

SCHEDULES

SCHEDULE 9

Section 354

TRANSITORY MODIFICATIONS

Commission's general functions—public charitable collections

- 1 (1) Sub-paragraph (2) applies if Chapter 1 of Part 3 of the 2006 Act (public charitable collections) has not been brought into force before the commencement of this Act.
- (2) Section 15 (the Commission's general functions) has effect until the appointed day as if—
- (a) paragraph 4 of section 15(1), and
 - (b) section 15(6),
- were omitted.
- (3) "The appointed day" means the day on which Chapter 1 of Part 3 of the 2006 Act is brought into force by virtue of an order made under section 79 of that Act.

"Exempt charity" and common investment and deposit funds

- 2 (1) Sub-paragraph (2) applies if—
- (a) section 11(10) of the 2006 Act (amendment of section 24(8) of the 1993 Act), and
 - (b) paragraph 173(3)(a) of Schedule 8 to the 2006 Act (amendment of definition of "exempt charity" in section 96(1) of the 1993 Act),
- have not been brought into force before the commencement of this Act.
- (2) Subsection (3) of—
- (a) section 99 (further provisions relating to common investment schemes and funds), and
 - (b) section 103 (further provisions relating to common deposit schemes and funds),
- has effect until the relevant commencement date as if at the end of the subsection there were inserted "and if the scheme admits only exempt charities, the fund is an exempt charity for the purposes of this Act".

"Exempt charity" and church funds

- 3 (1) Sub-paragraph (2) applies if section 11(9) of the 2006 Act (removing certain exempt charities from Schedule 2 to the 1993 Act), so far as relating to—
- (a) an Investment Fund or Deposit Fund within the meaning of the Church Funds Investment Measure 1958, or
 - (b) an investment fund or deposit fund within the meaning of the Methodist Church Funds Act 1960,

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has not been brought into force before the commencement of this Act.

- (2) Schedule 3 (exempt charities) has effect until the relevant commencement date as if paragraphs (a) and (b) of paragraph 1(2) were omitted.

“Exempt charity” and registered societies etc.

- 4 (1) Sub-paragraph (2) applies if section 11(8) of the 2006 Act (changing the exemption under paragraph (y) of Schedule 2 to the 1993 Act) has not been brought into force before the commencement of this Act.
- (2) Schedule 3 (exempt charities) has effect until the relevant commencement date as if, in paragraph 27, for “if the society is also registered in the register of social landlords under Part 1 of the Housing Act 1996” there were substituted “and any registered society or branch within the meaning of the Friendly Societies Act 1974”.
- 5 (1) Sub-paragraph (2) applies if section 2 of the Co-operative and Community Benefit Societies and Credit Unions Act 2010 (re-naming the Industrial and Provident Societies Acts) has not been brought into force before the commencement of this Act.
- (2) In the application of paragraph 26 or 27 of Schedule 3 (exempt charities) before the commencement of section 2 of the 2010 Act the reference to the [Co-operative and Community Benefit Societies and Credit Unions Act 1965 \(c. 12\)](#) is to be read as a reference to the Industrial and Provident Societies Act 1965 (c. 12).

Power to amend enactments in connection with changes in exempt charities

- 6 (1) Sub-paragraph (2) applies if paragraph 2, 3 or 4 applies in relation to charities of a particular description or to a particular charity.
- (2) In relation to those charities or that charity, section 23 has effect as if for subsection (3) there were substituted—
- “*(3) The Minister may by order make such amendments or other modifications of any enactment as the Minister considers appropriate in connection with—*
- (a) charities of a particular description ceasing to be exempt charities on the relevant commencement date, or*
- (b) a particular charity ceasing to be an exempt charity on the relevant commencement date.”*

Exempt charities and the principal regulator

- 7 (1) Sub-paragraph (2) applies if, in relation to charities of a particular description or a particular charity—
- (a) section 13(1) to (3) of the 2006 Act (general duty of principal regulator), and
- (b) section 86A of the 1993 Act (duty of Commission to consult principal regulator),
- have not been brought into before the commencement of this Act.
- (2) In relation to those charities or that charity, Part 3 has effect until the relevant commencement date as if—
- (a) section 26 (general duty of principal regulator), and
- (b) section 28 (duty of Commission to consult principal regulator),
- were omitted.

Voluntary registration

- 8 (1) Sub-paragraph (2) applies if section 3A(6) of the 1993 Act (voluntary registration) has not been brought into force before the commencement of this Act.
- (2) Part 4 (registration and names of charities) has effect until the relevant commencement date with the omission of section 30(3) (but subject to the modifications specified in the [Charities Act 2006 \(Commencement No. 5, Transitional and Transitory Provisions and Savings\) Order 2008 \(S.I. 2008/3267\)](#) as it has effect in accordance with Part 1 of Schedule 8).

Regulations to secure that any institution ceasing to be an exempt charity on the relevant commencement date is excepted

- 9 (1) Sub-paragraph (2) applies if paragraph 2, 3 or 4 applies and, on the date which is the relevant commencement date in relation to that paragraph, an institution ceases to be an exempt charity.
- (2) In relation to that institution, section 31 has effect as if for subsection (3) there were substituted—
- “(3) Such regulations must be made under section 30(2)(c) as are necessary to secure that the institution is excepted under section 30(2)(c) (subject to compliance with any conditions of the exception and the financial limit mentioned in section 30(2)(c)).”

Change of name and exempt charities

- 10 (1) Sub-paragraph (2) applies if, in relation to charities of a particular description or a particular charity, paragraph 1 of Schedule 5 to the 2006 Act (removal of exception for exempt charities from power to require charity’s name to be changed) has not been brought into force before the commencement of this Act.
- (2) In relation to those charities or that charity, section 42 (power to require name to be changed) has effect until the relevant commencement date as if at the end there were inserted—
- “(6) Nothing in this section applies to an exempt charity.”

Power to institute inquiries and exempt charities

- 11 (1) Sub-paragraph (2) applies if, in relation to charities of a particular description or a particular charity, paragraph 2 of Schedule 5 to the 2006 Act (restriction of exclusion of exempt charities from power to institute inquiries) has not been brought into force before the commencement of this Act.
- (2) In relation to those charities or that charity, section 46 (general power to institute inquiries) has effect until the relevant commencement date as if, in subsection (2), “except where this has been requested by its principal regulator” were omitted.

Maximum term of imprisonment for offence under section 49(8)

- 12 In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003 (alteration of penalties for summary offences), the reference to 51 weeks in section 49(9) is to be read as a reference to 3 months.

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Power to call for documents etc. and exempt charities

- 13 (1) Sub-paragraph (2) applies if, in relation to charities of a particular description or a particular charity, paragraph 3 of Schedule 5 to the 2006 Act (removal of exclusion of exempt charities from power to call for documents etc.) has not been brought into force before the commencement of this Act.
- (2) In relation to those charities or that charity, section 52 (power to call for documents) has effect until the relevant commencement date with the insertion after subsection (1) of—
- “(1A) No person properly having the custody of documents relating only to an exempt charity is required under subsection (1) to transmit to the Commission any of those documents, or to provide any copy of or extract from any of them.”

Maximum term of imprisonment for offence under section 57(3)

- 14 In relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003 (general limit on the magistrates’ court’s power to impose imprisonment) the reference to 12 months in section 57(4) is to be read as a reference to 6 months.

Exempt charities and disclosure to and by principal regulator

- 15 (1) Sub-paragraph (2) applies if, in relation to charities of a particular description or a particular charity, the main provisions of section 10B of the 1993 Act (disclosure to and by principal regulators of exempt charities) have not been brought into force before the commencement of this Act.
- (2) In relation to those charities or that charity, this Act has effect until the relevant commencement date as if section 58 (disclosure to and by principal regulators of exempt charities), except in so far as it confers power to make regulations, were omitted.
- (3) In sub-paragraph (1), “the main provisions of section 10B of the 1993 Act” means section 10B except in so far as it confers power to make regulations.

Exempt charities and Commission’s concurrent jurisdiction with High Court

- 16 (1) Sub-paragraph (2) applies if, in relation to charities of a particular description or a particular charity, paragraph 4 of Schedule 5 to the 2006 Act (removal of exclusion of exempt charities from Commission’s concurrent jurisdiction) has not been brought into force before the commencement of this Act.
- (2) In relation to those charities or that charity, section 70 (restrictions on Commission’s concurrent jurisdiction) has effect until the relevant commencement date as if—
- (a) at the beginning of subsection (2)(c) there were inserted “in the case of a charity other than an exempt charity”, and
- (b) in subsection (3), after “In the case of a charity” there were inserted “which is not an exempt charity and”.

Exempt charities and restriction on expenditure on promoting Bills

- 17 (1) Sub-paragraph (2) applies if, in relation to charities of a particular description or a particular charity, paragraph 5 of Schedule 5 to the 2006 Act (restriction on expenditure on promoting Bills to apply to exempt charities) has not been brought into force before the commencement of this Act.
- (2) In relation to those charities or that charity, section 74 (restriction on expenditure on promoting Bills) has effect until the relevant commencement date as if, at the end of subsection (2), there were inserted “but does not apply in the case of an exempt charity”.

Exempt charities and power to act for protection of charities

- 18 (1) Sub-paragraph (2) applies if, in relation to charities of a particular description or a particular charity, paragraph 6 of Schedule 5 to the 2006 Act (restriction of exception for exempt charities from Commission’s powers to act for protection of charities) has not been brought into force before the commencement of this Act.
- (2) In relation to those charities or that charity, Part 6 (cy-près powers etc.) has effect as if sections 80(4) and 81(3) were omitted and after section 82 there were inserted—

Exempt charities

“82A Sections 76 to 82 (powers to act for protection of charities) do not apply to an exempt charity.”

Reference to Mission and Pastoral Measure 2011

- 19 (1) Sub-paragraph (2) applies if the Mission and Pastoral Measure 2011 has not been brought into force before the commencement of this Act.
- (2) In the application of section 105(10) before the commencement of the 2011 Measure the reference to the Mission and Pastoral Measure 2011 is to be read as a reference to the Pastoral Measure 1983.

Exempt charities and power to give directions about dormant bank accounts

- 20 (1) Sub-paragraph (2) applies if, in relation to charities of a particular description or a particular charity, paragraph 7 of Schedule 5 to the 2006 Act (removal of exclusion of exempt charities from power to give directions about dormant accounts) has not been brought into force before the commencement of this Act.
- (2) In relation to those charities or that charity, section 107 (power to direct transfer of credits in dormant bank accounts) has effect until the relevant commencement date as if after subsection (5) there were inserted—
- “(6) Subsection (1) does not apply to any account held in the name of or on behalf of an exempt charity.”

Exempt charities and Commission’s consent to proceedings etc.

- 21 (1) Sub-paragraph (2) applies if, in relation to charities of a particular description or a particular charity, paragraph 8 of Schedule 5 to the 2006 Act (proceedings relating

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to exempt charity must be authorised by Commission etc.) has not been brought into force before the commencement of this Act.

- (2) In relation to those charities or that charity, section 115 (proceedings by persons other than the Commission) has effect until the relevant commencement date as if—
- (a) in subsection (2), after “relating to a charity”, and
 - (b) in subsection (7)(a), after “with reference to any charity”,
- there were inserted “(other than an exempt charity)”.

Exempt charities and duty of auditors etc. to report matters to Commission

- 22 (1) Sub-paragraph (2) applies if, in relation to charities of a particular description or a particular charity, section 29(2) of the 2006 Act (amendments of section 46 of the 1993 Act about application to exempt charities of duty of auditors etc. to report matters to Commission) has not been brought into force before the commencement of this Act.
- (2) In relation to those charities or that charity, section 160 (audit or examination of accounts: exempt charities) has effect until the relevant commencement date as if—
- (a) in subsection (1) (provision corresponding to section 46(1)), for “sections 144 to 155 (audit or examination of accounts)” there were substituted “sections 144 to 157 (audit or examination of accounts and duty of auditors etc. to report matters to Commission)”, and
 - (b) subsection (2) (provision corresponding to section 46(2A) and (2B)) were omitted.
- (3) Sub-paragraph (4) applies if, in relation to charities of a particular description or a particular charity, section 46(3A) of the 1993 Act (application to certain excepted charities which are also exempt charities of duty of auditors etc. to report matters to Commission) has not been brought into force before the commencement of this Act.
- (4) In relation to those charities or that charity, section 161 (audit or examination of accounts: excepted charities) has effect until the relevant commencement date as if subsection (4) (provision corresponding to section 46(3A)) were omitted.
- (5) Sub-paragraph (6) applies if—
- (a) sub-paragraph (2) applies and, on the date which is the relevant commencement date in relation to that sub-paragraph, section 160 applies without the modifications in that sub-paragraph, or
 - (b) sub-paragraph (4) applies and, on the date which is the relevant commencement date in relation to that sub-paragraph, section 161 applies without the modifications in that sub-paragraph.
- (6) Section 160(2) or (as the case may be) 161(4) applies in relation to matters (“pre-commencement matters”) of which a person became aware at any time falling—
- (a) before the relevant commencement date, and
 - (b) during a financial year ending on or after that date,
- as well as in relation to matters of which the person becomes aware on or after that date.
- (7) Any duty imposed by virtue of sub-paragraph (6) must be complied with in relation to any such pre-commencement matters as soon as practicable after the relevant commencement date.

Disqualification and references to section 429(2) of Insolvency Act 1986

- 23 (1) This paragraph applies if paragraph 7 of Schedule 16 to the Tribunals, Courts and Enforcement Act 2007 (administration orders: consequential amendments) has not been brought into force before the commencement of this Act.
- (2) Section 178(1) has effect until the relevant commencement date as if in Case F for “section 429(2) of the Insolvency Act 1986 (disabilities on revocation of county court administration order)” there were substituted “section 429(2)(b) of the Insolvency Act 1986 (failure to pay under county court administration order)”.
- (3) Section 180(2) has effect until the relevant commencement date as if for “section 429(2) of the Insolvency Act 1986” there were substituted “section 429(2)(b) of the Insolvency Act 1986”.

Maximum term of imprisonment for offence under section 183(1)

- 24 In relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003 (general limit on the magistrates’ court’s power to impose imprisonment) the reference to 12 months in section 183(3)(a) is to be read as a reference to 6 months.

Exempt charities and power to order disqualified trustee to repay sums

- 25 (1) Sub-paragraph (2) applies if, in relation to charities of a particular description or a particular charity, paragraph 9 of Schedule 5 to the 2006 Act (Commission to have power to order disqualified charity trustee or trustee to repay sums to exempt charity) has not been brought into force before the commencement of this Act.
- (2) In relation to those charities or that charity, section 184 (civil consequences of acting while disqualified) has effect until the relevant commencement date as if in subsection (2)(a), after “for a charity”, there were inserted “(other than an exempt charity)”.

CIOs

- 26 (1) Sub-paragraph (2) applies if any provision of the 1993 Act relating to CIOs—
- (a) has not been brought into force before the commencement of this Act, or
 - (b) has not been brought into force for all purposes or for all areas before the commencement of this Act;
- and in sub-paragraph (2) “excluded purpose or area” means any purpose or area in relation to which that provision of the 1993 Act has not been brought into force.
- (2) This Act has effect until the relevant commencement date as if the provision of this Act corresponding to that provision of the 1993 Act—
- (a) were omitted, or
 - (b) were omitted in relation to the excluded purpose or area.
- (3) For the purposes of this paragraph, the provisions of the 1993 Act relating to CIOs, and the corresponding provisions of this Act, are—

<i>provision of the 1993 Act</i>	<i>corresponding provision of this Act</i>
section 45(3B)	section 163(3)

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<i>provision of the 1993 Act</i>	<i>corresponding provision of this Act</i>
in section 48(1A), “(but this subsection does not apply if the charity is constituted as a CIO)”	in section 169(2), “(but this subsection does not apply if the charity is constituted as a CIO)”
any provision of Part 8A, including Schedule 5B but excluding section 69O	the corresponding provision of Part 11
section 69O	section 267(2)
section 73E(2)(b)	section 192(2)(b)
section 75C(11)	section 314
in section 97(1), the definition of “CIO”	section 204
paragraph 1 of Schedule 1C in relation to a decision of the Commission under a provision of Part 8A or Schedule 5B mentioned in column 1 of the Table in Schedule 1C	section 319 in relation to a decision of the Commission under a provision of Part 11 mentioned in column 1 of Schedule 6.

- 27 (1) Sub-paragraph (2) applies if section 2 of the Co-operative and Community Benefit Societies and Credit Unions Act 2010 (re-naming the Industrial and Provident Societies Acts) has not been brought into force before the commencement of this Act.
- (2) In the application of subsection (1) or (5) of section 229 (application for conversion by registered society) before the commencement of section 2 of the 2010 Act the reference to the [Co-operative and Community Benefit Societies and Credit Unions Act 1965 \(c. 12\)](#) is to be read as a reference to the Industrial and Provident Societies Act 1965 (c. 12).

References to re-named Acts in Schedule 7

- 28 (1) Sub-paragraph (2) applies if section 2 of the Co-operative and Community Benefit Societies and Credit Unions Act 2010 (re-naming the Industrial and Provident Societies Acts) has not been brought into force before the commencement of this Act.
- (2) In the application of Schedule 7 before the commencement of section 2 of the 2010 Act—
- (a) the reference to the [Co-operative and Community Benefit Societies and Credit Unions Act 1965](#) is to be read as a reference to the Industrial and Provident Societies Act 1965 (c. 12), and
- (b) the reference to the [Co-operative and Community Benefit Societies and Credit Unions Act 1968 \(c. 55\)](#) is to be read as a reference to the Friendly and Industrial and Provident Societies Act 1968 (c. 55).

Meaning of “the relevant commencement date”

- 29 (1) Subject to sub-paragraph (2), in this Schedule “the relevant commencement date” means such day as the appropriate authority may by order appoint.
- (2) If, in the case of a provision referred to in any paragraph above which has not been brought into force before the commencement of this Act, an order has been made before the commencement of this Act appointing a day for the coming into force of

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that provision, “the relevant commencement date” in relation to that provision means that appointed day.

- (3) “The appropriate authority” means—
 - (a) in relation to paragraph 23 (disqualification and references to section 429(2) of Insolvency Act 1986), the Lord Chancellor;
 - (b) otherwise, the Minister.
- (4) An order made in relation to paragraph 23 may make different provision for different purposes.
- (5) An order made in relation to any other paragraph of this Schedule may—
 - (a) appoint different days for different purposes or different areas;
 - (b) make such provision as the Minister considers necessary or expedient for transitory, transitional or saving purposes in connection with the coming into force of the order.
- (6) Any power to make an order under this paragraph is exercisable by statutory instrument.

References to Acts

- 30 In this Schedule—
- “the 1993 Act” means the Charities Act 1993;
 - “the 2006 Act” means the Charities Act 2006.