



## 2013 CHAPTER 3

### *Amendments of 2008 Act*

#### **The public benefit requirement**

1.—(1) For section 3 of the 2008 Act (the “public benefit” test) there shall be substituted the following section—

#### **“3 The public benefit requirement**

(1) In this Act “the public benefit requirement” means 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.

(2) In determining whether the public benefit requirement is satisfied in relation to any purpose falling within section 2(2), it is not to be presumed that a purpose of a particular description is for the public benefit.

(3) In this Act 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 Northern Ireland.

(4) Subsection (3) is subject to subsection (2).”.

(2) This section shall be deemed always to have had effect.

#### **Gifts for mixed purposes**

2. After section 29 of the 2008 Act (cy-près schemes) there shall be inserted the following section—

**“29A Gifts for mixed purposes**

(1) This section applies where property is given for purposes so described that, consistently with the terms of the gift, the property could all be used for charitable purposes but could equally well be used wholly or partly for purposes which are not charitable.

(2) If, but for this section, the gift would be invalid, the gift shall have effect as a gift for such charitable purposes as may be determined by a scheme made by the Court or the Commission.

(3) Where the terms of a gift and the surrounding circumstances appear to the Court or the Commission to show a predominant intention on the part of the donor to further a particular charitable purpose, the Court or the Commission shall, in making a scheme under subsection (2), have regard, so far as practicable, to that intention.

(4) Where—

(a) property is disposed of by way of successive gifts so that a gift is dependent upon a prior gift; and

(b) the prior gift has been made the subject of a scheme under this section,

any gift dependent upon the prior gift shall have the like effect as it would have had if the prior gift had at all times been for the purposes determined by that scheme.”.

**Debt relief orders, debt relief restrictions orders and bankruptcy restrictions orders**

**3.—**(1) The 2008 Act shall be amended as follows.

(2) In section 33 (power to act for protection of charities), in subsection (4) (a) at the end of sub-paragraph (ii) there shall be added “or

“(iii) having previously been the subject of a debt relief order, has been discharged from all the qualifying debts under the debt relief order;”.

(3) In section 86 (persons disqualified for being trustees of a charity)—

(a) in subsection (1)—

(i) in paragraph (b), after the word “discharged” there shall be inserted the words “or D is the subject of a bankruptcy restrictions order”;

(ii) after paragraph (g) there shall be added the following paragraph—

“(h) D is subject to—

(i) a moratorium period under a debt relief order; or

(ii) a debt relief restrictions order.”;

(b) in subsection (2)—

- (i) in paragraph (b), for the words “or the sequestration” there shall be substituted the words “, the sequestration or the making of the bankruptcy restrictions order”;
- (ii) in paragraph (d), for “(g) there shall be substituted “(h)”;
- (c) in subsection (3), after “subsection (1)(b)” insert “or (h)”.
- (4) In section 87 (person acting as charity trustee while disqualified), in subsection (2)(b) for “or (g)” there shall be substituted “,(g) or (h)”.