

SCHEDULES

SCHEDULE 5

CHARITABLE PROPERTY ON DISBANDING OF UNITS

PART III

SUCCESSION TO CHARITABLE PROPERTY: SCOTLAND

Effect of designation of successor to disbanded unit

- 9 (1) On and after the day on which a warrant comes into force, any charitable property which is held for the purposes of the disbanded unit in question shall (subject to the provisions of this Part of this Schedule) be held for the corresponding purposes, or most nearly corresponding purposes, of the successor unit designated by the warrant.
- (2) In this Part of this Schedule “charitable property” means any property belonging to a recognised body.

Exclusion of charitable property from paragraph 9

- 10 (1) If the Lord Advocate considers that paragraph 9 should not apply to all or any of the charitable property held for the purposes of a disbanded unit, he may give a direction providing that paragraph 9 shall not apply or shall cease to apply to that property or part.
- (2) A direction under this paragraph may be given at any time during the period of 6 months beginning with the day on which the warrant is made.
- 11 (1) If a recognised body affected by a warrant or any person concerned in the management or control of, or interested in, such a body considers that paragraph 9 should not apply to all or any of the charitable property held by the recognised body for the purposes of the disbanded unit in question, then the recognised body, person concerned in its management or control or person interested, as the case may be, may apply by petition to the Court of Session for the court to make an order—
- (a) providing that paragraph 9 shall cease to apply to that property or part; and
 - (b) exercising, with respect to that property or part, any of the court’s powers relating to a charitable or other permanent endowment.
- (2) On an application under sub-paragraph (1), the court may exercise any such power as is mentioned in sub-paragraph (1)(b) to make such order as it considers to be appropriate, whether or not that power would normally be exercisable at the instance of such a petitioner.
- (3) An application under this paragraph may be made at any time within the period of 6 months beginning with the day on which the warrant comes into force.

Status: This is the original version (as it was originally enacted).

Power of Lord Advocate to apply to Court of Session

- 12 (1) Where a body of a reserve force has been or is to be disbanded, the Lord Advocate —
- (a) if he has not given a direction under paragraph 9, may; and
 - (b) if he has given such a direction, shall,
- apply by petition to the Court of Session for the court to make an order exercising, with respect to any charitable property which is held for the purposes of the disbanded unit, any of the court's powers relating to a charitable or other permanent endowment.
- (2) On an application under sub-paragraph (1), the court may, subject to any such direction, exercise any such power to make such order as it considers to be appropriate, whether or not that power would normally be exercisable at the instance of the Lord Advocate.

Validity of certain acts

- 13 None of the following, that is to say, a warrant, a direction under paragraph 10 or an order under paragraph 11 or 12 shall affect the validity of anything done or omitted with respect to any property affected by the warrant, direction or order before a copy of the warrant, direction or order is received by a person concerned in the management or control of the recognised body in question.

Saving for interests in property contingent on disbandment of unit

- 14 Nothing in this Part of this Schedule applies to any property held by a recognised body for the purposes of a unit that has been or is to be disbanded if, under the terms on which the property is so held—
- (a) any interest of the recognised body in the property is determined on the disbanding of that unit; and
 - (b) any other person or recognised body has an interest in the property contingent upon the determination of the interest of the recognised body.