following shall be entitled to be parties to proceedings before the Tribunal on the reference – 40
- (a) the Commission, and
 - (b) with the Tribunal’s permission –

- (i) the charity trustees of any charity which is likely to be affected by the Tribunal’s decision on the reference,
- (ii) any such charity which is a body corporate, and
- (iii) any other person who is likely to be so affected. 5

Powers of Commission in relation to matters referred to Tribunal

- 3 (1) This paragraph applies where a question which involves the application of charity law to a particular state of affairs has been referred to the Tribunal under paragraph 1 or 2 above.
- (2) The Commission shall not take any steps in reliance on any view as to the application of charity law to that state of affairs until – 10
- (a) proceedings on the reference (including any proceedings on appeal) have been concluded, and
 - (b) any period during which an appeal (or further appeal) may ordinarily be made has ended. 15
- (3) Where –
- (a) paragraphs (a) and (b) of sub-paragraph (2) above are satisfied, and
 - (b) the question has been decided in proceedings on the reference, 20
- the Commission shall give effect to that decision when dealing with the particular state of affairs to which the reference related.

Suspension of time limits while reference in progress

- 4 (1) Sub-paragraph (2) below applies if –
- (a) paragraph 3(2) above prevents the Commission from taking any steps which it would otherwise be permitted or required to take, and 25
 - (b) the steps in question may be taken only during a period specified in an enactment (“the specified period”).
- (2) The running of the specified period is suspended for the period which – 30
- (a) begins with the date on which the question is referred to the Tribunal, and
 - (b) ends with the date on which paragraphs (a) and (b) of paragraph 3(2) above are satisfied. 35
- (3) Nothing in this paragraph or section 74A of this Act prevents the specified period being suspended concurrently by virtue of sub-paragraph (2) above and that section.

Agreement for Commission to act while reference in progress

- 5 (1) Paragraph 3(2) above does not apply in relation to any steps taken by the Commission with the agreement of – 40
- (a) the persons who are parties to the proceedings on the reference at the time when those steps are taken, and

- (b) (if not within paragraph (a) above) the charity trustees of any charity which –
- (i) is likely to be directly affected by the taking of those steps, and
 - (ii) is not a party to the proceedings at that time. 5
- (2) The Commission may take those steps despite the suspension in accordance with paragraph 4(2) above of any period during which it would otherwise be permitted or required to take them.
- (3) Paragraph 3(3) above does not require the Commission to give effect to a decision as to the application of charity law to a particular state of affairs to the extent that the decision is inconsistent with any steps already taken by the Commission in relation to that state of affairs in accordance with this paragraph. 10

Appeals and applications in respect of matters determined on references

- 6 (1) No appeal or application may be made to the Tribunal by a person to whom sub-paragraph (2) below applies in respect of an order or decision made, or direction given, by the Commission in accordance with paragraph 3(3) above. 15
- (2) This sub-paragraph applies to a person who was at any stage a party to the proceedings in which the question referred to the Tribunal was decided. 20
- (3) Rules under section 2B(1) of this Act may include provision as to who is to be treated for the purposes of sub-paragraph (2) above as being (or not being) a party to the proceedings.
- (4) Any enactment (including one contained in this Act) which provides for an appeal or application to be made to the Tribunal has effect subject to sub-paragraph (1) above. 25

Interpretation

- 7 (1) In this Schedule –
- “charity law” means – 30
- (a) any enactment contained in, or made under, this Act or the Charities Act 2005,
 - (b) any other enactment specified in regulations made by the Secretary of State, and
 - (c) any rule of law which relates to charities, and 35
- “enactment” includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978), and includes an enactment whenever passed or made.
- (2) The exclusions contained in section 96(2) of this Act (ecclesiastical corporations etc.) do not have effect for the purposes of this Schedule.” 40

SCHEDULE 5

Section 12

EXEMPT CHARITIES: INCREASED REGULATION UNDER 1993 ACT

Power to require charity’s name to be changed

- 1 In section 6 of the 1993 Act (power of Commission to require charity’s name to be changed) omit subsection (9) (exclusion of exempt charities). 5

Power to institute inquiries

- 2 In section 8(1) of the 1993 Act (power of Commission to institute inquiries with regard to charities but not in relation to any exempt charity) after “any exempt charity” insert “except where this has been requested by its principal regulator.” 10

Power to call for documents etc.

- 3 In section 9 of the 1993 Act (power of Commission to call for documents and search records) omit subsection (4) (exclusion of documents relating only to exempt charities).

Concurrent jurisdiction of Commission with High Court 15

- 4 (1) Section 16 of the 1993 Act (concurrent jurisdiction of Commission with High Court for certain purposes) is amended as follows.
- (2) In subsection (4)(c) (application for Commission to exercise powers may be made by Attorney General except in case of exempt charity) omit “in the case of a charity other than an exempt charity,”. 20
- (3) In subsection (5) (jurisdiction exercisable in case of charity which is not an exempt charity and whose annual income does not exceed £500) omit “which is not an exempt charity and”.

Further powers of Commission

- 5 In section 17(7) of the 1993 Act (expenditure by charity on promoting Parliamentary Bill needs consent of court or Commission except in case of exempt charity) omit the words from “but this subsection” onwards. 25

Power to act for protection of charities

- 6 In section 18 of the 1993 Act (power of Commission to act for protection of charities) for subsection (16) substitute – 30
- “(16) In this section –
- (a) subsections (1) to (3) apply in relation to an exempt charity, and
- (b) subsections (4) to (6) apply in relation to such a charity at any time after the Commission have instituted an inquiry under section 8 with respect to it, 35
- and the other provisions of this section apply accordingly.”

Power to give directions about dormant bank accounts

- 7 In section 28 of the 1993 Act (power of Commission to give directions about dormant bank accounts of charities), omit subsection (10) (exclusion of accounts held by or on behalf of exempt charity).

Proceedings by persons other than Commission 5

- 8 (1) Section 33 of the 1993 Act (charity proceedings by persons other than Commission) is amended as follows.
- (2) In subsection (2) (proceedings relating to a charity other than an exempt charity must be authorised by the Commission) omit “(other than an exempt charity)”. 10
- (3) In subsection (7) (participation by Attorney General in proceedings relating to charity other than exempt charity) omit “(other than an exempt charity)”.

Power to order disqualified person to repay sums received from charity

- 9 In section 73 of the 1993 Act (consequences of person acting as charity trustee while disqualified), in subsection (4) (power of Commission to order disqualified person to repay sums received from a charity other than an exempt charity) omit “(other than an exempt charity)”. 15

SCHEDULE 6

Section 30

GROUP ACCOUNTS

After Schedule 5 to the 1993 Act insert – 20

“SCHEDULE 5A

Section 49A

GROUP ACCOUNTS

Interpretation

- 1 (1) This paragraph applies for the purposes of this Schedule. 25
- (2) A charity is a “parent charity” if –
- (a) it is (or is to be treated as) a parent undertaking in relation to one or more other undertakings in accordance with the provisions of section 258 of, and Schedule 10A to, the Companies Act 1985, and 30
- (b) it is not a company.
- (3) Each undertaking in relation to which a parent charity is (or is to be treated as) a parent undertaking in accordance with those provisions is a “subsidiary undertaking” in relation to the parent charity. 35

- (4) But sub-paragraph (3) does not have the result that any of the following is a “subsidiary undertaking” –
- (a) any special trusts of a charity,
 - (b) any institution which, by virtue of a direction under section 96(5) of this Act, is to be treated as forming part of a charity for the purposes of this Part of this Act, or
 - (c) any charity to which a direction under section 96(6) of this Act applies for those purposes.
- (5) “The group”, in relation to a parent charity, means that charity and its subsidiary undertaking or undertakings, and any reference to the members of the group is to be construed accordingly.
- (6) For the purposes of –
- (a) this paragraph, and
 - (b) the operation of the provisions mentioned in sub-paragraph (2) above for the purposes of this paragraph,
- “undertaking” has the meaning given by sub-paragraph (7) below.
- (7) For those purposes “undertaking” means –
- (a) an undertaking as defined by section 259(1) of the Companies Act 1985, or
 - (b) a charity which is not an undertaking as so defined.

Accounting records

- 2 (1) The charity trustees –
- (a) of a parent charity, or
 - (b) of any charity which is a subsidiary undertaking,
- must ensure that the accounting records kept in respect of the charity under section 41(1) of this Act not only comply with the requirements of that provision but also are such as to enable the charity trustees of the parent charity to ensure that, where any group accounts are prepared by them under paragraph 3(2), those accounts comply with the relevant requirements.
- (2) If a parent charity has a subsidiary undertaking in relation to which the requirements of section 41(1) of this Act do not apply, the charity trustees of the parent charity must take reasonable steps to secure that the undertaking keeps such accounting records as to enable the trustees to ensure that, where any group accounts are prepared by them under paragraph 3(2), those accounts comply with the relevant requirements.
- (3) In this paragraph “the relevant requirements” means the requirements of regulations under paragraph 3.

Preparation of group accounts

- 3 (1) This paragraph applies in relation to a financial year of a charity if it is a parent charity at the end of that year.
- (2) The charity trustees of the parent charity must prepare group accounts in respect of that year.
- (3) “Group accounts” means consolidated accounts –

- (a) relating to the group, and
 - (b) complying with such requirements as to their form and contents as may be prescribed by regulations made by the Secretary of State.
- (4) Without prejudice to the generality of sub-paragraph (3), regulations under that sub-paragraph may make provision –
- (a) for any such accounts to be prepared in accordance with such methods and principles as are specified or referred to in the regulations;
 - (b) for dealing with cases where the financial years of the members of the group do not all coincide;
 - (c) as to any information to be provided by way of notes to the accounts.
- (5) Regulations under that sub-paragraph may also make provision –
- (a) for determining the financial years of subsidiary undertakings for the purposes of this Schedule;
 - (b) for imposing on the charity trustees of a parent charity requirements with respect to securing that such financial years coincide with that of the charity.
- (6) If the requirement in sub-paragraph (2) applies to the charity trustees of a parent charity in relation to a financial year –
- (a) that requirement so applies in addition to the requirement in section 42(1) of this Act, and
 - (b) the option of preparing the documents mentioned in section 42(3) of this Act is not available in relation to that year (whatever the amount of the charity's gross income for that year).
- (7) Sub-paragraph (2) has effect subject to paragraph 4.

Exceptions relating to requirement to prepare group accounts

- 4 (1) The requirement in paragraph 3(2) does not apply to the charity trustees of a parent charity in relation to a financial year if at the end of that year it is itself a subsidiary undertaking in relation to another charity.
- (2) The requirement in paragraph 3(2) does not apply to the charity trustees of a parent charity in relation to a financial year if the aggregate gross income of the group for that year does not exceed such sum as is specified in regulations made by the Secretary of State.
- (3) Regulations made by the Secretary of State may prescribe circumstances in which a subsidiary undertaking may or (as the case may be) must be excluded from group accounts required to be prepared under paragraph 3(2) for a financial year.
- (4) Where, by virtue of such regulations, each of the subsidiary undertakings which are members of a group is either permitted or required to be excluded from any such group accounts for a financial year, the requirement in paragraph 3(2) does not apply to the charity trustees of the parent charity in relation to that year.

Preservation of group accounts

- 5 (1) The charity trustees of a charity shall preserve any group accounts prepared by them under paragraph 3(2) for at least six years from the end of the financial year to which the accounts relate.
- (2) Subsection (4) of section 41 of this Act shall apply in relation to the preservation of any such accounts as it applies in relation to the preservation of any accounting records (the references to subsection (3) of that section being construed as references to sub-paragraph (1) above). 5

Audit of accounts of larger groups 10

- 6 (1) This paragraph applies where group accounts are prepared for a financial year of a parent charity under paragraph 3(2) and—
- (a) the aggregate gross income of the group in that year exceeds the relevant income threshold, or
- (b) the aggregate gross income of the group in that year exceeds the relevant income threshold and at the end of the year the aggregate value of the assets of the group (before deduction of liabilities) exceeds the relevant assets threshold. 15
- (2) In sub-paragraph (1)— 20
- (a) the reference in paragraph (a) or (b) to the relevant income threshold is a reference to the sum prescribed as the relevant income threshold for the purposes of that paragraph, and
- (b) the reference in paragraph (b) to the relevant assets threshold is a reference to the sum prescribed as the relevant assets threshold for the purposes of that paragraph. 25
- “Prescribed” means prescribed by regulations made by the Secretary of State. 30
- (3) This paragraph also applies where group accounts are prepared for a financial year of a parent charity under paragraph 3(2) and the appropriate audit provision applies in relation to the parent charity’s own accounts for that year.
- (4) If this paragraph applies in relation to a financial year of a parent charity by virtue of sub-paragraph (1) or (3), the group accounts for that year shall be audited— 35
- (a) (subject to paragraph (b) or (c) below) by a person within section 43(2)(a) or (b) of this Act;
- (b) if section 43A of this Act applies in relation to that year, by a person appointed by the Audit Commission (see section 43A(7)); 40
- (c) if section 43B of this Act applies in relation to that year, by the Auditor General for Wales.
- (5) Where it appears to the Commission that sub-paragraph (4)(a) above has not been complied with in relation to that year within ten months from the end of that year— 45

- (a) the Commission may by order require the group accounts for that year to be audited by a person within section 43(2)(a) or (b) of this Act, and
- (b) if it so orders, the auditor shall be a person appointed by the Commission. 5
- (6) Section 43(6) of this Act shall apply in relation to any such audit as it applies in relation to an audit carried out by an auditor appointed under section 43(5) (reading the reference to the funds of the charity as a reference to the funds of the parent charity).
- (7) Section 43A(4) and (6) of this Act apply in relation to any appointment under sub-paragraph (4)(b) above as they apply in relation to an appointment under section 43A(2). 10
- (8) If this paragraph applies in relation to a financial year of a parent charity by virtue of sub-paragraph (1), the appropriate audit provision shall apply in relation to the parent charity's own accounts for that year (whether or not it would otherwise so apply). 15
- (9) In this paragraph “the appropriate audit provision”, in relation to a financial year of a parent company, means—
- (a) (subject to paragraph (b) or (c) below) section 43(2) of this Act; 20
- (b) if section 43A of this Act applies in relation to that year, section 43A(2);
- (c) if section 43B of this Act applies in relation to that year, section 43B(2). 25

Examination of accounts of smaller groups

- 7 (1) This paragraph applies where—
- (a) group accounts are prepared for a financial year of a parent charity under paragraph 3(2), and
- (b) paragraph 6 does not apply in relation to that year. 30
- (2) If—
- (a) this paragraph applies in relation to a financial year of a parent charity, and
- (b) sub-paragraph (4) or (5) below does not apply in relation to it, 35
- subsections (3) to (7) of section 43 of this Act shall apply in relation to the group accounts for that year as they apply in relation to the accounts of a charity for a financial year in relation to which subsection (2) of that section does not apply, but subject to the modifications in sub-paragraph (3) below. 40
- (3) The modifications are—
- (a) any reference to the charity trustees of the charity is to be construed as a reference to the charity trustees of the parent charity;
- (b) any reference to the charity's gross income in the financial year in question is to be construed as a reference to the aggregate gross income of the group in that year; and 45

- (c) any reference to the funds of the charity is to be construed as a reference to the funds of the parent charity.
- (4) If—
- (a) this paragraph applies in relation to a financial year of a parent charity, and 5
 - (b) section 43A of this Act also applies in relation to that year, subsections (3) to (6) of that section shall apply in relation to the group accounts for that year as they apply in relation to the accounts of a charity for a financial year in relation to which subsection (2) of that section does not apply. 10
- (5) If—
- (a) this paragraph applies in relation to a financial year of a parent charity, and
 - (b) section 43B of this Act also applies in relation to that year, subsection (3) of that section shall apply in relation to the group accounts for that year as they apply in relation to the accounts of a charity for a financial year in relation to which subsection (2) of that section does not apply. 15
- (6) If the group accounts for a financial year of a parent charity are to be examined or audited in accordance with section 43(3) of this Act (as applied by sub-paragraph (2) above), section 43(3) shall apply in relation to the parent charity’s own accounts for that year (whether or not it would otherwise so apply). 20
- (7) Nothing in sub-paragraph (4) or (5) above affects the operation of section 43A(3) to (6) or (as the case may be) section 43B(3) in relation to the parent charity’s own accounts for the financial year in question. 25

Supplementary provisions relating to audits etc.

- 8 (1) Section 44(1) of this Act shall apply in relation to audits and examinations carried out under or by virtue of paragraph 6 or 7, but subject to the modifications in sub-paragraph (2) below. 30
- (2) The modifications are—
- (a) in paragraph (b), the reference to section 43, 43A or 43B of this Act is to be construed as a reference to paragraph 6 above or to any of those sections as applied by paragraph 7 above; 35
 - (b) also in paragraph (b), the reference to any such statement of accounts as is mentioned in sub-paragraph (i) of that paragraph is to be construed as a reference to group accounts prepared for a financial year under paragraph 3(2) above; 40
 - (c) in paragraph (c), any reference to section 43, 43A or 43B of this Act is to be construed as a reference to that section as applied by paragraph 7 above;
 - (d) in paragraphs (d) and (e), any reference to the charity concerned or a charity is to be construed as a reference to any member of the group; and 45

- (e) in paragraph (f), the reference to the requirements of section 43(2) or (3) of this Act is to be construed as a reference to the requirements of paragraph 6(4)(a) or those applied by paragraph 7(2) above.
- (3) Without prejudice to the generality of section 44(1)(e), as modified by sub-paragraph (2)(d) above, regulations made under that provision may make provision corresponding or similar to any provision made by section 389A of the Companies Act 1985 (c. 6) in connection with the rights exercisable by an auditor of a company in relation to a subsidiary undertaking of the company.
- (4) In section 44(2) of this Act the reference to section 44(1)(d) or (e) includes a reference to that provision as it applies in accordance with this paragraph.

Duty of auditors etc. to report matters to Commission

- 9 (1) Section 44A(2) to (5) and (7) of this Act shall apply in relation to a person appointed to audit, or report on, any group accounts under or by virtue of paragraph 6 or 7 above as they apply in relation to a person such as is mentioned in section 44A(1).
- (2) In section 44A(2)(a), as it applies in accordance with sub-paragraph (1) above, the reference to the charity or any connected institution or body is to be construed as a reference to the parent charity or any of its subsidiary undertakings.

Annual reports

- 10 (1) This paragraph applies where group accounts are prepared for a financial year of a parent charity under paragraph 3(2).
- (2) The annual report prepared by the charity trustees of the parent charity in respect of that year under section 45 of this Act shall include—
- (a) such a report by the trustees on the activities of the charity's subsidiary undertakings during that year, and
- (b) such other information relating to any of those undertakings,
- as may be prescribed by regulations made by the Secretary of State.
- (3) Without prejudice to the generality of sub-paragraph (2), regulations under that sub-paragraph may make provision—
- (a) for any such report as is mentioned in paragraph (a) of that sub-paragraph to be prepared in accordance with such principles as are specified or referred to in the regulations;
- (b) enabling the Commission to dispense with any requirement prescribed by virtue of sub-paragraph (2)(b) in the case of a particular subsidiary undertaking or a particular class of subsidiary undertaking.
- (4) Section 45(3) to (3B) shall apply in relation to the annual report referred to in sub-paragraph (2) above as if any reference to the

charity's gross income in the financial year in question were a reference to the aggregate gross income of the group in that year.

- (5) When transmitted to the Commission in accordance with sub-paragraph (4) above, the copy of the annual report shall have attached to it both a copy of the group accounts prepared for that year under paragraph 3(2) and— 5
- (a) a copy of the report made by the auditor on those accounts; or
 - (b) where those accounts have been examined under section 43, 43A or 43B of this Act (as applied by paragraph 7 above), a copy of the report made by the person carrying out the examination. 10
- (6) The requirements in this paragraph are in addition to those in section 45 of this Act.

Excepted charities 15

- 11 (1) This paragraph applies where—
- (a) a charity is required to prepare an annual report in respect of a financial year by virtue of section 46(5) of this Act,
 - (b) the charity is a parent charity at the end of the year, and
 - (c) group accounts are prepared for that year under paragraph 3(2) by the charity trustees of the charity. 20
- (2) When transmitted to the Commission in accordance with section 46(7) of this Act, the copy of the annual report shall have attached to it both a copy of the group accounts and—
- (a) a copy of the report made by the auditor on those accounts; or 25
 - (b) where those accounts have been examined under section 43, 43A or 43B of this Act (as applied by paragraph 7 above), a copy of the report made by the person carrying out the examination. 30
- (3) The requirement in sub-paragraph (2) is in addition to that in section 46(6) of this Act.

Exempt charities

- 12 Nothing in the preceding provisions of this Schedule applies to an exempt charity. 35

Public inspection of annual reports etc.

- 13 In section 47(2) of this Act, the reference to a charity's most recent accounts includes, in relation to a charity whose charity trustees have prepared any group accounts under paragraph 3(2), the group accounts most recently prepared by them. 40

Offences

- 14 (1) Section 49(1) of this Act applies in relation to a requirement within sub-paragraph (2) as it applies in relation to a requirement within section 49(1)(a).
- (2) A requirement is within this sub-paragraph where it is imposed by section 45(3) or (3A) of this Act, taken with—
- (a) section 45(3B), (4) and (5), and
 - (b) paragraph 10(5) or 11(2) above, as applicable.
- (3) In sub-paragraph (2) any reference to section 45(3), (3A) or (3B) of this Act is a reference to that provision as applied by paragraph 10(4) above.
- (4) In section 49(1)(b) the reference to section 47(2) of this Act includes a reference to that provision as extended by paragraph 13 above.

Aggregate gross income 15

- 15 The Secretary of State may by regulations make provision for determining for the purposes of this Schedule the amount of the aggregate gross income for a financial year of a group consisting of a parent charity and its subsidiary undertaking or undertakings.” 20

SCHEDULE 7

Section 34

CHARITABLE INCORPORATED ORGANISATIONS

PART 1

NEW PART 8A OF AND SCHEDULE 5B TO 1993 ACT

- 1 After Part 8 of the 1993 Act insert the following new Part— 25

“PART 8A

CHARITABLE INCORPORATED ORGANISATIONS

*Nature and constitution***69A Charitable incorporated organisations**

- (1) In this Act, a charitable incorporated organisation is referred to as a “CIO”. 30
- (2) A CIO shall be a body corporate.
- (3) A CIO shall have a constitution.
- (4) A CIO shall have a principal office, which shall be in England or in Wales. 35

- (5) A CIO shall have one or more members.
- (6) The members may be either –
 - (a) not liable to contribute to the assets of the CIO if it is wound up, or
 - (b) liable to do so up to a maximum amount each. 5

69B Constitution

- (1) A CIO's constitution shall state –
 - (a) its name,
 - (b) its purposes,
 - (c) whether its principal office is in England or in Wales, and 10
 - (d) whether or not its members are liable to contribute to its assets if it is wound up, and (if they are) up to what amount.
- (2) A CIO's constitution shall make provision –
 - (a) about who is eligible for membership, and how a person becomes a member, 15
 - (b) about the appointment of one or more persons who are to be charity trustees of the CIO, and about any conditions of eligibility for appointment, and
 - (c) containing directions about the application of property of the CIO on its dissolution. 20
- (3) A CIO's constitution shall also provide for such other matters, and comply with such requirements, as are specified in regulations made by the Secretary of State.
- (4) A CIO's constitution –
 - (a) shall be in English if its principal office is in England, 25
 - (b) may be in English or in Welsh if its principal office is in Wales.
- (5) A CIO's constitution shall be in the form specified in regulations made by the Commission, or as near to that form as the circumstances admit. 30
- (6) Subject to anything in a CIO's constitution: a charity trustee of the CIO may, but need not, be a member of it; a member of the CIO may, but need not, be one of its charity trustees; and those who are members of the CIO and those who are its charity trustees may, but need not, be identical. 35

69C Name and status

- (1) The name of a CIO shall appear in legible characters –
 - (a) in all business letters of the CIO,
 - (b) in all its notices and other official publications,
 - (c) in all bills of exchange, promissory notes, endorsements, cheques and orders for money or goods purporting to be signed on behalf of the CIO, 40
 - (d) in all conveyances purporting to be executed by the CIO, and
 - (e) in all bills rendered by it and in all its invoices, receipts, and letters of credit. 45

- (2) In subsection (1)(d), “conveyance” means any instrument creating, transferring, varying or extinguishing an interest in land.
- (3) Subsection (5) applies if the name of a CIO does not include –
- (a) “charitable incorporated organisation”, or
 - (b) “CIO”, with or without full stops after each letter, or 5
 - (c) a Welsh equivalent mentioned in subsection (4) (but this option applies only if the CIO’s constitution is in Welsh), and it is irrelevant, in any such case, whether or not capital letters are used.
- (4) The Welsh equivalents referred to in subsection (3)(c) are – 10
- (a) “sefydliad elusennol corfforedig”, or
 - (b) “SEC”, with or without full stops after each letter.
- (5) If this subsection applies, the fact that a CIO is a CIO shall be stated in legible characters in all the documents mentioned in subsection (1). 15
- (6) The statement required by subsection (5) shall be in English, except that in the case of a document which is otherwise wholly in Welsh, the statement may be in Welsh.

69D Offences connected with name and status

- (1) A charity trustee of a CIO or a person on the CIO’s behalf who issues or authorises the issue of any document referred to in paragraph (a), (b), (d) or (e) of section 69C(1) above which fails to comply with the requirements of section 69C(1), (5) or (6) is liable on summary conviction to a fine not exceeding level 3 on the standard scale. 20
- (2) A charity trustee of a CIO or a person on the CIO’s behalf who signs or authorises to be signed on behalf of the CIO any document referred to in paragraph (c) of section 69C(1) above which fails to comply with the requirements of section 69C(1), (5) or (6) – 25
- (a) is liable on summary conviction to a fine not exceeding level 3 on the standard scale, and 30
 - (b) is personally liable to the holder of the bill of exchange (etc.) for the amount of it, unless it is duly paid by the CIO.
- (3) A person who holds any body out as being a CIO when it is not (however he does this) is guilty of an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale. 35
- (4) It is a defence for a person charged with an offence under subsection (3) to prove that he believed on reasonable grounds that the body was a CIO.

Registration 40

69E Application for registration

- (1) Any one or more persons (“the applicants”) may apply to the Commission for a CIO to be constituted and for its registration as a charity.

- (2) The applicants shall supply the Commission with—
 - (a) a copy of the proposed constitution of the CIO,
 - (b) such other documents or information as may be prescribed by regulations made by the Secretary of State, and
 - (c) such other documents or information as the Commission may require for the purposes of the application. 5
- (3) The Commission shall refuse such an application if—
 - (a) it is not satisfied that the CIO would be a charity at the time it would be registered, or
 - (b) the CIO's proposed constitution does not comply with one or more of the requirements of section 69B above and any regulations made under that section. 10
- (4) The Commission may refuse such an application if—
 - (a) the proposed name of the CIO is the same as, or is in the opinion of the Commission too like, the name of any other charity (whether registered or not), or 15
 - (b) the Commission is of the opinion referred to in any of paragraphs (b) to (e) of section 6(2) above (power of Commission to require change in charity's name) in relation to the proposed name of the CIO (reading paragraph (b) as referring to the proposed purposes of the CIO and to the activities which it is proposed it should carry on). 20

69F Effect of registration

- (1) If the Commission grants an application under section 69E above it shall register the CIO to which the application relates as a charity in the register of charities. 25
- (2) Upon the registration of the CIO in the register of charities, it becomes by virtue of the registration a body corporate—
 - (a) whose constitution is that proposed in the application,
 - (b) whose name is that specified in the constitution, and 30
 - (c) whose first member is, or first members are, the applicants referred to in section 69E above.
- (3) All property for the time being vested in the applicants (or, if more than one, any of them) on trust for the charitable purposes of the CIO (when incorporated) shall by virtue of this subsection become vested in the CIO upon its registration. 35
- (4) The entry relating to the charity's registration in the register of charities shall include—
 - (a) the date of the charity's registration, and
 - (b) a note saying that it is constituted as a CIO. 40
- (5) A copy of the entry in the register shall be sent to the charity at the principal office of the CIO.

Conversion, amalgamation and transfer

69G Conversion of charitable company or registered industrial and provident society

- | | |
|--|--------------|
| (1) The following may apply to the Commission to be converted into a CIO, and for the CIO's registration as a charity, in accordance with this section – | 5 |
| (a) a charitable company, | |
| (b) a charity which is a registered society within the meaning of the Industrial and Provident Societies Act 1965. | |
| (2) But such an application may not be made by – | 10 |
| (a) a company or registered society having a share capital if any of the shares are not fully paid up, or | |
| (b) an exempt charity. | |
| (3) Such an application is referred to in this section and sections 69H and 69I below as an “application for conversion”. | 15 |
| (4) The Commission shall notify the following of any application for conversion – | |
| (a) the appropriate registrar, and | |
| (b) such other persons (if any) as the Commission thinks appropriate in the particular case. | 20 |
| (5) The company or registered society shall supply the Commission with – | |
| (a) a copy of a resolution of the company or registered society that it be converted into a CIO, | |
| (b) a copy of the proposed constitution of the CIO, | 25 |
| (c) a copy of a resolution of the company or registered society adopting the proposed constitution of the CIO, | |
| (d) such other documents or information as may be prescribed by regulations made by the Secretary of State, and | |
| (e) such other documents or information as the Commission may require for the purposes of the application. | 30 |
| (6) The resolution referred to in subsection (5)(a) shall be – | |
| (a) a special resolution of the company or registered society, or | |
| (b) a unanimous written resolution signed by or on behalf of all the members of the company or registered society who would be entitled to vote on a special resolution. | 35 |
| (7) In the case of a registered society, “special resolution” has the meaning given in section 52(3) of the Industrial and Provident Societies Act 1965. | |
| (8) In the case of a company limited by guarantee which makes an application for conversion (whether or not it also has a share capital), the proposed constitution of the CIO shall (unless subsection (10) applies) provide for the CIO's members to be liable to contribute to its assets if it is wound up, and for the amount up to which they are so liable. | 40

45 |

- (9) That amount shall not be less than the amount up to which they were liable to contribute to the assets of the company if it was wound up.
- (10) If the amount each member of the company is liable to contribute to its assets on its winding up is £10 or less, the guarantee shall be extinguished on the conversion of the company into a CIO, and the requirements of subsections (8) and (9) do not apply. 5
- (11) In subsection (4), and in sections 69H and 69I below, “the appropriate registrar” means –
- (a) in the case of an application for conversion by a charitable company, the registrar of companies, 10
 - (b) in the case of an application for conversion by a registered society, the Financial Services Authority.
- (12) In this section, “charitable company” means a company which is a charity.

69H Conversion: consideration of application 15

- (1) The Commission shall consult those to whom it has given notice of an application for conversion under section 69G(4) above about whether the application should be granted.
- (2) The Commission shall refuse an application for conversion if –
- (a) it is not satisfied that the CIO would be a charity at the time it would be registered, 20
 - (b) the CIO’s proposed constitution does not comply with one or more of the requirements of section 69B above and any regulations made under that section, or
 - (c) in the case of an application for conversion made by a company limited by guarantee, the CIO’s proposed constitution does not comply with the requirements of subsections (8) and (9) of section 69G above. 25
- (3) The Commission may refuse an application for conversion if –
- (a) the proposed name of the CIO is the same as, or is in the opinion of the Commission too like, the name of any other charity (whether registered or not), 30
 - (b) the Commission is of the opinion referred to in any of paragraphs (b) to (e) of section 6(2) above (power of Commission to require change in charity’s name) in relation to the proposed name of the CIO (reading paragraph (b) as referring to the proposed purposes of the CIO and to the activities which it is proposed it should carry on), or 35
 - (c) having considered any representations received from those whom it has consulted under subsection (1), the Commission considers (having regard to any regulations made under subsection (4)) that it would not be appropriate to grant the application. 40
- (4) The Secretary of State may make provision in regulations about circumstances in which it would not be appropriate to grant an application for conversion. 45
- (5) If the Commission refuses an application for conversion, it shall so notify the appropriate registrar (see section 69G(11) above).

69I Conversion: supplementary

- (1) If the Commission grants an application for conversion, it shall—
 - (a) register the CIO to which the application related in the register of charities, and
 - (b) send to the appropriate registrar (see section 69G(11) above) a copy of each of the resolutions of the converting company or registered society referred to in section 69G(5)(a) and (c) above, and a copy of the entry in the register relating to the CIO. 5

- (2) The registration of the CIO in the register shall be provisional only until the appropriate registrar cancels the registration of the company or registered society as required by subsection (3)(b). 10

- (3) The appropriate registrar shall—
 - (a) register the documents sent to him under subsection (1)(b), and
 - (b) cancel the registration of the company in the register of companies, or of the society in the register of friendly societies,
 and shall notify the Commission that he has done so. 15

- (4) When the appropriate registrar cancels the registration of the company or of the registered society, the company or registered society is thereupon converted into a CIO, being a body corporate—
 - (a) whose constitution is that proposed in the application for conversion,
 - (b) whose name is that specified in the constitution, and
 - (c) whose first members are the members of the converting company or society immediately before the moment of conversion. 25

- (5) If the converting company or registered society had a share capital, upon the conversion of the company or registered society all the shares shall by virtue of this subsection be cancelled, and no former holder of any cancelled share shall have any right in respect of it after its cancellation. 30

- (6) Subsection (5) does not affect any right which accrued in respect of a share before its cancellation. 35

- (7) The entry relating to the charity’s registration in the register shall include—
 - (a) a note that it is constituted as a CIO,
 - (b) the date on which it became so constituted, and
 - (c) a note of the name of the company or society which was converted into the CIO, 40
 but the matters mentioned in paragraphs (a) and (b) are to be included only when the appropriate registrar has notified the Commission as required by subsection (3).

- (8) A copy of the entry in the register shall be sent to the charity at the principal office of the CIO. 45

- (9) The conversion of a charitable company or of a registered society into a CIO does not affect, in particular, any liability to which the company or registered society was subject by virtue of its being a charitable company or registered society.

69J Conversion of community interest company 5

- (1) The Secretary of State may by regulations make provision for the conversion of a community interest company into a CIO, and for the CIO's registration as a charity.
- (2) The regulations may, in particular, apply, or apply with modifications specified in the regulations, or disapply, anything in sections 53 to 55 of the Companies (Audit, Investigations and Community Enterprise) Act 2004 or in sections 69G to 69I above. 10

69K Amalgamation of CIOs

- (1) Any two or more CIOs (“the old CIOs”) may, in accordance with this section, apply to the Commission to be amalgamated, and for the incorporation and registration as a charity of a new CIO (“the new CIO”) as their successor. 15
- (2) Such an application is referred to in this section and section 69L below as an “application for amalgamation”.
- (3) Subsections (2) to (4) of section 69E above apply in relation to an application for amalgamation as they apply to an application for a CIO to be constituted, but in those subsections – 20
- (a) “the applicants” shall be construed as meaning the old CIOs, and
- (b) references to the CIO are to the new CIO. 25
- (4) In addition to the documents and information referred to in section 69E(2) above, the old CIOs shall supply the Commission with – 30
- (a) a copy of a resolution of each of the old CIOs approving the proposed amalgamation, and
- (b) a copy of a resolution of each of the old CIOs adopting the proposed constitution of the new CIO.
- (5) The resolutions referred to in subsection (4) must have been passed – 35
- (a) by a 75% majority of those voting at a general meeting of the CIO (including those voting by proxy or by post, if voting that way is permitted), or
- (b) unanimously by the CIO's members, otherwise than at a general meeting.
- (6) The date of passing of such a resolution is – 40
- (a) the date of the general meeting at which it was passed, or
- (b) if it was passed otherwise than at a general meeting, the date on which provision in the CIO's constitution or in regulations made under paragraph 13 of Schedule 5B to this Act deems it to have been passed (but that date may not be earlier than that on which the last member agreed to it). 45
- (7) Each old CIO shall –

-
- (a) give notice of the proposed amalgamation in the way (or ways) that in the opinion of its charity trustees will make it most likely to come to the attention of those who would be affected by the amalgamation, and
- (b) send a copy of the notice to the Commission. 5
- (8) The notice shall invite any person who considers that he would be affected by the proposed amalgamation to make written representations to the Commission not later than a date determined by the Commission and specified in the notice.
- (9) In addition to being required to refuse it on one of the grounds mentioned in section 69E(3) above as applied by subsection (3) of this section, the Commission shall refuse an application for amalgamation if it considers that there is a serious risk that the new CIO would be unable properly to pursue its purposes. 10
- (10) The Commission may refuse an application for amalgamation if it is not satisfied that the provision in the constitution of the new CIO about the matters mentioned in subsection (11) is the same, or substantially the same, as the provision about those matters in the constitutions of each of the old CIOs. 15
- (11) The matters are – 20
- (a) the purposes of the CIO,
- (b) the application of property of the CIO on its dissolution, and
- (c) authorisation for any benefit to be obtained by charity trustees or members of the CIO or persons connected with them. 25
- (12) For the purposes of subsection (11)(c) –
- (a) “benefit” means a direct or indirect benefit of any nature, except that it does not include any remuneration (within the meaning of section 73A below) whose receipt may be authorised under that section, and 30
- (b) the same rules apply for determining whether a person is connected with a charity trustee or member of the CIO as apply, in accordance with section 73B(6) and (7) below, for determining whether a person is connected with a charity trustee for the purposes of section 73A. 35
- 69L Amalgamation: supplementary**
- (1) If the Commission grants an application for amalgamation, it shall register the new CIO in the register of charities.
- (2) Upon the registration of the new CIO it thereupon becomes by virtue of the registration a body corporate – 40
- (a) whose constitution is that proposed in the application for amalgamation,
- (b) whose name is that specified in the constitution, and
- (c) whose first members are the members of the old CIOs immediately before the new CIO was registered. 45
- (3) Upon the registration of the new CIO –

- (a) all the property, rights and liabilities of each of the old CIOs shall become by virtue of this subsection the property, rights and liabilities of the new CIO, and
 - (b) each of the old CIOs shall be dissolved.
- (4) Any gift which— 5
 - (a) is expressed as a gift to one of the old CIOs, and
 - (b) takes effect on or after the date of registration of the new CIO, takes effect as a gift to the new CIO.
- (5) The entry relating to the registration in the register of the charity constituted as the new CIO shall include— 10
 - (a) a note that it is constituted as a CIO,
 - (b) the date of the charity’s registration, and
 - (c) a note that the CIO was formed following amalgamation, and of the name of each of the old CIOs.
- (6) A copy of the entry in the register shall be sent to the charity at the principal office of the new CIO. 15

69M Transfer of CIO’s undertaking

- (1) A CIO may resolve that all its property, rights and liabilities should be transferred to another CIO specified in the resolution.
- (2) Where a CIO has passed such a resolution, it shall send to the Commission— 20
 - (a) a copy of the resolution, and
 - (b) a copy of a resolution of the transferee CIO agreeing to the transfer to it.
- (3) Subsections (5) and (6) of section 69K above apply to the resolutions referred to in subsections (1) and (2)(b) as they apply to the resolutions referred to in section 69K(4). 25
- (4) Having received the copy resolutions referred to in subsection (2), the Commission— 30
 - (a) may direct the transferor CIO to give public notice of its resolution in such manner as is specified in the direction, and
 - (b) if it gives such a direction, must take into account any representations made to it by persons appearing to it to be interested in the transferor CIO, where those representations are made to it within the period of 28 days beginning with the date when public notice of the resolution is given by the transferor CIO. 35
- (5) The resolution shall not take effect until confirmed by the Commission.
- (6) The Commission shall refuse to confirm the resolution if it considers that there is a serious risk that the transferee CIO would be unable properly to pursue the purposes of the transferor CIO. 40
- (7) The Commission may refuse to confirm the resolution if it is not satisfied that the provision in the constitution of the transferee CIO about the matters mentioned in section 69K(11) above is the same, or 45

substantially the same, as the provision about those matters in the constitution of the transferor CIO.

- (8) If the Commission does not notify the transferor CIO within the relevant period that it is either confirming or refusing to confirm the resolution, the resolution is to be treated as confirmed by the Commission on the day after the end of that period. 5
- (9) Subject to subsection (10), “the relevant period” means –
- (a) in a case where the Commission directs the transferor CIO under subsection (4) to give public notice of its resolution, the period of six months beginning with the date when that notice is given, or 10
- (b) in any other case, the period of six months beginning with the date when both of the copy resolutions referred to in subsection (2) have been received by the Commission.
- (10) The Commission may at any time within the period of six months mentioned in subsection (9)(a) or (b) give the transferor CIO a notice extending the relevant period by such period (not exceeding six months) as is specified in the notice. 15
- (11) A notice under subsection (10) must set out the Commission’s reasons for the extension. 20
- (12) If the resolution is confirmed (or treated as confirmed) by the Commission –
- (a) all the property, rights and liabilities of the transferor CIO shall become by virtue of this subsection the property, rights and liabilities of the transferee CIO in accordance with the resolution, and 25
- (b) the transferor CIO shall be dissolved.
- (13) Any gift which –
- (a) is expressed as a gift to the transferor CIO, and
- (b) takes effect on or after the date on which the resolution is confirmed (or treated as confirmed), 30
- takes effect as a gift to the transferee CIO.

Winding up, insolvency and dissolution

69N Regulations about winding up, insolvency and dissolution

- (1) The Secretary of State may by regulations make provision about – 35
- (a) the winding up of CIOs,
- (b) their insolvency,
- (c) their dissolution, and
- (d) their revival and restoration to the register following dissolution. 40
- (2) The regulations may, in particular, make provision –
- (a) about the transfer on the dissolution of a CIO of its property and rights (including property and rights held on trust for the CIO) to the official custodian or another person or body,

- (b) requiring any person in whose name any stocks, funds or securities are standing in trust for a CIO to transfer them into the name of the official custodian or another person or body,
 - (c) about the disclaiming, by the official custodian or other transferee of a CIO’s property, of title to any of that property, 5
 - (d) about the application of a CIO’s property *cy-près*,
 - (e) about circumstances in which charity trustees may be personally liable for contributions to the assets of a CIO or for its debts,
 - (f) about the reversal on a CIO’s revival of anything done on its dissolution. 10
 - (3) The regulations may –
 - (a) apply any enactment which would not otherwise apply, either without modification or with modifications specified in the regulations, 15
 - (b) disapply, or modify (in ways specified in the regulations) the application of, any enactment which would otherwise apply.
 - (4) In subsection (3), “enactment” includes a provision of subordinate legislation within the meaning of the Interpretation Act 1978.
- Miscellaneous* 20
- 69O Power to transfer all property of unincorporated charity to one or more CIOs**
- Section 74 below (power to transfer all property of unincorporated charity) applies with the omission of paragraph (a) of subsection (1) in relation to a resolution by the charity trustees of a charity to transfer all its property to a CIO or to divide its property between two or more CIOs. 25
- 69P Further provision about CIOs**
- The provisions of Schedule 5B to this Act shall have effect with respect to CIOs. 30
- 69Q Regulations**
- (1) The Secretary of State may by regulations make further provision about applications for registration of CIOs, the administration of CIOs, the conversion of charitable companies, registered societies and community interest companies into CIOs, the amalgamation of CIOs, and in relation to CIOs generally. 35
 - (2) The regulations may, in particular, make provision about –
 - (a) the execution of deeds and documents,
 - (b) the electronic communication of messages or documents relevant to a CIO or to any dealing with the Commission in relation to one, 40
 - (c) the maintenance of registers of members and of charity trustees,
 - (d) the maintenance of other registers (for example, a register of charges over the CIO’s assets). 45

- (3) The regulations may, in relation to charities constituted as CIOs—
- (a) disapply any of sections 3 to 4 above,
 - (b) modify the application of any of those sections in ways specified in the regulations.
- (4) Subsections (3) and (4) of section 69N above apply for the purposes of this section as they apply for the purposes of that.” 5
- 2 After the Schedule 5A inserted in the 1993 Act by Schedule 6 to this Act, insert the following Schedule—

“SCHEDULE 5B

Section 69P 10

FURTHER PROVISION ABOUT CHARITABLE INCORPORATED ORGANISATIONS

Powers

- 1 (1) Subject to anything in its constitution, a CIO has power to do anything which is calculated to further its purposes or is conducive or incidental to doing so. 15
- (2) The CIO’s charity trustees shall manage the affairs of the CIO and may for that purpose exercise all the powers of the CIO.

Constitutional requirements

- 2 A CIO shall use and apply its property in furtherance of its purposes and in accordance with its constitution. 20
- 3 If the CIO is one whose members are liable to contribute to its assets if it is wound up, its constitution binds the CIO and its members for the time being to the same extent as if its provisions were contained in a contract—
- (a) to which the CIO and each of its members was a party, and 25
 - (b) which contained obligations on the part of the CIO and each member to observe all the provisions of the constitution.
- 4 Money payable by a member to the CIO under the constitution is a debt due from him to the CIO, and is of the nature of a specialty debt. 30

Third parties

- 5 (1) Sub-paragraphs (2) and (3) are subject to sub-paragraph (4).
- (2) The validity of an act done (or purportedly done) by a CIO shall not be called into question on the ground that it lacked constitutional capacity. 35
- (3) The power of the charity trustees of a CIO to act so as to bind the CIO (or authorise others to do so) shall not be called into question on the ground of any constitutional limitations on their powers.

- (4) But sub-paragraphs (2) and (3) apply only in favour of a person who gives full consideration in money or money's worth in relation to the act in question, and does not know –
- (a) in a sub-paragraph (2) case, that the act is beyond the CIO's constitutional capacity, or 5
 - (b) in a sub-paragraph (3) case, that the act is beyond the constitutional powers of its charity trustees, and (in addition) sub-paragraph (3) applies only if the person dealt with the CIO in good faith (which he shall be presumed to have done unless the contrary is proved). 10
- (5) A party to an arrangement or transaction with a CIO is not bound to inquire –
- (a) whether it is within the CIO's constitutional capacity, or
 - (b) as to any constitutional limitations on the powers of its charity trustees to bind the CIO or authorise others to do so. 15
- (6) If a CIO purports to transfer or grant an interest in property, the fact that the act was beyond its constitutional capacity, or that its charity trustees in connection with the act exceeded their constitutional powers, does not affect the title of a person who subsequently acquires the property or any interest in it for full consideration without actual notice of any such circumstances affecting the validity of the CIO's act. 20
- (7) In any proceedings arising out of sub-paragraphs (2) to (4), the burden of proving that a person knew that an act – 25
- (a) was beyond the CIO's constitutional capacity, or
 - (b) was beyond the constitutional powers of its charity trustees,
- lies on the person making that allegation.
- (8) In this paragraph and paragraphs 6 to 8 – 30
- (a) references to a CIO's lack of "constitutional capacity" are to lack of capacity because of anything in its constitution, and
 - (b) references to "constitutional limitations" on the powers of a CIO's charity trustees are to limitations on their powers under its constitution, including limitations deriving from a resolution of the CIO in general meeting, or from an agreement between the CIO's members, and "constitutional powers" is to be construed accordingly. 35
- 6 (1) Nothing in paragraph 5 prevents a person from bringing proceedings to restrain the doing of an act which would be – 40
- (a) beyond the CIO's constitutional capacity, or
 - (b) beyond the constitutional powers of the CIO's charity trustees.
- (2) But no such proceedings may be brought in respect of an act to be done in fulfilment of a legal obligation arising from a previous act of the CIO. 45

(3) Sub-paragraph (2) does not prevent the Commission from exercising any of its powers.

7 Nothing in paragraph 5(3) affects any liability incurred by the CIO's charity trustees (or any one of them) for acting beyond his or their constitutional powers. 5

8 Nothing in paragraph 5 absolves the CIO's charity trustees from their duty to act within the CIO's constitution and in accordance with any constitutional limitations on their powers.

Duties

9 It is the duty of – 10
 (a) each member of a CIO, and
 (b) each charity trustee of a CIO,
 to exercise his powers, and (in the case of a charity trustee) to perform his functions, in his capacity as such, in the way he decides, in good faith, would be most likely to further the purposes of the CIO. 15

10 (1) Subject to any provision of a CIO's constitution permitted by virtue of regulations made under sub-paragraph (2), each charity trustee of a CIO shall in the performance of his functions in that capacity exercise such care and skill as is reasonable in the circumstances, having regard in particular – 20
 (a) to any special knowledge or experience that he has or holds himself out as having, and
 (b) if he acts as a charity trustee in the course of a business or profession, to any special knowledge or experience that it is reasonable to expect of a person acting in the course of that kind of business or profession. 25

(2) The Secretary of State may make regulations permitting a CIO's constitution to provide that the duty in sub-paragraph (1) does not apply, or does not apply in so far as is specified in the constitution. 30

(3) Regulations under sub-paragraph (2) may provide for limits on the extent to which, or the cases in which, a CIO's constitution may disapply the duty in sub-paragraph (1).

Personal benefit and payments

11 (1) A charity trustee of a CIO may not benefit personally from any arrangement or transaction entered into by the CIO if, before the arrangement or transaction was entered into, he did not disclose to all the charity trustees of the CIO any material interest of his in it or in any other person or body party to it (whether that interest is direct or indirect). 35
 40

(2) Nothing in sub-paragraph (1) confers authority for a charity trustee of a CIO to benefit personally from any arrangement or transaction entered into by the CIO.

12 A charity trustee of a CIO – 45
 (a) is entitled to be reimbursed by the CIO, or

(b) may pay out of the CIO's funds, expenses properly incurred by him in the performance of his functions as such.

Procedure

- 13 (1) The Secretary of State may by regulations make provision about the procedure of CIOs. 5
- (2) Subject to –
- (a) any such regulations,
 - (b) any other requirement imposed by or by virtue of this Act or any other enactment, and 10
 - (c) anything in the CIO's constitution, a CIO may regulate its own procedure.
- (3) But a CIO's procedure shall include provision for the holding of a general meeting of its members, and the regulations referred to in sub-paragraph (1) may in particular make provision about such meetings. 15

Amendment of constitution

- 14 (1) A CIO may by resolution of its members amend its constitution (and a single resolution may provide for more than one amendment). 20
- (2) Such a resolution must be passed –
- (a) by a 75% majority of those voting at a general meeting of the CIO (including those voting by proxy or by post, if voting that way is permitted), or
 - (b) unanimously by the CIO's members, otherwise than at a general meeting. 25
- (3) The date of passing of such a resolution is –
- (a) the date of the general meeting at which it was passed, or
 - (b) if it was passed otherwise than at a general meeting, the date on which provision in the CIO's constitution or in regulations made under paragraph 13 deems it to have been passed (but that date may not be earlier than that on which the last member agreed to it). 30
- (4) The power of a CIO to amend its constitution is not exercisable in any way which would result in the CIO's ceasing to be a charity. 35
- (5) Subject to paragraph 15(5) below, a resolution containing an amendment which would make any regulated alteration is to that extent ineffective unless the prior written consent of the Commission has been obtained to the making of the amendment.
- (6) The following are regulated alterations – 40
- (a) any alteration of the CIO's purposes,
 - (b) any alteration of any provision of the CIO's constitution directing the application of property of the CIO on its dissolution,

- (c) any alteration of any provision of the CIO’s constitution where the alteration would provide authorisation for any benefit to be obtained by charity trustees or members of the CIO or persons connected with them.
- (7) For the purposes of sub-paragraph (6)(c) – 5
- (a) “benefit” means a direct or indirect benefit of any nature, except that it does not include any remuneration (within the meaning of section 73A of this Act) whose receipt may be authorised under that section, and
- (b) the same rules apply for determining whether a person is connected with a charity trustee or member of the CIO as apply, in accordance with section 73B(6) and (7) of this Act, for determining whether a person is connected with a charity trustee for the purposes of section 73A. 10
- Registration and coming into effect of amendments* 15
- 15 (1) A CIO shall send to the Commission a copy of a resolution containing an amendment to its constitution, together with –
- (a) a copy of the constitution as amended, and
- (b) such other documents and information as the Commission may require, 20
- by the end of the period of 15 days beginning with the date of passing of the resolution (see paragraph 14(3)).
- (2) An amendment to a CIO’s constitution does not take effect until it has been registered.
- (3) The Commission shall refuse to register an amendment if – 25
- (a) in the opinion of the Commission the CIO had no power to make it (for example, because the effect of making it would be that the CIO ceased to be a charity, or that the CIO or its constitution did not comply with any requirement imposed by or by virtue of this Act or any other enactment), or
- (b) the amendment would change the name of the CIO, and the Commission could have refused an application under section 69E of this Act for the constitution and registration of a CIO with the name specified in the amendment on a ground set out in subsection (4) of that section. 30
- (4) The Commission may refuse to register an amendment if the amendment would make a regulated alteration and the consent referred to in paragraph 14(5) had not been obtained.
- (5) But if the Commission does register such an amendment, paragraph 14(5) does not apply.” 35 40

PART 2

OTHER AMENDMENTS OF 1993 ACT

- 3 The 1993 Act is further amended as follows.

- 4 In section 45 (annual reports), after subsection (3A) insert –
“(3B) But in the case of a charity which is constituted as a CIO –
(a) the requirement imposed by subsection (3) applies whatever the charity’s gross income is, and
(b) subsection (3A) does not apply.” 5
- 5 In section 48 (annual returns), in subsection (1A), at the end add “(but this subsection does not apply if the charity is constituted as a CIO)”.
- 6 In section 86 (regulations and orders) –
(a) in subsection (2), after paragraph (a) insert –
“(aa) to regulations of the Secretary of State under section 69N above; and no regulations shall be made under that section unless a draft of the regulations has been laid before and approved by a resolution of each House of Parliament; or”, 10
(b) in subsection (4), for “or 45” substitute “, 45, 69N or 69Q”. 15
- 7 In section 97 (general interpretation), in subsection (1), at the appropriate place insert –
““CIO” means charitable incorporated organisation;”.

SCHEDULE 8

Section 74

MINOR AND CONSEQUENTIAL AMENDMENTS 20

Literary and Scientific Institutions Act 1854 (c. 112)

- 1 In section 6 of the Literary and Scientific Institutions Act 1854 (power of corporations etc. to convey land for the purposes of that Act) for “without the consent of the Charity Commissioners” substitute “except with the consent of the Charity Commission or in accordance with such provisions of section 36(2) to (8) of the Charities Act 1993 as are applicable”. 25

Places of Worship Registration Act 1855 (c. 81)

- 2 In section 9(1) of the Places of Worship Registration Act 1855 (certified places exempt from requirement to register) –
(a) for “shall be excepted under subsection (5) of section 3 of the Charities Act 1993, from registration under that section” substitute “shall, so far as it is a charity, be treated for the purposes of section 3A(4)(b) of the Charities Act 1993 (institutions to be excepted from registration under that Act) as if that provision applied to it”, and 30
(b) for “Charity Commissioners” substitute “Charity Commission”. 35

Bishops Trusts Substitution Act 1858 (c. 71)

- 3 The Bishops Trusts Substitution Act 1858 has effect subject to the following amendments.
- 4 In section 1 (substitution of one bishop for another as trustee) –
(a) for “Charity Commissioners” substitute “Charity Commission”, and 40

(b) for “them” substitute “it”.

- 5 In section 3 (how costs are to be defrayed) for “said Charity Commissioners” (in both places) substitute “Charity Commission”.

Places of Worship Sites Amendment Act 1882 (c. 21)

- 6 In section 1(d) of the Places of Worship Sites Amendment Act 1882 (conveyance of lands by corporations and other public bodies) for “without the consent of the Charity Commissioners” substitute “except with the consent of the Charity Commission or in accordance with such provisions of section 36(2) to (8) of the Charities Act 1993 as are applicable”. 5

Municipal Corporations Act 1882 (c. 50) 10

- 7 In section 133(2) of the Municipal Corporations Act 1882 (administration of charitable trusts and vesting of legal estate) for “Charity Commissioners” substitute “Charity Commission”.

Technical and Industrial Institutions Act 1892 (c. 29)

- 8 In section 9(1) of the Technical and Industrial Institutions Act 1892 (site may be sold or exchanged) for “with the consent of the Charity Commissioners” substitute “with the consent of the Charity Commission or in accordance with such provisions of section 36(2) to (8) of the Charities Act 1993 as are applicable”. 15

Local Government Act 1894 (c. 73) 20

- 9 (1) In section 75(2) of the Local Government Act 1894 (construction of that Act) the definition of “ecclesiastical charity” is amended as follows.
- (2) In the second paragraph (proviso)–
- (a) for “Charity Commissioners” substitute “Charity Commission”, and
- (b) for “them” substitute “it”. 25
- (3) In the third paragraph (inclusion of other buildings) for “Charity Commissioners” substitute “Charity Commission”.

Commons Act 1899 (c. 30)

- 10 In section 18 of the Commons Act 1899 (power to modify provisions as to recreation grounds)– 30
- (a) for “Charity Commissioners” substitute “Charity Commission”, and
- (b) for “their” substitute “its”.

Open Spaces Act 1906 (c. 25)

- 11 The Open Spaces Act 1906 has effect subject to the following amendments.
- 12 In section 3(1) (transfer to local authority of spaces held by trustees for purposes of public recreation) for “Charity Commissioners” substitute “Charity Commission”. 35
- 13 (1) Section 4 (transfer by charity trustees of open space to local authority) is amended as follows.

-
- (2) In subsection (1), for the words from “and with the sanction” to “as hereinafter provided” substitute “and in accordance with subsection (1A)”.
- (3) After subsection (1) insert –
- “(1A) The trustees act in accordance with this subsection if they convey or demise the open space as mentioned in subsection (1) – 5
- (a) with the sanction of an order of the Charity Commission or with that of an order of the court to be obtained as provided in the following provisions of this section, or
- (b) in accordance with such provisions of section 36(2) to (8) of the Charities Act 1993 as are applicable.” 10
- (4) In subsection (4) –
- (a) for “Charity Commissioners” substitute “Charity Commission”, and
- (b) for “them” substitute “it”.
- 14 In section 21(1) (application to Ireland) –
- (a) for “Charity Commissioners” substitute “Charity Commission”, and 15
- (b) for “Commissioners of Charity Donations and Bequests for Ireland” substitute “the Department for Social Development”.
- National Trust Charity Scheme Confirmation Act 1919 (c. lxxxiv)*
- 15 The National Trust Charity Scheme Confirmation Act 1919 has effect subject to the following amendments. 20
- 16 In section 1 (confirmation of the scheme) for “Charity Commissioners” substitute “Charity Commission”.
- 17 In paragraph 3 of the scheme set out in the Schedule, for “Charity Commissioners upon such application made to them for the purpose as they think” substitute “Charity Commission upon such application made to it for the purpose as it thinks”. 25
- Settled Land Act 1925 (c. 18)*
- 18 In section 29(3) of the Settled Land Act 1925 (charitable and public trusts: saving) for “Charity Commissioners” substitute “Charity Commission”.
- Landlord and Tenant Act 1927 (c. 36)* 30
- 19 In Part 2 of the Second Schedule to the Landlord and Tenant Act 1927 (application to ecclesiastical and charity land), in paragraph 2, for “Charity Commissioners” substitute “Charity Commission”.
- Voluntary Hospitals (Paying Patients) Act 1936 (c. 17)*
- 20 The Voluntary Hospitals (Paying Patients) Act 1936 has effect subject to the following amendments. 35
- 21 In section 1 (definitions), in the definition of “Order”, for “Charity Commissioners” substitute “Charity Commission”.
- 22 (1) Section 2 (accommodation for and charges to paying patients) is amended as follows. 40

- (2) In subsections (1), (3) and (4) for “Charity Commissioners” substitute “Charity Commission”.
- (3) In subsection (4) –
- (a) for “the Commissioners” (in both places) substitute “the Commission”, 5
 - (b) for “they” substitute “it”, and
 - (c) for “their” substitute “its”.
- 23 In section 3(1) (provision for patients able to make some, but not full, payment) –
- (a) for “Charity Commissioners are” substitute “Charity Commission is”, and 10
 - (b) for “they” substitute “it”.
- 24 In section 4 (provisions for protection of existing trusts) –
- (a) for “Charity Commissioners” substitute “Charity Commission”, and
 - (b) in paragraphs (a), (b) and (c) for “they are” substitute “it is”. 15
- 25 (1) Section 5 (power to make rules) is amended as follows.
- (2) In subsection (1) –
- (a) for “Charity Commissioners” substitute “Charity Commission”, and
 - (b) for “they” substitute “it”.
- (3) In subsection (3) – 20
- (a) for “Charity Commissioners” (in both places) substitute “Charity Commission”,
 - (b) for “they” and “them” (in each place) substitute “it”, and
 - (c) for “an officer” substitute “a member of staff”.
- (4) In the sidenote, for “Charity Commissioners” substitute “Charity Commission”. 25
- 26 In section 6(2) (savings) –
- (a) for “Charity Commissioners” substitute “Charity Commission”, and
 - (b) for “them” substitute “it”.
- Green Belt (London and Home Counties) Act 1938 (c. xciii)* 30
- 27 In section 20 of the Green Belt (London and Home Counties) Act 1938 (lands held on charitable trusts) for “Charity Commissioners” substitute “Charity Commission”.
- New Parishes Measure 1943 (No. 1)*
- 28 The New Parishes Measure 1943 has effect subject to the following amendments. 35
- 29 In section 14(1)(b) (power of corporations etc. to give or grant land for sites of churches, etc.) for “with the sanction of an order of the Charity Commissioners” substitute –
- “(i) with the sanction of an order of the Charity Commission, or 40

(ii) in accordance with such provisions of section 36(2) to (8) of the Charities Act 1993 as are applicable;”

- 30 In section 31 (charitable trusts)–
- (a) for “the Board of Charity Commissioners” substitute “the Charity Commission”, and 5
 - (b) for “the Charity Commissioners” substitute “the Charity Commission”.

Crown Proceedings Act 1947 (c. 44)

- 31 In section 23(3) of the Crown Proceedings Act 1947 (proceedings with respect to which Part 2 of the Act does not apply) for “Charity Commissioners” substitute “Charity Commission”. 10

London County Council (General Powers) Act 1947 (c. xlvi)

- 32 (1) Section 6 of the London County Council (General Powers) Act 1947 (saving for certain trusts) is amended as follows.
- (2) In subsection (2)– 15
 - (a) for “Charity Commissioners” substitute “Charity Commission”, and
 - (b) at the end add “; but this is subject to subsection (3)”.
 - (3) After subsection (2) add –
 - “(3) In relation to any disposition of land falling within section 36(1) of the Charities Act 1993, the Council or the borough council may, instead of acting with the sanction of an order of the court or of the Charity Commission, make the disposition in accordance with such provisions of section 36(2) to (8) of that Act as are applicable.” 20

London County Council (General Powers) Act 1951 (c. xli)

- 33 In section 33(6) of the London County Council (General Powers) Act 1951 (improvement of roadside amenities: saving for certain land) for “Charity Commissioners” substitute “Charity Commission”. 25

City of London (Various Powers) Act 1952 (c. vi)

- 34 In section 4(6) of the City of London (Various Powers) Act 1952 (improvement of amenities) for “Charity Commissioners” substitute “Charity Commission”. 30

City of London (Guild Churches) Act 1952 (c. xxxviii)

- 35 In section 35 of the City of London (Guild Churches) Act 1952 (saving of rights of certain persons) for “Charity Commissioners” substitute “Charity Commission”. 35

London County Council (General Powers) Act 1955 (c. xxix)

- 36 (1) Section 34 of the London County Council (General Powers) Act 1955 (powers as to erection of buildings: saving for certain land and buildings) is amended as follows.

-
- (2) In subsection (2) –
- (a) for “Charity Commissioners” substitute “Charity Commission”, and
 - (b) at the end add “; but this is subject to subsection (3)”.
- (3) After subsection (2) add –
- “(3) In relation to any disposition of land falling within section 36(1) of the Charities Act 1993, the Council may, instead of acting with the sanction of an order of the court or of the Charity Commission, make the disposition in accordance with such provisions of section 36(2) to (8) of that Act as are applicable.” 5
- Parochial Church Councils (Powers) Measure 1956 (No. 3)* 10
- 37 In section 6(5) of the Parochial Church Councils (Powers) Measure 1956 (consents required for transactions relating to certain property) for “Charity Commissioners” substitute “Charity Commission”.
- Church Funds Investment Measure 1958 (No. 1)*
- 38 Section 5 of the Church Funds Investment Measure 1958 (jurisdiction of Charity Commissioners) is omitted. 15
- Incumbents and Churchwardens (Trusts) Measure 1964 (No. 2)*
- 39 The Incumbents and Churchwardens (Trusts) Measure 1964 has effect subject to the following amendments.
- 40 In section 2(3) (property to which Measure applies) for “Charity Commissioners” substitute “Charity Commission”. 20
- 41 In section 3(6) (vesting of property in diocesan authority: saving) for “Charity Commissioners” substitute “Charity Commission”.
- 42 In section 5 (provisions as to property vested in the diocesan authority) for “Charity Commissioners” substitute “Charity Commission”. 25
- 43 (1) The Schedule (procedure where diocesan authority is of the opinion that Measure applies to an interest) is amended as follows.
- (2) In paragraph 2 for “Charity Commissioners” substitute “Charity Commission”.
 - (3) In paragraph 3 – 30
 - (a) for “Charity Commissioners” substitute “Charity Commission”,
 - (b) for “they think” (in both places) substitute “it thinks”, and
 - (c) for “the Commissioners” substitute “the Commission”.
 - (4) In paragraph 5 –
 - (a) for “Charity Commissioners have” substitute “Charity Commission has”, and
 - (b) for “they” substitute “it”. 35

Faculty Jurisdiction Measure 1964 (No. 5)

- 44 In section 4(2) of the Faculty Jurisdiction Measure 1964 (sale of books in parochial libraries under a faculty) for “Charity Commissioners” substitute “Charity Commission”.

Industrial and Provident Societies Act 1965 (c. 12) 5

- 45 In section 7D(4) of the Industrial and Provident Societies Act 1965 (application of sections 7A and 7B to charitable societies) for “Charity Commissioners” substitute “Charity Commission”.

Clergy Pensions (Amendment) Measure 1967 (No. 1)

- 46 In section 4(5) of the Clergy Pensions (Amendment) Measure 1967 (amendments of powers of Board relating to provision of residences) for “Charity Commissioners” and “said Commissioners” substitute “Charity Commission”. 10

Ministry of Housing and Local Government Provisional Order Confirmation (Greater London Parks and Open Spaces) Act 1967 (c. xxix) 15

- 47 In article 11(3) of the order set out in the Schedule to the Ministry of Housing and Local Government Provisional Order Confirmation (Greater London Parks and Open Spaces) Act 1967 (exercise of powers under articles 7 to 10 of the order) for “Charity Commissioners” substitute “Charity Commission”. 20

Redundant Churches and other Religious Buildings Act 1969 (c. 22)

- 48 The Redundant Churches and other Religious Buildings Act 1969 has effect subject to the following amendments.

- 49 (1) Section 4 (transfer of certain redundant places of worship) is amended as follows. 25

(2) In subsections (6), (7) and (8) for “Charity Commissioners” substitute “Charity Commission”.

(3) In subsection (6) for “Commissioners” substitute “Commission’s”.

(4) In subsection (8) for “they have” substitute “it has”.

- (5) After subsection (8) insert— 30

“(8A) Schedule 1C to the Charities Act 1993 shall apply in relation to an order made by virtue of subsection (8) above as it applies in relation to an order made under section 16(1) of that Act.”

- 50 In section 7(2) (saving) for “Charity Commissioners” (in both places) substitute “Charity Commission”. 35

Children and Young Persons Act 1969 (c. 54)

- 51 In Schedule 3 to the Children and Young Persons Act 1969 (approved schools and other institutions), in paragraph 6(3), for “Charity Commissioners” substitute “Charity Commission”.

Synodical Government Measure 1969 (No. 2)

- 52 (1) Schedule 3 to the Synodical Government Measure 1969 (which sets out the Church Representation Rules) is amended as follows.
- (2) In Rule 46A(a) –
- (a) for “Charity Commissioners” substitute “Charity Commission”, and 5
- (b) for “them” substitute “it”.
- (3) In Section 4 of Appendix I to those Rules (which sets out certain forms), in Note 3 –
- (a) for “Charity Commissioners” substitute “Charity Commission”, and 10
- (b) for “them” substitute “it”.
- (4) In Section 6 of that Appendix, in the Note –
- (a) for “Charity Commissioners” substitute “Charity Commission”, and
- (b) for “them” substitute “it”.
- (5) In Appendix II to those Rules (general provisions relating to parochial church councils), in paragraph 16, for “Charity Commissioners” substitute “Charity Commission”. 15

Local Government Act 1972 (c. 70)

- 53 In section 131(3) of the Local Government Act 1972 (savings in relation to charity land) for “Charity Commissioners” substitute “Charity Commission”. 20

Consumer Credit Act 1974 (c. 39)

- 54 In section 16 of the Consumer Credit Act 1974 (exempt agreements), in the table in subsection (3A) and in subsections (8) and (9), for “Charity Commissioners” substitute “Charity Commission”.

Endowments and Glebe Measure 1976 (No. 4) 25

- 55 The Endowments and Glebe Measure 1976 has effect subject to the following amendments.
- 56 In section 11(2) (extinguishment of certain trusts) for “the Charity Commissioners” substitute “the Charity Commission or in accordance with such provisions of section 36(2) to (8) of the Charities Act 1993 as are applicable”. 30
- 57 In section 18(2) (means by which land may become diocesan) for “Charity Commissioners” substitute “Charity Commission”.

Interpretation Act 1978 (c. 30)

- 58 In Schedule 1 to the Interpretation Act 1978 (words and expressions defined) for the definition of “Charity Commissioners” substitute – 35
- ““Charity Commission” means the Charity Commission for England and Wales established by section 1A of the Charities Act 1993.”

Dioceses Measure 1978 (No. 1)

59 The Dioceses Measure 1978 has effect subject to the following amendments.

60 In section 5(1) (preparation of draft scheme: meaning of “interested parties”), in paragraph (e), for “the Charity Commissioners” substitute “the Charity Commission”. 5

61 In section 19(4) (schemes with respect to discharge of functions of diocesan bodies corporate, etc.) for “Charity Commissioners” substitute “Charity Commission”.

Disused Burial Grounds (Amendment) Act 1981 (c. 18)

62 In section 6 of the Disused Burial Grounds (Amendment) Act 1981 (saving for Charity Commission) for “Charity Commissioners” substitute “Charity Commission”. 10

Local Government (Miscellaneous Provisions) Act 1982 (c. 30)

63 In Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982 (street trading) for paragraph 1(2)(j) substitute – 15

- “(j) conducting a public charitable collection that –
 - (i) is conducted in accordance with section 48 or 49 of the Charities Act 2005, or
 - (ii) is an exempt collection by virtue of section 50 of that Act.” 20

Administration of Justice Act 1982 (c. 53)

64 In section 41(1) of the Administration of Justice Act 1982 (transfer of funds in court to official custodian for charities and Church Commissioners) for “Charity Commissioners” substitute “Charity Commission”.

Pastoral Measure 1983 (No. 1) 25

65 The Pastoral Measure 1983 has effect subject to the following amendments.

66 In section 55(1) (schemes under the Charities Act 1993 for redundant chapels belonging to charities) for “Charity Commissioners” substitute “Charity Commission”.

67 In section 63(4) (trusts for the repair etc. of redundant buildings and contents) for “the Charity Commissioners given under the hand of an Assistant Commissioner” substitute “the Charity Commission”. 30

68 In section 76(1) (grant of land for new churches etc. and vesting of certain churches) for “Charity Commissioners” substitute “Charity Commission”.

69 In Schedule 3, in paragraph 11(1), (2), (6) and (7), for “Charity Commissioners” substitute “Charity Commission”. 35

Rates Act 1984 (c. 33)

70 In section 3(9) of the Rates Act 1984 (expenditure levels) for “, or excepted from registration, under section 3 of the Charities Act 1993” substitute “in

accordance with section 3A of the Charities Act 1993 or not required to be registered (by virtue of subsection (2) of that section)”.

Companies Act 1985 (c. 6)

- 71 The Companies Act 1985 has effect subject to the following amendments.
- 72 (1) Section 380 (registration of resolutions) is amended as follows. 5
- (2) In subsection (4), at the beginning insert “Except as mentioned in subsection (4ZA),”.
- (3) After subsection (4) insert –
- “(4ZA) Paragraphs (a) and (c) of subsection (4) do not apply to the resolutions of a charitable company mentioned in paragraphs (a) and (b) respectively of section 69G(6) of the Charities Act 1993.” 10
- 73 In Schedule 15D (permitted disclosures of information), in paragraph 21, for “Charity Commissioners to exercise their” substitute “Charity Commission to exercise its”.

Housing Act 1985 (c. 68) 15

- 74 (1) Section 6A of the Housing Act 1985 (definition of “Relevant Authority”) is amended as follows.
- (2) In subsection (2) for “Charity Commissioners” substitute “Charity Commission”.
- (3) In subsection (5) – 20
- (a) for “under section 3” substitute “in accordance with section 3A”, and
- (b) omit the words from “and is not” onwards.

Housing Associations Act 1985 (c. 69)

- 75 In section 10(1) of the Housing Associations Act 1985 (dispositions excepted from section 9 of that Act) for “Charity Commissioners” (in both places) substitute “Charity Commission”. 25

Agricultural Holdings Act 1986 (c. 5)

- 76 In section 86(4) of the Agricultural Holdings Act 1986 (power of landlord to obtain charge on holding) for “Charity Commissioners” substitute “Charity Commission”. 30

Coal Industry Act 1987 (c. 3)

- 77 (1) Section 5 of the Coal Industry Act 1987 (coal industry trusts) is amended as follows.
- (2) In subsection (1) – 35
- (a) for “Charity Commissioners” (in the first place) substitute “Charity Commission (“the Commission”)”,
- (b) for “to them” substitute “to the Commission”,
- (c) for “Charity Commissioners” (in the second place) substitute “Commission”, and

- (d) for “they consider” substitute “the Commission considers”.
- (3) In subsection (2) for “Charity Commissioners consider” (in both places) substitute “Commission considers”.
- (4) In subsections (4) and (6) for “Charity Commissioners” substitute “Commission”. 5
- (5) In subsection (7) –
- (a) for “Charity Commissioners” substitute “Commission”,
 - (b) for “their powers” substitute “its powers”,
 - (c) for “they consider” substitute “it considers”, and
 - (d) for “the Charities Act 1960” substitute “the Charities Act 1993”. 10
- (6) In subsection (8) –
- (a) for “16(3), (9), (11) to (14)” substitute “16(3) and (9)”,
 - (b) for “and 20” substitute “, 20 and 20A”,
 - (c) for “Charity Commissioners” substitute “Commission”,
 - (d) for “their powers” substitute “its powers”, and 15
 - (e) for “91 and 92” substitute “and 91”.
- (7) In subsection (8A) –
- (a) for “Commissioners” (in both places) substitute “Commission”,
 - (b) for “they were proceeding” substitute “the Commission was proceeding”, and 20
 - (c) for “to them” substitute “to it”.
- (8) After subsection (8A) insert –
- “(8B) Schedule 1C to the Charities Act 1993 shall apply in relation to an order made under this section as it applies in relation to an order made under section 16(1) of that Act.” 25
- (9) In subsection (9) for “Charity Commissioners” substitute “Commission”.
- (10) In subsection (10)(b) for “Charity Commissioners” substitute “Commission”.

Reverter of Sites Act 1987 (c. 15)

- 78 The Reverter of Sites Act 1987 has effect subject to the following amendments. 30
- 79 (1) Section 2 (Charity Commissioners’ schemes) is amended as follows.
- (2) In subsection (1) for “Charity Commissioners” substitute “Charity Commission”.
- (3) For subsection (3) substitute –
- “(3) The charitable purposes specified in an order made under this section on an application with respect to any trust shall be such as the Charity Commission consider appropriate, having regard to the matters set out in subsection (3A). 35
- (3A) The matters are –
- (a) the desirability of securing that the property is held for charitable purposes (“the new purposes”) which are close to the purposes, whether charitable or not, for which the 40

- trustees held the relevant land before the cesser of use in consequence of which the trust arose (“the former purposes); and
- (b) the need for the new purposes to be capable of having a significant social or economic effect. 5
- (3B) In determining the character of the former purposes, the Commission may, if they think it appropriate to do so, give greater weight to the persons or locality benefited by those purposes than to the nature of the benefit.”
- (4) In subsection (5) – 10
- (a) for “Charity Commissioners” substitute “Charity Commission”,
- (b) in paragraph (c), for “Commissioners” and “them” substitute “Commission’s” and “it”, and
- (c) in paragraph (d), for “Commissioners have” substitute “Commission has”. 15
- (5) In subsection (7) for “Charity Commissioners” substitute “Charity Commission”.
- (6) In subsection (8) –
- (a) for “Commissioners” substitute “Commission’s”,
- (b) for “they think” substitute “it thinks”, and 20
- (c) for “Commissioners decide” substitute “Commission decides”.
- (7) In the sidenote, for “Charity Commissioners” substitute “Charity Commission’s”.
- 80 (1) Section 4 (provisions supplemental to sections 2 and 3) is amended as follows. 25
- (2) In subsection (1) –
- (a) for “Charity Commissioners think” substitute “Charity Commission thinks”;
- (b) for “Commissioners” substitute “Commission’s”; and
- (c) for “the Commissioners think” substitute “the Commission thinks”. 30
- (3) For subsections (2) and (3) substitute –
- “(2) Schedule 1C to the Charities Act 1993 shall apply in relation to an order made under section 2 above as it applies in relation to an order made under section 16(1) of that Act, except that the persons who may bring an appeal against an order made under section 2 above are – 35
- (a) the Attorney General;
- (b) the trustees of the trust established under the order;
- (c) a beneficiary of, or the trustees of, the trust in respect of which the application for the order had been made; 40
- (d) any person interested in the purposes for which the last-mentioned trustees or any of their predecessors held the relevant land before the cesser of use in consequence of which the trust arose under section 1 above;
- (e) any two or more inhabitants of the locality where that land is situated; 45

- (f) any other person who is or may be affected by the order.”
- (4) In subsection (4) –
- (a) for “Sections 89, 91 and 92” substitute “Sections 89 and 91”, and
 - (b) omit “and appeals” and (in both places) “; and to appeals against”.
- 81 In section 5(3) (orders under section 554 of the Education Act 1996) – 5
- (a) for “Charity Commissioners” (in both places) substitute “Charity Commission”;
 - (b) for “the Commissioners” substitute “the Commission”; and
 - (c) for “them” substitute “it”.
- Education Reform Act 1988 (c. 40)* 10
- 82 For section 125A of the Education Reform Act 1988 substitute –
- “125A Charitable status of a higher education corporation**
- A higher education corporation shall be a charity within the meaning of the Charities Act 1993 (and in accordance with Schedule 2 to that Act is an exempt charity for the purposes of that Act).” 15
- Courts and Legal Services Act 1990 (c. 41)*
- 83 In Schedule 11 to the Courts and Legal Services Act 1990 (judges etc. barred from legal practice) for the entry beginning “Charity Commissioner” substitute “Member of the Charity Commission appointed as provided in Schedule 1A to the Charities Act 1993”. 20
- London Local Authorities Act 1990 (c. vii)*
- 84 (1) In section 4(1) of the London Local Authorities Act 1990 (interpretation of Part 2), in paragraph (iv) of the definition of “night cafe”, for the words from “under section 3” to “thereof” substitute “in accordance with section 3A of the Charities Act 1993 or is not required to be registered (by virtue of subsection (2) of that section)”. 25
- (2) Sub-paragraph (1) ceases to have effect on the coming into force of the repeal of section 4 of the London Local Authorities Act 1990 by Schedule 7 to the Licensing Act 2003 (c. 17).
- London Local Authorities Act 1991 (c. xiii)* 30
- 85 In section 4 of the London Local Authorities Act 1991 (interpretation of Part 2), in paragraph (d) of the definition of “establishment for special treatment”, for the words from “under section 3” to “that section” substitute “in accordance with section 3A of the Charities Act 1993 or is not required to be registered (by virtue of subsection (2) of that section)”. 35

Further and Higher Education Act 1992 (c. 13)

86 For section 22A of the Further and Higher Education Act 1992 substitute –

“22A Charitable status of a further education corporation

A further education corporation shall be a charity within the meaning of the Charities Act 1993 (and in accordance with Schedule 2 to that Act is an exempt charity for the purposes of that Act).”

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Charities Act 1992 (c. 41)

87 The 1992 Act has effect subject to the following amendments.

88 (1) Section 58 (interpretation of Part 2) is amended as follows.

(2) In subsection (2) –

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(a) in paragraph (c) for “to be treated as a promoter of such a collection by virtue of section 65(3)” substitute “a promoter of such a collection as defined in section 47(1) of the Charities Act 2005”, and

(b) for “Part III of this Act” substitute “Chapter 1 of Part 3 of the Charities Act 2005”.

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(3) In subsection (4) for “whether or not the purposes are charitable within the meaning of any rule of law” substitute “as defined by section 2(1) of the Charities Act 2005”.

89 Omit Part 3 (public charitable collections).

90 In section 76(1) (service of documents) omit paragraph (c) and the “and” preceding it.

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91 (1) Section 77 (regulations and orders) is amended as follows.

(2) In subsection (1)(b) for “subsection (2)” substitute “subsections (2) and (2A)”.

(3) After subsection (2) insert –

“(2A) Subsection (1)(b) does not apply to regulations under section 64A, and no such regulations may be made unless a draft of the statutory instrument containing the regulations has been laid before, and approved by a resolution of, each House of Parliament.”

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(4) In subsection (4) –

(a) after “64” insert “or 64A”; and

(b) omit “or 73”.

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Charities Act 1993 (c. 10)

92 The 1993 Act has effect subject to the following amendments.

93 (1) Section 2 (official custodian for charities) is amended as follows.

(2) For subsection (2) substitute –

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“(2) Such individual as the Commission may from time to time designate shall be the official custodian.”

(3) In subsection (3), for “Commissioners” (in both places) substitute “Commission”.

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- (4) In subsection (4) –
- (a) for “officer of the Commissioners” substitute “member of the staff of the Commission”, and
 - (b) for “by them” substitute “by it”.
- (5) In subsection (7) omit the words from “and the report” onwards. 5
- (6) After subsection (7) add –
- “(8) The Comptroller and Auditor General shall send to the Commission a copy of the accounts as certified by him together with his report on them.
 - (9) The Commission shall publish and lay before Parliament a copy of the documents sent to it under subsection (8) above.” 10
- 94 (1) Section 4 (claims and objections to registration) is amended as follows.
- (2) In subsection (2) –
- (a) for “the Commissioners” substitute “the Commission”, and
 - (b) for “to them” substitute “to the Commission”. 15
- (3) Omit subsection (3).
- (4) In subsection (4) –
- (a) for “High Court” substitute “Tribunal”,
 - (b) for “the Commissioners” (in the first and third places) substitute “the Commission”, and 20
 - (c) for “the Commissioners are” substitute “the Commission is”.
- (5) In subsection (5) –
- (a) for “subsection (3) above” substitute “Schedule 1C to this Act”,
 - (b) for “the Commissioners” (in both places) substitute “the Commission”, and 25
 - (c) omit “, whether given on such an appeal or not”.
- 95 (1) Section 6 (power to require charity’s name to be changed) is amended as follows.
- (2) For “Commissioners” (in each place including the sidenote) substitute “Commission”. 30
- (3) In subsection (5) for “section 3(7)(b) above” substitute “section 3B(3)”.
- 96 For the heading for Part 3 substitute “COMMISSION’S INFORMATION POWERS”.
- 97 (1) Section 8 (power to institute inquiries) is amended as follows.
- (2) In subsection (1) for “The Commissioners” substitute “The Commission”.
- (3) In subsection (2) – 35
- (a) for “The Commissioners” substitute “The Commission”,
 - (b) for “themselves” substitute “itself”, and
 - (c) for “to them” substitute “to the Commission”.
- (4) In subsection (3) for “the Commissioners, or a person appointed by them” substitute “the Commission, or a person appointed by the Commission”. 40
- (5) In subsection (5) for “The Commissioners” substitute “The Commission”.

- (6) In subsection (6) –
- (a) for “the Commissioners” substitute “the Commission”,
 - (b) for “they think” substitute “the Commission thinks”,
 - (c) for “their opinion” substitute “the Commission’s opinion”, and
 - (d) for “to them” substitute “to the Commission”. 5
- (7) In subsection (7) for “the Commissioners” substitute “the Commission”.
- 98 (1) Section 9 (power to call for documents and search records) is amended as follows.
- (2) In subsection (1) –
- (a) for “The Commissioners” substitute “The Commission”, 10
 - (b) for “furnish them” (in both places) substitute “furnish the Commission”,
 - (c) for “their functions” (in both places) substitute “the Commission’s functions”, and
 - (d) for “them for their” substitute “the Commission for its”. 15
- (3) In subsection (2) –
- (a) for “officer of the Commissioners, if so authorised by them” substitute “member of the staff of the Commission, if so authorised by it”, and
 - (b) for “the Commissioners” (in the second place) substitute “the Commission”. 20
- (4) In subsection (3) –
- (a) for “The Commissioners” substitute “The Commission”,
 - (b) for “to them” (in the first place) substitute “to it”,
 - (c) for “to them” (in the second place) substitute “to the Commission”, 25
 - (d) for “their inspection” substitute “it to inspect”, and
 - (e) for “the Commissioners” substitute “the Commission”.
- (5) After subsection (5) add –
- “(6) In subsection (2) the reference to a member of the staff of the Commission includes the official custodian even if he is not a member of the staff of the Commission.” 30
- 99 (1) Section 10 (disclosure of information) is amended as follows.
- (2) For subsection (1) substitute –
- “(1) Any person or body to whom this section applies may disclose information to the Commission if the disclosure is made for the purpose of enabling or assisting the Commission to discharge any of its functions. 35
- (1A) Subsection (1) above has effect subject to –
- (a) subsection (2) below, and
 - (b) any express restriction imposed by or under any other enactment.” 40
- (3) In subsection (2) for “the Charity Commissioners” substitute “the Commission”.
- (4) Omit subsection (3).

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- (5) In subsection (4) –
- (a) for “the Charity Commissioners” substitute “the Commission”,
 - (b) for “by them” substitute “by the Commission”,
 - (c) for “the Commissioners” substitute “the Commission”, and
 - (d) for “their functions” substitute “the Commission’s functions”. 5
- (6) In subsection (5) –
- (a) for “the Charity Commissioners” substitute “the Commission”,
 - (b) for “the Commissioners, the Commissioners” substitute “the Commission, the Commission’s”, and
 - (c) for “by them” substitute “by it”. 10
- (7) In subsection (7) for “the Charity Commissioners” substitute “the Commission”.
- (8) In the sidenote, for “Commissioners” substitute “Commission”.
- 100 (1) Section 11 (supply of false or misleading information) is amended as follows. 15
- (2) For “Commissioners” (in each place including the sidenote) substitute “Commission”.
 - (3) In subsection (1)(b) for “their functions” substitute “its functions”.
- 101 In the heading for Part 4 for “AND COMMISSIONERS” substitute “AND COMMISSION”. 20
- 102 (1) Section 14 (application *cy-près* of gifts of donors unknown or disclaiming) is amended as follows.
- (2) In subsection (6) for “the Commissioners so direct” substitute “the Commission so directs”.
 - (3) In subsection (8) for “the Commissioners” substitute “the Commission”. 25
 - (4) In subsection (9) –
 - (a) for “the Commissioners” (in both places) substitute “the Commission”, and
 - (b) for “they think fit” substitute “it thinks fit”.
- 103 In the heading preceding section 16 for “*Powers of Commissioners*” substitute “*Powers of Commission*”. 30
- 104 (1) Section 16 (concurrent jurisdiction of Commissioners with High Court) is amended as follows.
- (2) In subsection (1) for “the Commissioners” substitute “the Commission”.
 - (3) In subsection (2) – 35
 - (a) for “the Commissioners for them” substitute “the Commission for it”, and
 - (b) for “the Commissioners” (in the second place) substitute “the Commission”.
 - (4) In subsection (3) for “The Commissioners” substitute “The Commission”. 40
 - (5) In subsection (4) for “the Commissioners shall not exercise their” substitute “the Commission shall not exercise its”.

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- (6) In subsection (5) –
- (a) for “income from all sources does not in aggregate” substitute “gross income does not”, and
 - (b) for “the Commissioners may exercise their” substitute “the Commission may exercise its”. 5
- (7) In subsection (6) –
- (a) for “the Commissioners are” substitute “the Commission is”,
 - (b) for “the Commissioners have” substitute “the Commission has”,
 - (c) for “the Commissioners” (in the third and fourth places) substitute “the Commission”, and 10
 - (d) for “they act” substitute “it acts”.
- (8) In subsection (7) –
- (a) for “the Commissioners” (in the first and third places) substitute “the Commission”, and
 - (b) for “the Commissioners consider” substitute “the Commission considers”. 15
- (9) In subsection (8) –
- (a) for “The Commissioners” substitute “The Commission”, and
 - (b) for “their jurisdiction” substitute “its jurisdiction”.
- (10) In subsection (9) for “the Commissioners shall give notice of their” substitute “the Commission shall give notice of its”. 20
- (11) In subsection (10) –
- (a) for “The Commissioners shall not exercise their” substitute “The Commission shall not exercise its”, and
 - (b) for “the Commissioners” (in the second place) substitute “the Commission”. 25
- (12) Omit subsections (11) to (14).
- (13) In subsection (15)(b) for “the Commissioners may exercise their” substitute “the Commission may exercise its”.
- 105 (1) Section 17 (further power to make schemes or alter application of charitable property) is amended as follows. 30
- (2) In subsection (1) –
- (a) for “the Commissioners” (in both places) substitute “the Commission”, and
 - (b) for “by them” substitute “by the Commission”. 35
- (3) In subsection (2) for “the Commissioners” substitute “the Commission”.
- (4) In subsection (4) for “the Commissioners” (in both places) substitute “the Commission”.
- (5) In subsection (6) –
- (a) for “Commissioners” (in both places) substitute “Commission”, 40
 - (b) for “if they were” substitute “if the Commission was”, and
 - (c) for “to them” substitute “to it”.
- (6) In subsection (7) for “the Commissioners” substitute “the Commission”.

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- (7) In subsection (8) –
- (a) for “the Commissioners are” substitute “the Commission is”, and
 - (b) for “the Commissioners” (in the second place) substitute “the Commission”.
- 106 (1) Section 18 (power to act for protection of charities) is amended as follows. 5
- (2) In subsection (1) –
- (a) for “after they have” substitute “after it has”,
 - (b) for “the Commissioners are” substitute “the Commission is”,
 - (c) for “the Commissioners may of their” substitute “the Commission may of its”, 10
 - (d) for “as they consider” substitute “as it considers”,
 - (e) for “the Commissioners” (in the third, fourth and fifth places) substitute “the Commission”, and
 - (f) for “a receiver” substitute “an interim manager, who shall act as receiver”. 15
- (3) In subsection (2) –
- (a) for “the Commissioners are” substitute “the Commission is”, and
 - (b) for “the Commissioners may of their” substitute “the Commission may of its”.
- (4) In subsection (4) – 20
- (a) for “The Commissioners” substitute “The Commission”, and
 - (b) for “their own motion” substitute “its own motion”.
- (5) In subsection (5) –
- (a) for “The Commissioners may by order made of their” substitute “The Commission may by order made of its”, 25
 - (b) for “removed by them” substitute “removed by the Commission”, and
 - (c) for “the Commissioners are of” (in both places) substitute “the Commission is of”.
- (6) In subsection (6) – 30
- (a) for “the Commissioners” (in both places) substitute “the Commission”,
 - (b) for “their own motion” substitute “its own motion”, and
 - (c) for “by them” substitute “by it”.
- (7) Omit subsections (8) to (10). 35
- (8) In subsection (11) for “the Commissioners” substitute “the Commission”.
- (9) In subsection (12) –
- (a) for “the Commissioners” substitute “the Commission”, and
 - (b) for “their intention” substitute “its intention”.
- (10) In subsection (13) – 40
- (a) for “The Commissioners” substitute “The Commission”,
 - (b) for “they think fit” substitute “it thinks fit”,
 - (c) for “by them” substitute “by it”,
 - (d) for “to them” substitute “to the Commission”, and

- (e) for “they shall” substitute “the Commission shall”.
- 107 (1) Section 19 (supplementary provisions relating to receiver and manager appointed for a charity) is amended as follows.
- (2) For subsection (1) substitute –
- “(1) The Commission may under section 18(1)(vii) above appoint to be interim manager in respect of a charity such person (other than a member of its staff) as it thinks fit.” 5
- (3) In subsection (2) –
- (a) for “the Commissioners” (in both places) substitute “the Commission”, and 10
- (b) for “receiver and manager” substitute “interim manager”.
- (4) In subsection (3) for “receiver and manager” (in both places) substitute “interim manager”.
- (5) In subsection (4) –
- (a) for “receiver and manager” substitute “interim manager”, and 15
- (b) for “the Commissioners” substitute “the Commission”.
- (6) In subsections (6)(c) and (7) for “the Commissioners” substitute “the Commission”.
- (7) In the sidenote for “receiver and manager” substitute “interim manager”.
- 108 After section 19B (inserted by section 21 of this Act) insert – 20
- “19C Copy of order under section 18, 18A, 19A or 19B, and Commission’s reasons, to be sent to charity**
- (1) Where the Commission makes an order under section 18, 18A, 19A or 19B, it must send the documents mentioned in subsection (2) below – 25
- (a) to the charity concerned (if a body corporate), or
- (b) (if not) to each of the charity trustees.
- (2) The documents are –
- (a) a copy of the order, and
- (b) a statement of the Commission’s reasons for making it. 30
- (3) The documents must be sent to the charity or charity trustees as soon as practicable after the making of the order.
- (4) The Commission need not, however, comply with subsection (3) above in relation to the documents, or (as the case may be) the statement of its reasons, if it considers that to do so – 35
- (a) would prejudice any inquiry or investigation, or
- (b) would not be in the interests of the charity;
- but, once the Commission considers that this is no longer the case, it must send the documents, or (as the case may be) the statement, to the charity or charity trustees as soon as practicable. 40
- (5) Nothing in this section requires any document to be sent to a person who cannot be found or who has no known address in the United Kingdom.

- (6) Any documents required to be sent to a person under this section may be sent to, or otherwise served on, that person in the same way as an order made by the Commission under this Act could be served on him in accordance with section 91 below.”
- 109 In section 22(3) (property vested in official custodian) for “the Commissioners” substitute “the Commission”. 5
- 110 (1) Section 23 (divestment in case of land subject to Reverter of Sites Act 1987 (c. 15)) is amended as follows.
- (2) In subsection (1)–
- (a) for “the Commissioners” (in both places) substitute “the Commission”, 10
- (b) for “by them of their own” substitute “by the Commission of its own”, and
- (c) for “appear to them” substitute “appear to the Commission”.
- (3) In subsection (2)– 15
- (a) for “the Commissioners (of their own motion)” substitute “the Commission (of its own motion)”, and
- (b) omit “or them”.
- (4) In subsection (3)–
- (a) for “the Commissioners” (in the first and second places) substitute “the Commission”, and 20
- (b) for “the Commissioners is or are” substitute “the Commission is”.
- 111 In section 24 (schemes to establish common investment funds), in subsections (1) and (2), for “the Commissioners” substitute “the Commission”. 25
- 112 In section 25(1) (schemes to establish common deposit funds) for “the Commissioners” substitute “the Commission”.
- 113 For the heading preceding section 26 substitute “*Additional powers of Commission*”.
- 114 In section 26(1) (power to authorise dealings with charity property)– 30
- (a) for “the Commissioners” substitute “the Commission”, and
- (b) for “they may” substitute “the Commission may”.
- 115 (1) Section 27 (power to authorise ex gratia payments) is amended as follows.
- (2) In subsection (1) for “the Commissioners” substitute “the Commission”.
- (3) In subsection (2)– 35
- (a) for “the Commissioners” (in both places) substitute “the Commission”, and
- (b) for “by them” substitute “by the Commission”.
- (4) In subsection (3)–
- (a) for “the Commissioners for them” substitute “the Commission for it”, 40
- (b) for “they are not” substitute “it is not”,
- (c) for “they consider” substitute “the Commission considers”,
- (d) for “by them” substitute “by the Commission”, and
- (e) for “they shall” substitute “the Commission shall”.

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- (5) In subsection (4) –
- (a) for “to them” substitute “to the Commission”, and
 - (b) for “the Commissioners determine” substitute “the Commission determines”.
- 116 (1) Section 28 (power to give directions about dormant bank accounts) is amended as follows. 5
- (2) In subsection (1) –
- (a) for “the Commissioners” substitute “the Commission”,
 - (b) for “are informed” substitute “is informed”,
 - (c) for “are unable” substitute “is unable”, and 10
 - (d) for “they may give” substitute “it may give”.
- (3) In subsection (3) –
- (a) for “Commissioners” (in both places) substitute “Commission”,
 - (b) for “they consider” substitute “it considers”,
 - (c) for “to them” substitute “to the Commission”, and 15
 - (d) for “they have received” substitute “it has received”.
- (4) In subsection (5) –
- (a) for “the Commissioners have been” substitute “the Commission has been”,
 - (b) for “the Commissioners” (in the second and third places) substitute “the Commission”, 20
 - (c) for “they shall revoke” substitute “it shall revoke”, and
 - (d) for “by them” substitute “by it”.
- (5) In subsection (7) –
- (a) for “the Commissioners” substitute “the Commission”, and 25
 - (b) for “them to discharge their functions” substitute “the Commission to discharge its functions”.
- (6) In subsection (8)(a) for “the Commissioners are informed” substitute “the Commission is informed”.
- (7) In subsection (9) – 30
- (a) for “the Commissioners have” substitute “the Commission has”, and
 - (b) for “the Commissioners” (in the second place) substitute “the Commission”.
- 117 (1) Section 30 (powers for preservation of charity documents) is amended as follows. 35
- (2) In subsection (1) for “The Commissioners” substitute “The Commission”.
- (3) In subsection (2) for “Commissioners” (in each place) substitute “Commission”.
- (4) In subsection (3) –
- (a) for “the Commissioners” (in the first place) substitute “the Commission”, 40
 - (b) for “with them” substitute “with the Commission”,

- (c) for “officer of the Commissioners generally or specially authorised by them” substitute “member of the staff of the Commission generally or specially authorised by the Commission”.
- (5) In subsection (4) for “the Commissioners” substitute “the Commission”.
- (6) In subsection (5) – 5
- (a) for “the Commissioners” substitute “the Commission”,
- (b) for “by them” substitute “by the Commission”, and
- (c) for “with them” substitute “with the Commission”.
- 118 (1) Section 31 (power to order taxation of solicitor’s bill) is amended as follows.
- (2) In subsection (1) for “The Commissioners” substitute “The Commission”. 10
- (3) In subsection (3) for “the Commissioners are” substitute “the Commission is”.
- 119 (1) Section 32 (proceedings by Commissioners) is amended as follows.
- (2) In subsections (1) and (3) for “the Commissioners” substitute “the Commission”. 15
- (3) In subsection (5) –
- (a) for “the Commissioners” substitute “the Commission”, and
- (b) for “by them of their own” substitute “by the Commission of its own”.
- (4) In the sidenote, for “Commissioners” substitute “Commission”. 20
- 120 (1) Section 33 (proceedings by other persons) is amended as follows.
- (2) In subsection (2) for “the Commissioners” substitute “the Commission”.
- (3) In subsection (3) –
- (a) for “The Commissioners” substitute “The Commission”,
- (b) for “their opinion” substitute “its opinion”, and 25
- (c) for “by them” substitute “by the Commission”.
- (4) In subsections (5) and (6) for “the Commissioners” substitute “the Commission”.
- (5) In subsection (7) –
- (a) for “the Commissioners” (in both places) substitute “the Commission”, and 30
- (b) for “they think” substitute “the Commission thinks”.
- 121 In section 34 (report of inquiry to be evidence in certain proceedings), in subsections (1) and (2), for “the Commissioners” substitute “the Commission”. 35
- 122 In section 35(1) (application of certain provisions to trust corporations) for “the Commissioners” substitute “the Commission”.
- 123 (1) Section 36 (restrictions on dispositions) is amended as follows.
- (2) In subsection (1) –
- (a) for “sold” substitute “conveyed, transferred”, and 40
- (b) for “the Commissioners” substitute “the Commission”.

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- (3) In subsection (3) after “subsection (5) below,” insert “the requirements mentioned in subsection (2)(b) above are that”.
- (4) In subsection (5) after “consideration of a fine),” insert “the requirements mentioned in subsection (2)(b) above are that”.
- (5) In subsection (6) – 5
 (a) for “sold” substitute “conveyed, transferred”, and
 (b) for “previously” substitute “before the relevant time”.
- (6) After subsection (6) insert –
 “(6A) In subsection (6) above “the relevant time” means – 10
 (a) where the charity trustees enter into an agreement for the sale, or (as the case may be) for the lease or other disposition, the time when they enter into that agreement, and
 (b) in any other case, the time of the disposition.”
- (7) In subsection (8) – 15
 (a) for “The Commissioners” substitute “The Commission”,
 (b) for “the Commissioners are satisfied” substitute “the Commission is satisfied”, and
 (c) for “for them” substitute “for the Commission”.
- 124 In section 37 (supplementary provisions relating to dispositions), in subsections (2) and (4) – 20
 (a) for “sold” substitute “conveyed, transferred”, and
 (b) for “the Commissioners” substitute “the Commission”.
- 125 In section 38(1) (restrictions on mortgaging) for “the Commissioners” substitute “the Commission”.
- 126 (1) Section 39 (supplementary provisions relating to mortgaging) is amended as follows. 25
 (2) In subsections (2)(a) and (4) for “the Commissioners” substitute “the Commission”.
 (3) After subsection (4) insert –
 “(4A) Where subsection (3D) of section 38 above applies to any mortgage of land held by or in trust for a charity, the charity trustees shall certify in relation to any transaction falling within that subsection that they have obtained and considered such advice as is mentioned in that subsection. 30
 (4B) Where subsection (4A) above has been complied with in relation to any transaction, then, in favour of a person who (whether under the mortgage or afterwards) has acquired or acquires an interest in the land for money or money’s worth, it shall be conclusively presumed that the facts were as stated in the certificate.” 35
- 127 In section 41(4) (obligation to preserve accounting records) for “the Commissioners consent” substitute “the Commission consents”. 40
- 128 (1) Section 42 (annual statements of accounts) is amended as follows.
 (2) After subsection (2) insert –

- “(2A) Such regulations may, however, not impose on the charity trustees of a charity that is a charitable trust created by any person (“the settlor”) any requirement to disclose, in any statement of accounts prepared by them under subsection (1) –
- (a) the identities of recipients of grants made out of the funds of the charity, or
 - (b) the amounts of any individual grants so made, if the disclosure would fall to be made at a time when the settlor or any spouse or civil partner of his was still alive.”
- (3) After subsection (7) add –
- “(8) Provisions about the preparation of accounts in respect of groups consisting of certain charities and their subsidiary undertakings, and about other matters relating to such groups, are contained in Schedule 5A to this Act (see section 49A below).”
- 129 (1) Section 43 (annual audit or examination of charity accounts) is amended as follows. 15
- (2) In subsection (4) for “the Commissioners” (in both places) substitute “the Commission”.
- (3) In subsection (5) –
- (a) for “the Commissioners make” substitute “the Commission makes”, and
 - (b) for “the Commissioners” (in the second place) substitute “the Commission”.
- (4) In subsection (6) for “the Commissioners” (in each place) substitute “the Commission”. 25
- (5) In subsection (7) –
- (a) for “The Commissioners” substitute “The Commission”, and
 - (b) for “they think” substitute “it thinks”.
- 130 (1) Section 43A (annual audit or examination of English NHS charity accounts) is amended as follows. 30
- (2) In subsection (2) for “the criterion set out in subsection (1) of section 43 is met in respect of” substitute “paragraph (a) or (b) of section 43(1) is satisfied in relation to”.
- (3) In subsection (5) –
- (a) for “The Commissioners” substitute “The Commission”, and
 - (b) for “they think” substitute “it thinks”.
- 131 (1) Section 43B (annual audit or examination of Welsh NHS charity accounts) is amended as follows.
- (2) In subsection (2) for “the criterion set out in subsection (1) of section 43 is met in respect of” substitute “paragraph (a) or (b) of section 43(1) is satisfied in relation to”. 40

- (3) After subsection (4) add –
- “(5) References in this Act to an auditor or an examiner have effect in relation to this section as references to the Auditor General for Wales acting under this section as an auditor or examiner.”
- 132 (1) Section 44 (supplementary provisions relating to audits) is amended as follows. 5
- (2) In subsection (1) –
- (a) in paragraph (b) after “section 43” insert “, 43A or 43B”,
- (b) for paragraph (c) substitute –
- “(c) with respect to the making of a report – 10
- (i) by an independent examiner in respect of an examination carried out by him under section 43 above; or
- (ii) by an examiner in respect of an examination carried out by him under section 43A or 43B above;” 15
- (c) in each of paragraphs (d) and (e) after “independent examiner” insert “or examiner”, and
- (d) in paragraph (f) for “the Commissioners” substitute “the Commission”. 20
- (3) In subsection (2) –
- (a) after “independent examiner” insert “or examiner”,
- (b) for “the Commissioners” (in the first place) substitute “the Commission”, and
- (c) for “the Commissioners think” substitute “the Commission thinks”. 25
- (4) Omit subsection (3).
- 133 (1) Section 45 (annual reports) is amended as follows.
- (2) In subsection (2)(b) for “the Commissioners” substitute “the Commission”.
- (3) In subsection (3) –
- (a) for the words from “in any” to “expenditure” substitute “a charity’s gross income in any financial year”, 30
- (b) before “the annual report” insert “a copy of”, and
- (c) for “the Commissioners” (in both places) substitute “the Commission”.
- (4) In subsection (3A) – 35
- (a) for the words from “in any” to “exceeds” substitute “a charity’s gross income in any financial year does not exceed”,
- (b) before “the annual report” insert “a copy of”,
- (c) for “the Commissioners so request” substitute “the Commission so requests”, and 40
- (d) for “the Commissioners” (in the second place) substitute “the Commission”.
- (5) In subsection (4) –
- (a) for “annual report transmitted to the Commissioners” substitute “copy of an annual report transmitted to the Commission”, and 45

- (b) before “the statement”, and before “the account and statement”, insert “a copy of”.
- (6) In subsection (5) before “annual report” insert “copy of an”.
- (7) In subsection (6) –
- (a) after “Any” insert “copy of an”, 5
 - (b) for “the Commissioners” (in both places) substitute “the Commission”, and
 - (c) for “they think fit” substitute “it thinks fit”.
- (8) In subsection (7) for the words from “which they have not” onwards substitute “of which they have not been required to transmit a copy to the Commission.” 10
- 134 (1) Section 46 (special provisions as respects accounts etc. of excepted charities) is amended as follows.
- (2) In subsection (2) for “the Commissioners consent” substitute “the Commission consents”. 15
- (3) For subsection (3) substitute –
- “(3) Except in accordance with subsections (3A) and (3B) below, nothing in section 43, 44, 44A or 45 applies to any charity which –
- (a) falls within section 3A(2)(d) above (whether or not it also falls within section 3A(2)(b) or (c)), and 20
 - (b) is not registered.
- (3A) Section 44A above applies in accordance with subsections (2A) and (2B) above to a charity mentioned in subsection (3) above which is also an exempt charity.
- (3B) Sections 44 and 44A above apply to a charity mentioned in subsection (3) above which is also an English National Health Service charity or a Welsh National Health Service charity (as defined in sections 43A and 43B above).” 25
- (4) In subsection (4) for the words from “(other than” onwards substitute “which –
- (a) falls within section 3A(2)(b) or (c) above but does not fall within section 3A(2)(d), and 30
 - (b) is not registered.”
- (5) In subsection (5) –
- (a) for “the Commissioners” (in the first place) substitute “the Commission”, and 35
 - (b) for “the Commissioners’ request” substitute “the Commission’s request”.
- (6) For subsection (7) substitute –
- “(7) The following provisions of section 45 above shall apply in relation to any report required to be prepared under subsection (5) above as if it were an annual report required to be prepared under subsection (1) of that section –
- (a) subsection (3), with the omission of the words preceding “a copy of the annual report”, and 45

- (b) subsections (4) to (6).”
- (7) Omit subsection (8).
- 135 (1) Section 47 (public inspection of annual reports etc.) is amended as follows.
- (2) In subsection (1) –
- (a) for “Any annual report or other document kept by the Commissioners” substitute “Any document kept by the Commission”, and 5
- (b) for “the Commissioners so determine” substitute “the Commission so determines”.
- (3) In subsection (2)(a) after “accounts” insert “or (if subsection (4) below applies) of its most recent annual report”. 10
- (4) After subsection (3) add –
- “(4) This subsection applies if an annual report has been prepared in respect of any financial year of a charity in pursuance of section 45(1) or 46(5) above. 15
- (5) In subsection (2) above the reference to a charity’s most recent annual report is a reference to the annual report prepared in pursuance of section 45(1) or 46(5) in respect of the last financial year of the charity in respect of which an annual report has been so prepared.” 20
- 136 (1) Section 48 (annual returns by registered charities) is amended as follows.
- (2) In subsection (1) for “the Commissioners” substitute “the Commission”.
- (3) In subsection (1A) for the words from “neither” to “exceeds” substitute “the charity’s gross income does not exceed”.
- (4) In subsection (2) – 25
- (a) for “the Commissioners” substitute “the Commission”, and
- (b) for “to them” substitute “to the Commission”.
- (5) In subsection (3) for “The Commissioners” substitute “The Commission”.
- 137 For section 49 (offences) substitute –
- “49 Offences”** 30
- (1) If any requirement imposed –
- (a) by section 45(3) or (3A) above (taken with section 45(3B), (4) and (5), as applicable), or
- (b) by section 47(2) or 48(2) above,
- is not complied with, each person who immediately before the date for compliance specified in the section in question was a charity trustee of the charity shall be guilty of an offence and liable on summary conviction to the penalty mentioned in subsection (2). 35
- (2) The penalty is –
- (a) a fine not exceeding level 4 on the standard scale, and 40
- (b) for continued contravention, a daily default fine not exceeding 10% of level 4 on the standard scale for so long as

- the person in question remains a charity trustee of the charity.
- (3) It is a defence for a person charged with an offence under subsection (1) to prove that he took all reasonable steps for securing that the requirement in question would be complied with in time.” 5
- 138 (1) Section 50 (incorporation of trustees of charity) is amended as follows.
- (2) In subsection (1) –
- (a) for “the Commissioners” (in the first and third places) substitute “the Commission”,
- (b) for “the Commissioners consider” substitute “the Commission considers”, and 10
- (c) for “they think fit” substitute “the Commission thinks fit”.
- (3) In subsection (2) –
- (a) for “The Commissioners” substitute “The Commission”,
- (b) for “to them” substitute “to the Commission”, and 15
- (c) for “under section 3” substitute “in accordance with section 3A”.
- 139 (1) Section 52 (applications for incorporation) is amended as follows.
- (2) In subsection (1) for “the Commissioners” (in both places) substitute “the Commission”.
- (3) In subsection (2) – 20
- (a) for “The Commissioners” substitute “The Commission”, and
- (b) for “they may specify” substitute “it may specify”.
- 140 In section 53(1) (nomination of trustees, and filling up vacancies) for “the Commissioners” substitute “the Commission”.
- 141 (1) Section 56 (power of Commissioners to amend certificate of incorporation) is amended as follows. 25
- (2) In subsection (1) –
- (a) for “The Commissioners” substitute “The Commission”, and
- (b) for “of their own motion” substitute “of the Commission’s own motion”. 30
- (3) In subsection (2) –
- (a) for “of their own motion, the Commissioners” substitute “of its own motion, the Commission”,
- (b) for “their proposals” substitute “its proposals”, and
- (c) for “to them” substitute “to it”. 35
- (4) In subsection (3) –
- (a) for “The Commissioners” substitute “The Commission”,
- (b) for “their proposals” substitute “its proposals”, and
- (c) for “to them” substitute “to it”.
- (5) In subsection (4) for “The Commissioners” substitute “The Commission”. 40
- (6) In the sidenote, for “Commissioners” substitute “Commission”.
- 142 (1) Section 57 (records of applications and certificates) is amended as follows.

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- (2) In subsection (1) –
- (a) for “The Commissioners” substitute “The Commission”, and
 - (b) for “to them” substitute “to it”.
- (3) In subsection (2) –
- (a) for “the Commissioners” (in the first place) substitute “the Commission”, and 5
 - (b) for “the secretary of the Commissioners” substitute “a member of the staff of the Commission”.
- 143 In section 58 (enforcement of orders and directions) for “the Commissioners” substitute “the Commission”. 10
- 144 (1) Section 61 (power of Commissioners to dissolve incorporated body) is amended as follows.
- (2) In subsection (1) –
- (a) for “the Commissioners are” substitute “the Commission is”,
 - (b) for “treated by them” substituted “treated by the Commission”, and 15
 - (c) for “they may of their own motion” substitute “the Commission may of its own motion”.
- (3) In subsection (2) –
- (a) for “the Commissioners are” substitute “the Commission is”, and
 - (b) for “the Commissioners” (in the second place) substitute “the Commission”. 20
- (4) In subsection (4) –
- (a) for “the Commissioners so direct” substitute “the Commission so directs”, and
 - (b) for “the Commissioners” (in the second place) substitute “the Commission”. 25
- (5) Omit subsection (7).
- (6) In the sidenote, for “Commissioners” substitute “Commission”.
- 145 (1) Section 63 (winding up) is amended as follows.
- (2) In subsection (2) – 30
- (a) for “the Commissioners” substitute “the Commission”,
 - (b) for “they have instituted” substitute “it has instituted”, and
 - (c) for “they are satisfied” substitute “it is satisfied”.
- (3) In subsection (3) for “the Commissioners” (in both places) substitute “the Commission”. 35
- (4) In subsection (4) for “the Commissioners” (in both places) substitute “the Commission”.
- (5) In subsection (5) –
- (a) for “the Commissioners” substitute “the Commission”, and
 - (b) for “by them of their own motion” substitute “by the Commission of its own motion”. 40
- 146 In section 64(3) (alteration of objects clause) for “the Commissioner’s consent” substitute “the Commission’s consent”.

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- 147 In section 65(4) (invalidity of certain transactions) for “the Commissioners” substitute “the Commission”.
- 148 In section 66 (requirement of consent of Commissioners to certain acts), in subsection (1) and the sidenote, for “Commissioners” substitute “Commission”. 5
- 149 (1) Section 69 (investigation of accounts) is amended as follows.
- (2) In subsection (1) –
- (a) for “the Commissioners” substitute “the Commission”,
 - (b) for “they think fit” substitute “the Commission thinks fit”, and
 - (c) for “by them” substitute “by the Commission”. 10
- (3) In subsections (2)(c) and (3) for “the Commissioners” substitute “the Commission”.
- (4) In subsection (4) –
- (a) for “the Commissioners” (in the first place) substitute “the Commission”, and
 - (b) for “the Commissioners think” substitute “the Commission thinks”. 15
- 150 For the heading preceding section 72 substitute “*Charity trustees*”.
- 151 (1) Section 72 (persons disqualified for being trustees of a charity) is amended as follows.
- (2) In subsection (1)(d)(i) after “by the” insert “Commission or”. 20
- (3) In subsection (4) for “The Commissioners” substitute “The Commission”.
- (4) In subsection (6) –
- (a) for “the Commissioners” (in the first place) substitute “the Commission”,
 - (b) for “they think fit” substitute “it thinks fit”,
 - (c) after “order of” insert “the Commission or”, and
 - (d) for “the Commissioners” (in the third place) substitute “the Commission”. 25
- (5) After subsection (7) add –
- “(8) In this section “the Commissioners” means the Charity Commissioners for England and Wales.” 30
- 152 In section 73(4) (person acting as charity trustee while disqualified) –
- (a) for “the Commissioners are” substitute “the Commission is”,
 - (b) for “they may by order” substitute “the Commission may by order”, and
 - (c) for “(as determined by them)” substitute “(as determined by the Commission)”. 35
- 153 For the heading preceding section 74 substitute “*Miscellaneous powers of charities*”.
- 154 In section 76(2) (local authority’s index of local charities) –
- (a) for “the Commissioners” (in both places) substitute “the Commission”, and
 - (b) for “they will” substitute “it will”. 40

- 155 In section 77(1) (reviews of local charities by local authority) for “the Commissioners” substitute “the Commission”.
- 156 (1) Section 79 (parochial charities) is amended as follows.
- (2) In subsection (1) for “the Commissioners” substitute “the Commission”.
- (3) In subsection (2) for “the Commissioners” (in both places) substitute “the Commission”. 5
- 157 (1) Section 80 (supervision by Commissioners of certain Scottish charities) is amended as follows.
- (2) In subsection (1) for paragraph (c) and the “and” preceding it substitute – 10
- “(c) sections 19 to 19B, and
- (d) section 31A.”.
- (3) In subsection (2) –
- (a) for “the Commissioners are satisfied” substitute “the Commission is satisfied”,
- (b) for “they may make” substitute “it may make”, and 15
- (c) for “their approval” substitute “the Commission’s approval”.
- (4) In subsection (3) –
- (a) for “the Commissioners” substitute “the Commission”,
- (b) for “their being” substitute “the Commission being”, and
- (c) for “supplied to them” substitute “supplied to it”. 20
- (5) In subsection (4) –
- (a) for “the Commissioners are satisfied” substitute “the Commission is satisfied”,
- (b) for “supplied to them” substitute “supplied to it”, and
- (c) for “the Commissioners” (in the second place) substitute “the Commission”. 25
- (6) In subsection (5) –
- (a) for “Commissioners” (in each place) substitute “Commission”,
- (b) for “they consider” substitute “it considers”, and
- (c) for “they have received” substitute “it has received”. 30
- (7) In the sidenote, for “Commissioners” substitute “Commission”.
- 158 (1) Section 84 (supply by Commissioners of copies of documents open to public inspection) is amended as follows.
- (2) For “The Commissioners” substitute “The Commission”.
- (3) For “their possession” substitute “the Commission’s possession”. 35
- (4) In the sidenote, for “Commissioners” substitute “Commission”.
- 159 (1) Section 85 (fees and other amounts payable to Commissioners) is amended as follows.
- (2) In subsection (1) –
- (a) for “the Commissioners” (in both places) substitute “the Commission”, and 40
- (b) for “kept by them” substitute “kept by the Commission”.

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- (3) In subsection (4) –
- (a) for “The Commissioners” substitute “The Commission”,
 - (b) for “they consider” substitute “it considers”, and
 - (c) for “by them” substitute “by it”.
- (4) In subsection (5) for “the Commissioners” substitute “the Commission”. 5
- (5) In the sidenote, for “Commissioners” substitute “Commission”.
- 160 (1) Section 86 (regulations and orders) is amended as follows.
- (2) In subsection (2)(a) –
- (a) after “17(2),” insert “73F(6)”, and
 - (b) after “99(2)” insert “or paragraph 6 of Schedule 1C”. 10
- (3) In subsection (3) –
- (a) for “the Commissioners” (in the first place) substitute “the Commission”, and
 - (b) for “the Commissioners consider” substitute “the Commission considers”. 15
- (4) In subsection (4) after “above” insert “or Schedule 5A,”.
- 161 (1) Section 87 (enforcement of requirement by order of Commissioners) is amended as follows.
- (2) In subsection (1) –
- (a) for “the Commissioners” substitute “the Commission”, and 20
 - (b) for “they consider” substitute “it considers”.
- (3) In subsection (2) for “the Commissioners” (in both places) substitute “the Commission”.
- (4) In the sidenote, for “Commissioners” substitute “Commission”.
- 162 (1) Section 88 (enforcement of orders of Commissioners) is amended as follows. 25
- (2) For paragraph (a) substitute –
- “(a) to an order of the Commission under section 9(1), 19A, 19B, 44(2), 61, 73, 73C or 80 above; or”.
- (3) In paragraphs (b) and (c) for “the Commissioners” substitute “the Commission”. 30
- (4) For “the Commissioners to” substitute “the Commission to”.
- (5) In the sidenote, for “Commissioners” substitute “Commission”.
- 163 (1) Section 89 (other provisions as to orders of Commissioners) is amended as follows.
- (2) In subsection (1) – 35
- (a) for “the Commissioners” (in the first place) substitute “the Commission”,
 - (b) for “the Commissioners think” substitute “the Commission thinks”,
 - (c) for “the Commissioners exercise” substitute “the Commission exercises”, and
 - (d) for “to them, they may” substitute “to it, it may”. 40

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- (3) In subsection (2) –
- (a) for “the Commissioners make” substitute “the Commission makes”,
 - (b) for “they may themselves” substitute “the Commission may itself”,
and
 - (c) for “they think fit” substitute “it thinks fit”. 5
- (4) In subsection (3) –
- (a) for “The Commissioners” substitute “The Commission”,
 - (b) for “they have” substitute “it has”,
 - (c) for “they are” substitute “it is”,
 - (d) for “to them” substitute “to it”. 10
- (5) In subsection (4) for “the Commissioners” substitute “the Commission”.
- (6) At the end add –
- “(5) Any order made by the Commission under any provision of this Act may be varied or revoked by a subsequent order so made.”
- (7) In the sidenote, for “Commissioners” substitute “Commission”. 15
- 164 In section 90 (directions of the Commissioners) for “the Commissioners” (in each place including the sidenote) substitute “the Commission”.
- 165 In section 91 (service of orders and directions), in subsections (1), (4) and (5), for “the Commissioners” (in each place) substitute “the Commission”.
- 166 Omit section 92 (appeals from Commissioners). 20
- 167 In section 93 (miscellaneous provisions as to evidence), for subsection (3) substitute –
- “(3) Evidence of any order, certificate or other document issued by the Commission may be given by means of a copy which it retained, or which is taken from a copy so retained, and evidence of an entry in any register kept by it may be given by means of a copy of the entry, if (in each case) the copy is certified in accordance with subsection (4). 25
 - (4) The copy shall be certified to be a true copy by any member of the staff of the Commission generally or specially authorised by the Commission to act for that purpose. 30
 - (5) A document purporting to be such a copy shall be received in evidence without proof of the official position, authority or handwriting of the person certifying it.
 - (6) In subsection (3) above “the Commission” includes the Charity Commissioners for England and Wales.” 35
- 168 (1) Section 96 (construction of references to a “charity” etc.) is amended as follows.
- (2) In subsection (1) for the definition of “charity” substitute –
““charity” has the meaning given by section 1(1) of the Charities Act 2005;” 40
 - (3) In subsections (5) and (6) for “The Commissioners” substitute “The Commission”.

- 169 In section 97(1) (interpretation)–
- (a) in the definition of “charitable purposes”, for “charitable according to the law of England and Wales;” substitute “charitable purposes as defined by section 2(1) of the Charities Act 2005;”;
 - (b) for the definition of “the Commissioners” substitute – 5
 ““the Commission” means the Charity Commission;”
 and
 - (c) at the appropriate place insert –
 - ““members”, in relation to a charity with a body of 10
 members distinct from the charity trustees, means
 any of those members;”
 - ““principal regulator”, in relation to an exempt charity,
 means the charity’s principal regulator within the
 meaning of section 13 of the Charities Act 2005;”
 - ““the Tribunal” means the Charity Tribunal;” 15
- 170 In paragraph (a) of Schedule 2 (exempt charities) for “the Commissioners” (in the first place) substitute “the Charity Commissioners for England and Wales”.
- 171 (1) Schedule 5 (meaning of “connected person” for the purposes of section 36(2)) is amended as follows. 20
- (2) In paragraph 1 for the words preceding paragraphs (a) to (g) substitute –
 - “(1) In section 36(2) of this Act “connected person”, in relation to a
 charity, means any person who falls within sub-paragraph (2) –
 - (a) at the time of the disposition in question, or
 - (b) at the time of any contract for the disposition in question. 25
 - “(2) The persons falling within this sub-paragraph are –”.
 - (3) Paragraphs (a) to (g) of paragraph 1 become paragraphs (a) to (g) of sub-paragraph (2) (as inserted by sub-paragraph (2) above).
 - (4) After paragraph (e) of sub-paragraph (2) (as so inserted) insert –
 - “(ea) a person carrying on business in partnership with any 30
 person falling within any of sub-paragraphs (a) to (e)
 above;”;and in paragraph (f)(i) of that sub-paragraph, for “(e)” substitute “(ea)”.
 - (5) In paragraph 2–
 - (a) in sub-paragraph (1), for “1(c)” substitute “1(2)(c)”, 35
 - (b) in sub-paragraph (2), for “1(e)” substitute “1(2)(e)”, and
 - (c) after that sub-paragraph add –
 - “(3) Where two persons of the same sex are not civil partners
 but live together as if they were, each of them shall be
 treated for those purposes as the civil partner of the other.” 40
 - (6) In paragraph 3 for “1(f)” substitute “1(2)(f)”.
 - (7) In paragraph 4(1) for “1(g)” substitute “1(2)(g)”.

Deregulation and Contracting Out Act 1994 (c. 40)

- 172 (1) Section 79 of the Deregulation and Contracting Out Act 1994 (interpretation of Part 2) is amended as follows.
- (2) For subsection (3)(a) substitute –
- (a) any reference to a Minister included a reference to the Forestry Commissioners or to the Charity Commission; 5
 - (b) any reference to an officer in relation to the Charity Commission were a reference to a member or member of staff of the Commission; and.
- (3) In subsection (4) after “those Commissioners” insert “or that Commission”. 10

Pensions Act 1995 (c. 26)

- 173 In section 107(1) of the Pensions Act 1995 (disclosure for facilitating discharge of functions by other supervisory authorities), for the entry in the Table relating to the Charity Commissioners substitute –
- | | | |
|--------------------------|--|----|
| “The Charity Commission. | Functions under the Charities Act 1993 or the Charities Act 2005.” | 15 |
|--------------------------|--|----|

Reserve Forces Act 1996 (c. 14)

- 174 (1) Schedule 5 to the Reserve Forces Act 1996 (charitable property on disbanding of units) is amended as follows.
- (2) In paragraph 1(2) for “the Charity Commissioners” substitute “the Charity Commission”. 20
- (3) In paragraph 4(1) –
- (a) for “Charity Commissioners consider” substitute “Charity Commission considers”, and
 - (b) for “they” substitute “it”. 25
- (4) In paragraph 5(2) –
- (a) for “Charity Commissioners” substitute “Charity Commission”, and
 - (b) for “the Commissioners” (in both places) substitute “the Commission”.
- (5) In paragraph 6 – 30
- (a) for “Charity Commissioners” substitute “Charity Commission”,
 - (b) for “the Commissioners” substitute “the Commission”, and
 - (c) for “their” substitute “its”.

Trusts of Land and Appointment of Trustees Act 1996 (c. 47)

- 175 In section 6(7) of the Trusts of Land and Appointment of Trustees Act 1996 (limitation on general powers of trustees) for “Charity Commissioners” substitute “Charity Commission”. 35

Housing Act 1996 (c. 52)

- 176 The Housing Act 1996 has effect subject to the following amendments.
- 177 In section 3(3) (registration as social landlord) for “Charity Commissioners” substitute “Charity Commission”.
- 178 In section 4(6) (removal from the register of social landlords) for “Charity Commissioners” substitute “Charity Commission”. 5
- 179 In section 6(3) (notice of appeal against decision on removal) for “Charity Commissioners” substitute “Charity Commission”.
- 180 In section 44(3) (consultation on proposals as to ownership and management of landlord’s land) for “Charity Commissioners” substitute “Charity Commission”. 10
- 181 In section 45(4) (service of copy of agreed proposals) for “Charity Commissioners” substitute “Charity Commission”.
- 182 In section 46(2) (notice of appointment of manager to implement agreed proposals) for “Charity Commissioners” substitute “Charity Commission”. 15
- 183 In section 56(2) (meaning of “the Relevant Authority”) for “Charity Commissioners” substitute “Charity Commission”.
- 184 In section 58(1)(b) (definitions relating to charities) –
(a) for “under section 3” substitute “in accordance with section 3A”, and
(b) omit the words from “and is not” onwards. 20
- 185 (1) Schedule 1 (regulation of registered social landlords) is amended as follows.
(2) In paragraph 6(2) (exercise of power to appoint new director or trustee) for “Charity Commissioners” substitute “Charity Commission”.
(3) In paragraph 10 (change of objects by certain charities) –
(a) in sub-paragraphs (1) and (2) for “Charity Commissioners” (in each place) substitute “Charity Commission”, and
(b) in sub-paragraph (2) for “their” substitute “its”. 25
- (4) In paragraph 18(4), for paragraphs (a) and (b) and the words following them substitute –
“(a) the charity’s gross income arising in connection with its housing activities exceeds the sum for the time being specified in section 43(1)(a) of the Charities Act 1993, or
(b) the charity’s gross income arising in that connection exceeds the accounts threshold and at the end of that period the aggregate value of its assets (before deduction of liabilities) in respect of its housing activities exceeds the sum for the time being specified in section 43(1)(b) of that Act;
and in this sub-paragraph “gross income” and “accounts threshold” have the same meanings as in section 43 of the Charities Act 1993.” 30
35
40
- (5) In paragraph 28(4) (notification upon exercise of certain powers in relation to registered charities) for “Charity Commissioners” substitute “Charity Commission”.

School Standards and Framework Act 1998 (c. 31)

- 186 The School Standards and Framework Act 1998 has effect subject to the following amendments.
- 187 (1) Section 23 is amended as follows.
- (2) In subsection (1) (certain school bodies to be charities that are exempt charities) omit “which are exempt charities for the purposes of the Charities Act 1993”. 5
- (3) After that subsection insert –
- “(1A) Any body to which subsection (1)(a) or (b) applies is an institution to which section 3A(4)(b) of the Charities Act 1993 applies (institutions to be excepted from registration under that Act).” 10
- (4) In subsection (2) (connected bodies that are to be exempt charities) for the words from “also” onwards substitute “be treated for the purposes of section 3A(4)(b) of the Charities Act 1993 as if it were an institution to which that provision applies.” 15
- (5) In subsection (3) (status of certain foundations) for the words from “which (subject” onwards substitute “, and is an institution to which section 3A(4)(b) of the Charities Act 1993 applies.”
- 188 In Schedule 1 (education action forums), in paragraph 10, for the words from “which is” onwards substitute “within the meaning of the Charities Act 1993, and is an institution to which section 3A(4)(b) of that Act applies (institutions to be excepted from registration under that Act).” 20

Cathedrals Measure 1999 (No. 1)

- 189 In section 34 of the Cathedrals Measure 1999 (charities) for “Charity Commissioners” substitute “Charity Commission”. 25

Trustee Act 2000 (c. 29)

- 190 In section 19(4) of the Trustee Act 2000 (guidance concerning persons who may be appointed as nominees or custodians) for “Charity Commissioners” substitute “Charity Commission”.

Churchwardens Measure 2001 (No. 1) 30

- 191 In section 2(1) of the Churchwardens Measure 2001 (person disqualified from being churchwarden if disqualified from being a charity trustee) –
- (a) for “Charity Commissioners” substitute “Charity Commission”, and
- (b) for “them” substitute “it”.

Licensing Act 2003 (c. 17) 35

- 192 In Schedule 2 to the Licensing Act 2003 (provision of late night refreshment) in paragraph 5(4) –
- (a) for “under section 3” substitute “in accordance with section 3A”, and
- (b) for “subsection (5)” substitute “subsection (2)”.

Companies (Audit, Investigations and Community Enterprise) Act 2004 (c. 27)

- 193 The Companies (Audit, Investigations and Community Enterprise) Act 2004 has effect subject to the following amendments.
- 194 In section 39 (existing companies: charities), in subsections (1) and (2), for “Charity Commissioners” substitute “Charity Commission”. 5
- 195 In section 40 (existing companies: Scottish charities), in subsections (4)(b) and (6), for “Charity Commissioners” substitute “Charity Commission”.
- 196 In section 54(7) (requirements for becoming a charity or a Scottish charity) –
(a) for “Charity Commissioners” substitute “Charity Commission”, and
(b) for “their” substitute “its”. 10
- 197 In paragraph 4 of Schedule 3 (regulator of community interest companies) –
(a) for “Chief Charity Commissioner” substitute “chairman of the Charity Commission”, and
(b) for “any officer or employee appointed under paragraph 2(1) of Schedule 1 to the Charities Act 1993 (c. 10)” substitute “any other member of the Commission appointed under paragraph 1(2) of Schedule 1A to the Charities Act 1993 or any member of staff of the Commission appointed under paragraph 5(1) of that Schedule”. 15

Pensions Act 2004 (c. 35)

- 198 The Pensions Act 2004 has effect subject to the following amendments. 20
- 199 In Schedule 3 (certain permitted disclosures of restricted information held by the Regulator), for the entry relating to the Charity Commissioners substitute –
- | | | |
|--------------------------|--|----|
| “The Charity Commission. | Functions under the Charities Act 1993 (c. 10) or the Charities Act 2005.” | 25 |
|--------------------------|--|----|
- 200 In Schedule 8 (certain permitted disclosures of restricted information held by the Board), for the entry relating to the Charity Commissioners substitute –
- | | | |
|--------------------------|--|----|
| “The Charity Commission. | Functions under the Charities Act 1993 (c. 10) or the Charities Act 2005.” | 30 |
|--------------------------|--|----|

SCHEDULE 9

Section 74

REPEALS AND REVOCATION

<i>Short title and chapter or title and number</i>	<i>Extent of repeal or revocation</i>	
Recreational Charities Act 1958 (c. 17)	Section 2.	5
Church Funds Investment Measure 1958 (No. 1)	Section 5.	
Charities Act 1960 (c. 58)	The whole Act.	
Housing Act 1985 (c. 68)	In section 6A(5), the words from “and is not” onwards.	10
Reverter of Sites Act 1987 (c. 15)	In section 4(4), the words “and appeals” and (in both places) “, and to appeals against,”.	
Charities Act 1992 (c. 41)	Part 1 (so far as unrepealed). Part 3. Section 76(1)(c) and the word “and” preceding it. In section 77(4), “or 73”. Schedule 5. In Schedule 6, paragraph 9.	15
Charities Act 1993 (c. 10)	Section 1. In section 2(7), the words from “and the report” onwards. In section 4, subsection (3) and, in subsection (5), the words “, whether given on such an appeal or not”. Section 6(9). Section 9(4). Section 10(3). In section 16, in subsection (4)(c) the words “in the case of a charity other than an exempt charity,”, in subsection (5) the words “which is not an exempt charity and”, and subsections (11) to (14). In section 17(7), the words from “but this subsection” onwards. Section 18(8) to (10). In section 23(2), the words “or them”. In section 24(8), the words from “; and if the scheme” onwards. Section 28(10). In section 33, in each of subsections (2) and (7) the words “(other than an exempt charity)”. Section 44(3). Section 46(8). Section 61(7). In section 73(4), the words “(other than an exempt charity)”. Section 92. In section 96, in the definition of “exempt charity” in subsection (1) the words “(subject to section 24(8) above)”, and subsection (4).	20 25 30 35 40 45 50

<i>Short title and chapter or title and number</i>	<i>Extent of repeal or revocation</i>	
Charities Act 1993 (c. 10) – <i>cont.</i> Charities Act 1993 (c. 10) – <i>cont.</i> Charities Act 1993 (c. 10) – <i>cont.</i> –	Schedule 1. In Schedule 2, in paragraph (b) the words “and the colleges of Winchester and Eton”, and paragraphs (x) and (zb). In Schedule 6, paragraphs 1(2), 26, 28 and 29(2) to (4), (7) and (8).	5
National Lottery etc. Act 1993 (c. 39)	In Schedule 5, paragraph 12.	10
Local Government (Wales) Act 1994 (c. 19)	In Schedule 16, paragraph 99.	
Deregulation and Contracting Out Act 1994 (c. 40)	Section 28. Section 29(7) and (8).	
Housing Act 1996 (c. 52)	In section 58(1)(b), the words from “and is not” onwards.	15
Teaching and Higher Education Act 1998 (c. 30)	Section 41. In Schedule 3, paragraph 9.	
School Standards and Framework Act 1998 (c. 31)	In section 23(1), the words “which are exempt charities for the purposes of the Charities Act 1993”. In Schedule 30, paragraph 48.	20
Intervention Board for Agricultural Produce (Abolition) Regulations 2001 (S.I. 2001/3686)	Regulation 6(11)(a).	25
Regulatory Reform (National Health Service Charitable and Non-Charitable Trust Accounts and Audit) Order 2005 (S.I. 2005/1074)	Article 3(5).	30

SCHEDULE 10

Section 74

TRANSITIONAL PROVISIONS AND SAVINGS

Section 4: guidance as to operation of public benefit requirement

- | | | |
|---|--|----|
| 1 | Any consultation initiated by the Charity Commissioners for England and Wales before the day on which section 4 of this Act comes into force is to be as effective for the purposes of section 4(4)(a) as if it had been initiated by the Commission on or after that day. | 35 |
|---|--|----|

Section 5: recreational charities etc.

- | | | |
|---|---|----|
| 2 | Where section 2 of the Recreational Charities Act 1958 (c. 17) applies to any trusts immediately before the day on which subsection (3) of section 5 of this Act comes into force, that subsection does not prevent the trusts from | 40 |
|---|---|----|

continuing to be charitable if they constitute a charity in accordance with section 1(1) of this Act.

Section 18: cy-près schemes

- 3 The amendment made by section 18 applies to property given for charitable purposes whether before or on or after the day on which that section comes into force. 5

Section 19: suspension or removal of trustee etc. from membership of charity

- 4 The amendment made by section 19 applies where the misconduct or other relevant conduct on the part of the person suspended or removed from his office or employment took place on or after the day on which section 19 comes into force. 10

Section 20: specific directions for protection of charity

- 5 The amendment made by section 20 applies whether the inquiry under section 8 of the 1993 Act was instituted before or on or after the day on which section 20 comes into force. 15

Section 26: offence of obstructing power of entry

- 6 In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003 (c. 44) (alteration of penalties for summary offences), the reference to 51 weeks in section 31A(11) of the 1993 Act (as inserted by section 26 of this Act) is to be read as a reference to 3 months. 20

Section 28: audit or examination of accounts of charity which is not a company

- 7 The amendments made by section 28 apply in relation to any financial year of a charity which begins on or after the day on which that section comes into force. 25

Section 29: auditor etc. of charity which is not a company to report matters to Commission

- 8 (1) The amendments made by section 29 apply in relation to matters (“pre-commencement matters”) of which a person became aware at any time falling— 30
 (a) before the day on which that section comes into force, and
 (b) during a financial year ending on or after that day,
 as well as in relation to matters of which he becomes aware on or after that day.
- (2) Any duty imposed by or by virtue of the new section 44A(2) or 46(2A) of the 1993 Act inserted by section 29 must be complied with in relation to any such pre-commencement matters as soon as practicable after section 29 comes into force. 35

Section 32: audit or examination of accounts of charitable companies

- 9 The amendments made by section 32 apply in relation to any financial year of a charity which begins on or after the day on which that section comes into force.

Section 33: auditor etc. of charitable company to report matters to Commission 5

- 10 (1) The amendment made by section 33 applies in relation to matters (“pre-commencement matters”) of which a person became aware at any time falling –
- (a) before the day on which that section comes into force, and
 - (b) during a financial year ending on or after that day, 10
- as well as in relation to matters of which he becomes aware on or after that day.
- (2) Any duty imposed by virtue of the new section 68A(1) of the 1993 Act inserted by section 33 must be complied with in relation to any such pre-commencement matters as soon as practicable after section 33 comes into force. 15

Section 35: waiver of trustee’s disqualification

- 11 The amendment made by section 35 applies whether the disqualification took effect before, on or after the day on which that section comes into force.

Section 36: remuneration of trustees etc. providing services to charity 20

- 12 (1) This paragraph applies to the amendment made by section 36.
- (2) That amendment does not affect the payment of remuneration or provision of services in accordance with an agreement made before the day on which section 36 comes into force.
- (3) In relation to any time before section 1 of the Civil Partnership Act 2004 (c. 33) comes into force in relation to England and Wales, section 73B(5)(b) of the 1993 Act (as inserted by section 36) has effect with the omission of the reference to a civil partner. 25

Section 38: relief from liability for breach of trust or duty

- 13 Sections 73D and 73E of the 1993 Act (as inserted by section 38 of this Act) have effect in relation to acts or omissions occurring before the day on which section 38 comes into force as well as in relation to those occurring on or after that day. 30

Section 44: registration of charity mergers

- 14 Section 75C of the 1993 Act (as inserted by section 44 of this Act) applies to relevant charity mergers taking place before the day on which section 44 comes into force as well as to ones taking place on or after that day. 35

Section 67: statements relating to fund-raising

- 15 The amendments made by section 67 apply in relation to any solicitation or representation to which section 60(1), (2) or (3) of the 1992 Act applies and which is made on or after the day on which section 67 comes into force.

Schedule 6: group accounts

5

- 16 Paragraph 3(2) of the new Schedule 5A inserted in the 1993 Act by Schedule 6 to this Act does not apply in relation to any financial year of a parent charity beginning before the day on which paragraph 3(2) comes into force.

Schedule 8: minor and consequential amendments

- 17 The following provisions, namely – 10
- (a) paragraphs 77(6) and (8), 80(3) and (4), 94(3), (4)(a) and (5)(a) and (c), 104(12), 106(7) and 166 of Schedule 8, and
 - (b) the corresponding entries in Schedule 9,
- do not affect the operation of the Coal Industry Act 1987 (c. 3), the Reverter of Sites Act 1987 (c. 15) or the 1993 Act in relation to any appeal brought in the High Court before the day on which those provisions come into force. 15
- 18 Paragraph 93(2) of Schedule 8 does not affect the validity of any designation made by the Charity Commissioners for England and Wales under section 2(2) of the 1993 Act which is in effect immediately before that paragraph comes into force. 20
- 19 In the amendment made by paragraph 128 of Schedule 8, the reference to a civil partner does not apply in relation to any time before section 1 of the Civil Partnership Act 2004 (c. 33) comes into force in relation to England and Wales.
- 20 The amendment made by paragraph 171(5)(c) of Schedule 8 does not apply in relation to any time before section 1 of the Civil Partnership Act 2004 (c. 33) comes into force in relation to England and Wales. 25

Schedule 9: savings on repeal of provisions of Charities Act 1960

- 21 (1) This paragraph applies where, immediately before the coming into force of the repeal by this Act of section 35(6) of the Charities Act 1960 (c. 58) (transfer and evidence of title to property vested in trustees), any relevant provision had effect, in accordance with that provision, as if contained in a conveyance or other document declaring the trusts on which land was held at the commencement of that Act. 30
- (2) In such a case the relevant provision continues to have effect as if so contained despite the repeal of section 35(6) of that Act. 35
- (3) A “relevant provision” means a provision of any of the following Acts providing for the appointment of trustees –
- (a) the Trustee Appointment Act 1850 (c.28),
 - (b) the Trustee Appointment Act 1869 (c.26), 40
 - (c) the Trustees Appointment Act 1890 (c.19), or
 - (d) the School Sites Act 1852 (c. 49) so far as applying any of the above Acts,

- as in force at the commencement of the Charities Act 1960 (c. 58).
- 22 The repeal by this Act of section 39(2) of the Charities Act 1960 (repeal of obsolete enactments) does not affect the continued operation of any trusts which, at the commencement of that Act, were wholly or partly comprised in an enactment specified in Schedule 5 to that Act (enactments repealed as obsolete). 5
- 23 The repeal by this Act of section 48(1) of, and Schedule 6 to, the Charities Act 1960 (consequential amendments etc.) does not affect the amendments made by Schedule 6 in—
- (a) section 9 of the Places of Worship Registration Act 1855 (c. 81), 10
 - (b) section 4(1) of the Open Spaces Act 1906 (c. 25),
 - (c) section 24(4) of the Landlord and Tenant Act 1927 (c. 36), or
 - (d) section 14(1) or 31 of the New Parishes Measure 1943.
- 24 Despite the repeal by this Act of section 48(3) of the Charities Act 1960, section 30(3) to (5) of the 1993 Act continue to apply to documents enrolled by or deposited with the Charity Commissioners under the Charitable Trusts Acts 1853 to 1939. 15
- 25 Despite the repeal by this Act of section 48(4) of the Charities Act 1960—
- (a) any scheme, order, certificate or other document issued under or for the purposes of the Charitable Trusts Acts 1853 to 1939 and having effect in accordance with section 48(4) immediately before the commencement of that repeal continues to have the same effect (and to be enforceable or liable to be discharged in the same way) as would have been the case if that repeal had not come into force, and 20
 - (b) any such document, and any document under the seal of the official trustees of charitable funds, may be proved as if the 1960 Act had not been passed. 25
- 26 (1) Despite the repeal by this Act of section 48(6) of the Charities Act 1960, the official custodian for charities is to continue to be treated as the successor for all purposes both of the official trustee of charity lands and of the official trustees of charitable funds as if— 30
- (a) the functions of the official trustee or trustees had been functions of the official custodian, and
 - (b) as if the official trustee or trustees had been, and had discharged his or their functions as, holder of the office of the official custodian. 35
- (2) Despite the repeal of section 48(6) (and without affecting the generality of sub-paragraph (1))—
- (a) any property which immediately before the commencement of that repeal was, by virtue of section 48(6), held by the official custodian as if vested in him under section 21 of the 1993 Act continues to be so held, and 40
 - (b) any enactment or document referring to the official trustee or trustees mentioned above continues to have effect, so far as the context permits, as if the official custodian had been mentioned instead. 45
- 27 The repeal by this Act of the Charities Act 1960 does not affect any transitional provision or saving contained in that Act which is capable of having continuing effect but whose effect is not preserved by any other provision of this Schedule.

Schedule 9: savings on repeal of provisions of Charities Act 1992

- 28 The repeal by this Act of section 49 of, and Schedule 5 to, the 1992 Act (amendments relating to redundant churches etc.) does not affect the amendments made by that Schedule in the Redundant Churches and Other Religious Buildings Act 1969. 5

Schedule 9: repeal of certain repeals made by Charities Acts 1960 and 1992

- 29 (1) It is hereby declared that (in accordance with sections 15 and 16 of the Interpretation Act 1978 (c. 30)) the repeal by this Act of any of the provisions mentioned in sub-paragraph (2) does not revive so much of any enactment or document as ceased to have effect by virtue of that provision. 10
- (2) The provisions are –
- (a) section 28(9) of the Charities Act 1960 (c. 58) (repeal of provisions regulating taking of charity proceedings),
 - (b) section 36 of the 1992 Act (repeal of provisions requiring Charity Commissioners' consent to dealings with charity land), and 15
 - (c) section 50 of that Act (repeal of provisions requiring amount of contributions towards maintenance etc. of almshouses to be sanctioned by Charity Commissioners).

Charities Bill [HL]

A

B I L L

To provide for the establishment and functions of the Charity Commission for England and Wales and the Charity Tribunal; to make other amendments of the law about charities, including provision about charitable incorporated organisations; to make further provision about public charitable collections and other fund-raising carried on in connection with charities and other institutions; to make other provision about the funding of such institutions; and for connected purposes.

Brought from the Lords 9th November 2005.

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