

SCHEDULES

SCHEDULE 1

Section 6

THE CHARITY COMMISSION

1 After Schedule 1 to the 1993 Act insert—

“SCHEDULE 1A

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.
- (2) The members shall be appointed by the Minister.
- (3) The Minister 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),
 - (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.
- (4) The matters mentioned in this sub-paragraph are—
 - (a) the law relating to charities,
 - (b) charity accounts and the financing of charities, and
 - (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

- 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.

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- (2) A person holding office as a member of the Commission—
 - (a) may resign that office by giving notice in writing to the Minister, and
 - (b) may be removed from office by the Minister on the ground of incapacity or misbehaviour.
 - (3) Before removing a member of the Commission the Minister shall consult—
 - (a) the Commission, and
 - (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.
- 4
- (1) The Commission shall pay to its members such remuneration, and such other allowances, as may be determined by the Minister.
 - (2) The Commission shall, if required to do so by the Minister—
 - (a) pay such pension, allowances or gratuities as may be determined by the Minister to or in respect of a person who is or has been a member of the Commission, or
 - (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 Minister 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 Minister.

Staff

- 5
- (1) The Commission—
 - (a) shall appoint a chief executive, and
 - (b) may appoint such other staff as it may determine.
 - (2) The terms and conditions of service of persons appointed under sub-paragraph (1) are to be such as the Commission may determine with the approval of the Minister for the Civil Service.

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).

Procedure etc.

- 7 (1) The Commission may regulate its own procedure (including quorum).
- (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—
- (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.

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,
 - (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.

Execution of documents

- 10 (1) A document is executed by the Commission by the fixing of its common seal to the document.
- (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,
- 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).

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

- (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—
- (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.
- (6) For the purposes of this paragraph—
- “authorised” means authorised whether generally or specially; and
- “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

- 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,
 - (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.
- (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
 - (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.
- (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

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- (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.
- (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
 - (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,
 - (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.
- (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.”

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—

“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

1 In this Schedule—

“commencement” means the coming into force of section 6, and

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

“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.
 - (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.
 - (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
 - (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),
 - (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.

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
 - (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
 - (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).

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
 - (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).

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).
- (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—
- “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.

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

Membership

- 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.
- (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.

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

- (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.

Deputy President

- 2 (1) The Lord Chancellor may appoint a legal member as deputy President of the Tribunal.
- (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.

Terms of appointment

- 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
 - (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.

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.

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—
- (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.
- (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

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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.

Staff and facilities

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

Panels

- 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.
- (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.
- (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,
 - (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.

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 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 members.

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

- 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 (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 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 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.”
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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)

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.
- (2) Such an appeal may be brought by—
(a) the Attorney General, or

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- (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.
- (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.
- (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

- 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;
 - (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.

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—
 - (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,
 - (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,
 - (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.

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

Reviews

- 4 (1) An application may be made to the Tribunal for the review of a reviewable matter.
- (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.
- (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—
- (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.

TABLE

<i>1</i>	<i>2</i>	<i>3</i>
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.
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	Power to quash the decision and (if appropriate) remit the matter to the Commission.

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

<i>1</i>	<i>2</i>	<i>3</i>
	(c) any other person who is or may be affected by the decision.	
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.
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 direct the Commission to end the inquiry.
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— (a) direct the Commission that the inquiry should not consider a particular institution, (b) direct the Commission to end the inquiry.
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.
Order made by the Commission under section 16(1) of this Act (including such an order made by virtue of section 23(1)).	The persons are— (a) in a section 16(1) case, the charity trustees of the charity to which the order relates or (if a	Power to— (a) quash the order in whole or in part and (if appropriate) remit the matter to the Commission,

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

<i>1</i>	<i>2</i>	<i>3</i>
	body corporate) the charity itself, (b) in a section 16(1) case, any person discharged or removed by the order, and (c) any other person who is or may be affected by the order.	(b) substitute for all or part of 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.
Order made by the Commission under section 18(1) of this Act in relation to a charity.	The persons are— (a) the charity trustees of the charity, (b) (if a body corporate) the charity itself, (c) in a section 18(1) (i) case, any person suspended by the order, and (d) 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, (b) substitute for all or part of 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.
Order made by the Commission under section 18(2) of this Act in relation to a charity.	The persons are— (a) the charity trustees of the charity, (b) (if a body corporate) the charity itself, (c) in a section 18(2) (i) case, any person removed by the order, and (d) 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, (b) substitute for all or part of 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.
Order made by the Commission under	The persons are— (a) the charity trustee,	Power to—

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<i>1</i>	<i>2</i>	<i>3</i>
<p>section 18(4) of this Act removing a charity trustee.</p>	<p>(b) the remaining charity trustees of the charity of which he was a charity trustee, (c) (if a body corporate) the charity itself, and (d) any other person who is or may be affected by the order.</p>	<p>(a) quash the order in whole or in part and (if appropriate) remit the matter to the Commission, (b) substitute for all or part of 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.</p>
<p>Order made by the Commission under section 18(5) of this Act appointing a charity trustee.</p>	<p>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.</p>	<p>Power to— (a) quash the order in whole or in part and (if appropriate) remit the matter to the Commission, (b) substitute for all or part of 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.</p>
<p>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.</p>	<p>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</p>	<p>Power to— (a) quash the decision and (if appropriate) remit the matter to the Commission, (b) make the discharge of the order subject to savings or other transitional provisions, (c) remove any savings or other transitional provisions to which the discharge of the order was subject,</p>

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

<i>1</i>	<i>2</i>	<i>3</i>
	affected by the order.	(d) discharge the order in whole or in part (whether subject to any savings or other transitional provisions or not).
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.
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.
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.
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, (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.
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,	Power to quash the decision and (if appropriate) remit the matter to the Commission.

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

<i>1</i>	<i>2</i>	<i>3</i>
Decision of the Commission not to make a common deposit scheme under section 25 of this Act.	<p>(b) (if a body corporate) the charity itself, and</p> <p>(c) any other person who is or may be affected by the decision.</p> <p>The persons are—</p> <p>(a) the charity trustees of a charity which applied to the Commission for the scheme,</p> <p>(b) (if a body corporate) the charity itself, and</p> <p>(c) any other person who is or may be affected by the decision.</p>	Power to quash the decision and (if appropriate) remit the matter to the Commission.
Decision by the Commission not to make an order under section 26 of this Act in relation to a charity.	<p>The persons are—</p> <p>(a) the charity trustees of the charity, and</p> <p>(b) (if a body corporate) the charity itself.</p>	Power to quash the decision and (if appropriate) remit the matter to the Commission.
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.	<p>The persons are—</p> <p>(a) the charity trustees of the charity,</p> <p>(b) (if a body corporate) the charity itself, 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 direction and (if appropriate) remit the matter to the Commission,</p> <p>(b) substitute for the direction any other direction which could have been given by the Commission,</p> <p>(c) add to the direction anything which could have been contained in a direction given by the Commission.</p>
Order made by the Commission under section 31 of this Act for the taxation of a solicitor’s bill.	<p>The persons are—</p> <p>(a) the solicitor,</p> <p>(b) any person for whom the work was done by the solicitor, and</p>	<p>Power to—</p> <p>(a) quash the order,</p> <p>(b) substitute for the order any other order which could</p>

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<i>1</i>	<i>2</i>	<i>3</i>
	(c) any other person who is or may be affected by the order.	have been made by the Commission, (c) add to the order anything which could have been contained in an order made by the Commission.
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.
Decision of the Commission 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.	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.
Order made by the Commission under section 43(4) of this Act requiring the accounts of a charity to be audited.	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, (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.
Order made by the Commission under section 44(2) of this Act in relation to a charity, or a decision of the Commission not to make such an order in relation to a charity.	The persons are— (a) the charity trustees of the charity, (b) (if a body corporate) the charity itself, (c) in the case of a decision not to	Power to— (a) quash the order or decision and (if appropriate) remit the matter to the Commission, (b) substitute for the order any other

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<i>1</i>	<i>2</i>	<i>3</i>
	make an order, the auditor, independent examiner or examiner, and (d) any other person who is or may be affected by the order or the decision.	order of a kind the Commission could have made, (c) make any order which the Commission could have made.
Decision of the Commission under section 46(5) of this Act to request charity trustees to prepare an annual report for a charity.	The persons are— (a) the charity trustees, and (b) (if a body corporate) the charity itself.	Power to quash the decision and (if appropriate) remit the matter to the Commission.
Decision of the Commission not to dispense with the requirements of section 48(1) in relation to a charity or class of charities.	The persons are the charity trustees of any charity affected by the decision.	Power to quash the decision and (if appropriate) remit the matter to the Commission.
Decision of the Commission— (a) to grant a certificate of incorporation under section 50(1) of this Act to the trustees of a charity, or (b) not to grant such a certificate.	The persons are— (a) the trustees of the charity, and (b) any other person who is or may be affected by the decision.	Power to quash— (a) the decision, (b) any conditions or directions inserted in the certificate, and (if appropriate) remit the matter to the Commission.
Decision of the Commission to amend a certificate of incorporation of a charity under section 56(4) of this Act.	The persons are— (a) the trustees of the charity, and (b) any other person who is or may be affected by the amended certificate of incorporation.	Power to quash the decision and (if appropriate) remit the matter to the Commission.
Decision of the Commission not to amend a certificate of incorporation under section 56(4) of this Act.	The persons are— (a) the trustees of the charity, and (b) any other person who is or may be affected by the decision not to amend the	Power to— (a) quash the decision and (if appropriate) remit the matter to the Commission, (b) make any order the Commission could have made under section 56(4).

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<i>1</i>	<i>2</i>	<i>3</i>
	certificate of incorporation.	
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, (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.
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.
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, (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.
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	Power to— (a) quash the order, (b) substitute for the order any other order which could

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<i>1</i>	<i>2</i>	<i>3</i>
	to charity trustees, those charity trustees and (if a body corporate) the charity of which they are charity trustees, and	have been made by the Commission,
	(c) any other person who is or may be affected by the directions.	(c) add to the order anything which could have been contained in an order made by the Commission.
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, (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, (b) direct the Commission to grant the application.
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.
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.

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<i>1</i>	<i>2</i>	<i>3</i>
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.
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.
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.
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.
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.
Order made by the Commission under	The persons are—	Power to—

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<i>1</i>	<i>2</i>	<i>3</i>
section 73C(5) or (6) of this Act requiring a trustee or connected person to repay, or not to receive, remuneration.	(a) the trustee or connected person, (b) (b the other charity trustees of the charity concerned, and (c) any other person who is or may be affected by the order.	(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.
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.
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) (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.
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) (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.
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.
Decision of the Commission not to give a direction under section 96(5) or (6) of	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.

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<i>1</i>	<i>2</i>	<i>3</i>
<p>this Act in relation to an institution or a charity.</p> <p>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.</p>	<p>The persons are—</p> <p>(a) the CIO,</p> <p>(b) (b the charity trustees of the CIO, and</p> <p>(c) any other person who is or may be affected by the decision.</p>	<p>Power to quash the decision and (if appropriate)—</p> <p>(a) remit the matter to the Commission,</p> <p>(b) direct the Commission to register the amendment.</p>

Power to amend Table etc.

- 6 (1) The Minister 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.
- (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 Minister considers appropriate in consequence of any change in the Table made by the order.
- (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.
- 7 Paragraph 6 above applies (with the necessary modifications) in relation to section 57 of the Charities Act 2006 as if—
- (a) the provisions of that section were contained in this Schedule, and
 - (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 2006.

SCHEDULE 1D

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.

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- (2) The Commission may make such a reference only with the consent of the Attorney General.
- (3) The Commission shall be a party to proceedings before the Tribunal on the reference.
- (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,
 - (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

- 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.
- (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—
 - (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.

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—
 - (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.
- (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,

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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
 - (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—
- (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.
- (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—
- (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.
- (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.

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.
- (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.
- (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.

Interpretation

- 7 (1) In this Schedule—
- “charity law” means—
- (a) any enactment contained in, or made under, this Act or the Charities Act 2006,
 - (b) any other enactment specified in regulations made by the Minister, and
 - (c) any rule of law which relates to charities, and
- “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.”

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).

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.”

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

- 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.”

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- (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.

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—
- “(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,
- 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

- 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)”.
- (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)”.

SCHEDULE 6

Section 30

GROUP ACCOUNTS

After Schedule 5 to the 1993 Act insert—

“SCHEDULE 5A

Section 49A

GROUP ACCOUNTS

Interpretation

- 1 (1) This paragraph applies for the purposes of this Schedule.
- (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
 - (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.
- (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.

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- (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 Minister.
- (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 Minister.
- (3) Regulations made by the Minister 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).

Audit of accounts of larger groups

- 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.
- (2) In sub-paragraph (1)—
 - (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.

“Prescribed” means prescribed by regulations made by the Minister.
- (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—
 - (a) (subject to paragraph (b) or (c) below) by a person within section 43(2)(a) or (b) of this Act;

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- (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));
 - (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—
- (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.
- (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).
- (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).
- (9) In this paragraph "the appropriate audit provision", in relation to a financial year of a parent charity, means—
- (a) (subject to paragraph (b) or (c) below) section 43(2) of this Act;
 - (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).

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.
- (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,
- 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.
- (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

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- (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
 - (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.
- (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.
- (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).
- (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.

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.
- (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;
 - (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;
 - (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
 - (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.

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- (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 Minister.
- (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—
- (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.
- (6) The requirements in this paragraph are in addition to those in section 45 of this Act.

Excepted charities

- 11 (1) This paragraph applies where—

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- (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.
- (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
 - (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.
- (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.

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.

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 The Minister 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.”

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

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—

“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”.
- (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.
- (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.

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
 - (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,
 - (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.
- (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 Minister.

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- (4) A CIO's constitution—
 - (a) shall be in English if its principal office is in England,
 - (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.
- (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.

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,
 - (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.
- (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
 - (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—
 - (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).
- (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.

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- (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)—
 - (a) is liable on summary conviction to a fine not exceeding level 3 on the standard scale, and
 - (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.
- (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

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 Minister, and
 - (c) such other documents or information as the Commission may require for the purposes of the application.
- (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.
- (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
 - (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).

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.

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- (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
 - (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.
- (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.
- (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—
 - (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—
 - (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”.
- (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.
- (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,
 - (c) a copy of a resolution of the company or registered society adopting the proposed constitution of the CIO,

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- (d) such other documents or information as may be prescribed by regulations made by the Minister, and
 - (e) such other documents or information as the Commission may require for the purposes of the application.
- (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.
- (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.
- (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.
- (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,
 - (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

- (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,
 - (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.

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- (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),
 - (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
 - (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.
- (4) The Minister may make provision in regulations about circumstances in which it would not be appropriate to grant an application for conversion.
- (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.
- (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).
- (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.
- (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.
- (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

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of this subsection be cancelled, and no former holder of any cancelled share shall have any right in respect of it after its cancellation.

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

- (1) The Minister 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.

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.
- (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—
- (a) “the applicants” shall be construed as meaning the old CIOs, and
 - (b) references to the CIO are to the new CIO.
- (4) In addition to the documents and information referred to in section 69E(2) above, the old CIOs shall supply the Commission with—
- (a) a copy of a resolution of each of the old CIOs approving the proposed amalgamation, and

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- (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—
 - (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—
 - (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).
- (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.
- (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) 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.
- (11) The matters are—
 - (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.
- (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

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- (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(5) and (6) below, for determining whether a person is connected with a charity trustee for the purposes of section 73A.

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—
 - (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.
- (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—
 - (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—
 - (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.

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—
 - (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).

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

- (4) Having received the copy resolutions referred to in subsection (2), the Commission—
 - (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.
- (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.
- (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 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.
- (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
 - (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.
- (11) A notice under subsection (10) must set out the Commission’s reasons for the extension.
- (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
 - (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),takes effect as a gift to the transferee CIO.

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

Winding up, insolvency and dissolution

69N Regulations about winding up, insolvency and dissolution

- (1) The Minister may by regulations make provision about—
 - (a) the winding up of CIOs,
 - (b) their insolvency,
 - (c) their dissolution, and
 - (d) their revival and restoration to the register following dissolution.
- (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,
 - (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.
- (3) The regulations may—
 - (a) apply any enactment which would not otherwise apply, either without modification or with modifications specified in the regulations,
 - (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

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.

69P Further provision about CIOs

The provisions of Schedule 5B to this Act shall have effect with respect to CIOs.

69Q Regulations

- (1) The Minister 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.
- (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,
 - (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).
- (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.”

2 After the Schedule 5A inserted in the 1993 Act by Schedule 6 to this Act, insert the following Schedule—

“SCHEDULE
5B

Section 69P

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.
- (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.
- 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
 - (b) which contained obligations on the part of the CIO and each member to observe all the provisions of the constitution.

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- 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.

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.
- (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
- (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).
- (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.
- (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.
- (7) In any proceedings arising out of sub-paragraphs (2) to (4), the burden of proving that a person knew that an act—
- (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—
- (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.

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- 6 (1) Nothing in paragraph 5 prevents a person from bringing proceedings to restrain the doing of an act which would be—
- (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.
- (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.
- 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—
- (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.
- 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—
- (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.
- (2) The Minister 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.
- (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

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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).

- (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—
- (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 Minister may by regulations make provision about the procedure of CIOs.
- (2) Subject to—
- (a) any such regulations,
 - (b) any other requirement imposed by or by virtue of this Act or any other enactment, and
 - (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.

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).
- (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.
- (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).
- (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.
- (5) Subject to paragraph 15(5) below, a resolution containing an amendment which would make any regulated alteration is to that extent ineffective

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unless the prior written consent of the Commission has been obtained to the making of the amendment.

- (6) The following are regulated alterations—
- (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)—
- (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(5) and (6) of this Act, for determining whether a person is connected with a charity trustee for the purposes of section 73A.

Registration and coming into effect of amendments

- 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,
- 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—
- (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.
- (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.

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- (5) But if the Commission does register such an amendment, paragraph 14(5) does not apply.”

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 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 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”,
- (b) in subsection (4), for “or 45” substitute “, 45, 69N or 69Q”.
- 7 In section 97 (general interpretation), in subsection (1), at the appropriate place insert—
- ““CIO” means charitable incorporated organisation;”.

SCHEDULE 8

Section 75

MINOR AND CONSEQUENTIAL AMENDMENTS

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”.

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

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- Act 1993 (institutions to be excepted from registration under that Act) as if that provision applied to it”, and
- (b) for “Charity Commissioners” substitute “Charity Commission”.

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
- (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”.

Municipal Corporations Act 1882 (c. 50)

- 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”.

Local Government Act 1894 (c. 73)

- 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”.
- (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)—

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- (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”.
- 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)—
- (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.”
- (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
 - (b) for “Commissioners of Charity Donations and Bequests for Ireland” substitute “the Department for Social Development”.

Police, Factories, &c. (Miscellaneous Provisions) Act 1916 (c. 31)

- 15 (1) Section 5 of the Police, Factories, &c. (Miscellaneous Provisions) Act 1916 (regulation of street collections) is amended as follows.
- (2) In subsection (1) for “the benefit of charitable or other purposes,” substitute “any purposes in circumstances not involving the making of a charitable appeal.”
- (3) In paragraph (b) of the proviso to subsection (1) omit the words from “, and no representation” onwards.
- (4) In subsection (4) before the definition of “street” insert—
- ““charitable appeal” has the same meaning as in Chapter 1 of Part 3 of the Charities Act 2006;”.

National Trust Charity Scheme Confirmation Act 1919 (c. lxxxiv)

- 16 The National Trust Charity Scheme Confirmation Act 1919 has effect subject to the following amendments.

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

- 17 In section 1 (confirmation of the scheme) for “Charity Commissioners” substitute “Charity Commission”.
- 18 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”.

Settled Land Act 1925 (c. 18)

- 19 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)

- 20 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)

- 21 The Voluntary Hospitals (Paying Patients) Act 1936 has effect subject to the following amendments.
- 22 In section 1 (definitions), in the definition of “Order”, for “Charity Commissioners” substitute “Charity Commission”.
- 23 (1) Section 2 (accommodation for and charges to paying patients) is amended as follows.
- (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”,
 - (b) for “they” substitute “it”, and
 - (c) for “their” substitute “its”.
- 24 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
 - (b) for “they” substitute “it”.
- 25 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”.
- 26 (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)—
- (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”.

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- (4) In the sidenote, for “Charity Commissioners” substitute “Charity Commission”.
- 27 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)*
- 28 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)*
- 29 The New Parishes Measure 1943 has effect subject to the following amendments.
- 30 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
 - (ii) in accordance with such provisions of section 36(2) to (8) of the Charities Act 1993 as are applicable;”.
- 31 In section 31 (charitable trusts)—
- (a) for “the Board of Charity Commissioners” substitute “the Charity Commission”, and
 - (b) for “the Charity Commissioners” substitute “the Charity Commission”.
- Crown Proceedings Act 1947 (c. 44)*
- 32 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”.
- London County Council (General Powers) Act 1947 (c. xlvi)*
- 33 (1) Section 6 of the London County Council (General Powers) Act 1947 (saving for certain trusts) 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 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.”

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

- 34 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”.

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

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

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

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

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

- 37 (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.”

Parochial Church Councils (Powers) Measure 1956 (No. 3)

- 38 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”.

Recreational Charities Act 1958 (c. 17)

- 39 In section 6 of the Recreational Charities Act 1958 (short title and extent) for subsection (2) substitute—
- “(2) Section 1 of this Act, as amended by section 5 of the Charities Act 2006, has the same effect in relation to the law of Scotland or Northern Ireland as section 5 of that Act has by virtue of section 80(3) to (6) of that Act.
- (3) Sections 1 and 2 of this Act, as in force before the commencement of section 5 of that Act, continue to have effect in relation to the law of Scotland or Northern Ireland so far as they affect the construction of any references to charities or charitable purposes which—
- (a) are to be construed in accordance with the law of England and Wales, but

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- (b) are not contained in enactments relating to matters of the kind mentioned in section 80(4) or (6) of that Act.”

Church Funds Investment Measure 1958 (No. 1)

- 40 Section 5 of the Church Funds Investment Measure 1958 (jurisdiction of Charity Commissioners) is omitted.

Incumbents and Churchwardens (Trusts) Measure 1964 (No. 2)

- 41 The Incumbents and Churchwardens (Trusts) Measure 1964 has effect subject to the following amendments.
- 42 In section 2(3) (property to which Measure applies) for “Charity Commissioners” substitute “Charity Commission”.
- 43 In section 3(6) (vesting of property in diocesan authority: saving) for “Charity Commissioners” substitute “Charity Commission”.
- 44 In section 5 (provisions as to property vested in the diocesan authority) for “Charity Commissioners” substitute “Charity Commission”.
- 45 (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—
- (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”.

Faculty Jurisdiction Measure 1964 (No. 5)

- 46 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)

- 47 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)

- 48 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”.

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

- 49 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”.

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

- 50 The Redundant Churches and other Religious Buildings Act 1969 has effect subject to the following amendments.
- 51 (1) Section 4 (transfer of certain redundant places of worship) is amended as follows.
- (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—
- “(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.”
- 52 In section 7(2) (saving) for “Charity Commissioners” (in both places) substitute “Charity Commission”.

Children and Young Persons Act 1969 (c. 54)

- 53 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)

- 54 (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
- (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
- (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”.

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- (5) In Appendix II to those Rules (general provisions relating to parochial church councils), in paragraph 16, for “Charity Commissioners” substitute “Charity Commission”.

Local Government Act 1972 (c. 70)

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

Consumer Credit Act 1974 (c. 39)

- 56 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”.

Sex Discrimination Act 1975 (c. 65)

- 57 In section 21A of the Sex Discrimination Act 1975 (public authorities) in paragraph 14 in the Table of Exceptions in subsection (9), for “Charity Commissioners for England and Wales” substitute “Charity Commission”.

Endowments and Glebe Measure 1976 (No. 4)

- 58 The Endowments and Glebe Measure 1976 has effect subject to the following amendments.
- 59 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”.
- 60 In section 18(2) (means by which land may become diocesan) for “Charity Commissioners” substitute “Charity Commission”.

Interpretation Act 1978 (c. 30)

- 61 In Schedule 1 to the Interpretation Act 1978 (words and expressions defined) for the definition of “Charity Commissioners” substitute—

““Charity Commission” means the Charity Commission for England and Wales established by section 1A of the Charities Act 1993.”

Dioceses Measure 1978 (No. 1)

- 62 The Dioceses Measure 1978 has effect subject to the following amendments.
- 63 In section 5(1) (preparation of draft scheme: meaning of “interested parties”), in paragraph (e), for “the Charity Commissioners” substitute “the Charity Commission”.
- 64 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)

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

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

- 66 In Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982 (street trading) for paragraph 1(2)(j) substitute—
- “(j) conducting a public charitable collection that—
 - (i) is conducted in accordance with section 48 or 49 of the Charities Act 2006, or
 - (ii) is an exempt collection by virtue of section 50 of that Act.”

Administration of Justice Act 1982 (c. 53)

- 67 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)

- 68 The Pastoral Measure 1983 has effect subject to the following amendments.
- 69 In section 55(1) (schemes under the Charities Act 1993 for redundant chapels belonging to charities) for “Charity Commissioners” substitute “Charity Commission”.
- 70 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”.
- 71 In section 76(1) (grant of land for new churches etc. and vesting of certain churches) for “Charity Commissioners” substitute “Charity Commission”.
- 72 In Schedule 3, in paragraph 11(1), (2), (6) and (7), for “Charity Commissioners” substitute “Charity Commission”.

Rates Act 1984 (c. 33)

- 73 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)

- 74 The Companies Act 1985 has effect subject to the following amendments.
- 75 (1) Section 380 (registration of resolutions) is amended as follows.
- (2) In subsection (4), at the beginning insert “Except as mentioned in subsection (4ZB),”.
 - (3) After subsection (4ZA) insert—

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“(4ZB) 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.”

- 76 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)

- 77 (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)—
- (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)

- 78 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”.

Agricultural Holdings Act 1986 (c. 5)

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

Coal Industry Act 1987 (c. 3)

- 80 (1) Section 5 of the Coal Industry Act 1987 (coal industry trusts) is amended as follows.
- (2) In subsection (1)—
- (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) 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”.

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- (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
 - (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
 - (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.”
- (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)

81 The Reverter of Sites Act 1987 has effect subject to the following amendments.

- 82 (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).
- (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 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.
- (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)—
- (a) for “Charity Commissioners” substitute “Charity Commission”,
 - (b) in paragraph (c), for “Commissioners” and “them” substitute “Commission's” and “it”, and

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- (c) in paragraph (d), for “Commissioners have” substitute “Commission has”.
- (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
 - (c) for “Commissioners decide” substitute “Commission decides”.
- (7) In the sidenote, for “Charity Commissioners” substitute “Charity Commission's”.
- 83 (1) Section 4 (provisions supplemental to sections 2 and 3) is amended as follows.
 - (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”.
 - (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—

 - (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;
 - (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;
 - (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,”.
- 84 In section 5(3) (orders under section 554 of the Education Act 1996)—
 - (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)

- 85 For section 125A of the Education Reform Act 1988 substitute—

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“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).”

Courts and Legal Services Act 1990 (c. 41)

- 86 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”.

London Local Authorities Act 1991 (c. xiii)

- 87 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)”.

Further and Higher Education Act 1992 (c. 13)

- 88 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).”

Charities Act 1992 (c. 41)

- 89 The 1992 Act has effect subject to the following amendments.
- 90 (1) Section 58 (interpretation of Part 2) is amended as follows.
- (2) In subsection (1) after the definition of “institution” insert—
- ““the Minister” means the Minister for the Cabinet Office;”.
- (3) In subsection (2)—
- (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 2006”, and
- (b) for “Part III of this Act” substitute “Chapter 1 of Part 3 of the Charities Act 2006”.
- (4) 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 2006”.
- 91 Omit Part 3 (public charitable collections).
- 92 In section 76(1) (service of documents) omit paragraph (c) and the “and” preceding it.

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- 93 (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.”
- (4) In subsection (4)—
- (a) after “64” insert “or 64A”; and
- (b) omit “or 73”.
- 94 In section 79 (short title, commencement and extent) omit—
- (a) in subsection (6), the words “(subject to subsection (7))”, and
- (b) subsection (7).
- 95 In Schedule 7 (repeals) omit the entry relating to the Police, Factories, &c. (Miscellaneous Provisions) Act 1916 (c. 31).

Charities Act 1993 (c. 10)

- 96 The 1993 Act has effect subject to the following amendments.
- 97 In the heading for Part 1, for “CHARITY COMMISSIONERS” substitute “CHARITY COMMISSION”.
- 98 (1) Section 2 (official custodian for charities) is amended as follows.
- (2) For subsection (2) substitute—
- “(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”.
- (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.
- (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.”
- 99 (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”.

- (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
 - (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
 - (c) omit “, whether given on such an appeal or not”.
- 100 (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”.
 - (3) In subsection (5) for “section 3(7)(b) above” substitute “section 3B(3)”.
- 101 For the heading for Part 3 substitute “INFORMATION POWERS”.
- 102 (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)—
 - (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”.
 - (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”.
 - (7) In subsection (7) for “the Commissioners” substitute “the Commission”.
- 103 (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”,
 - (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”.
 - (3) In subsection (2)—

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- (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”.

(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”,
- (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.”

104 For section 10 substitute—

“10 Disclosure of information to Commission

- (1) Any relevant public authority 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.
- (2) But Revenue and Customs information may be disclosed under subsection (1) only if it relates to an institution, undertaking or body falling within one (or more) of the following paragraphs—
 - (a) a charity;
 - (b) an institution which is established for charitable, benevolent or philanthropic purposes;
 - (c) an institution by or in respect of which a claim for exemption has at any time been made under section 505(1) of the Income and Corporation Taxes Act 1988;
 - (d) a subsidiary undertaking of a charity;
 - (e) a body entered in the Scottish Charity Register which is managed or controlled wholly or mainly in or from England or Wales.
- (3) In subsection (2)(d) above “subsidiary undertaking of a charity” means an undertaking (as defined by section 259(1) of the Companies Act 1985) in relation to which—
 - (a) a charity is (or is to be treated as) a parent undertaking in accordance with the provisions of section 258 of, and Schedule 10A to, the Companies Act 1985, or
 - (b) two or more charities would, if they were a single charity, be (or be treated as) a parent undertaking in accordance with those provisions.
- (4) For the purposes of the references to a parent undertaking—
 - (a) in subsection (3) above, and
 - (b) in section 258 of, and Schedule 10A to, the Companies Act 1985 as they apply for the purposes of that subsection,

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“undertaking” includes a charity which is not an undertaking as defined by section 259(1) of that Act.

10A Disclosure of information by Commission

- (1) Subject to subsections (2) and (3) below, the Commission may disclose to any relevant public authority any information received by the Commission in connection with any of the Commission’s functions—
 - (a) if the disclosure is made for the purpose of enabling or assisting the relevant public authority to discharge any of its functions, or
 - (b) if the information so disclosed is otherwise relevant to the discharge of any of the functions of the relevant public authority.
- (2) In the case of information disclosed to the Commission under section 10(1) above, the Commission’s power to disclose the information under subsection (1) above is exercisable subject to any express restriction subject to which the information was disclosed to the Commission.
- (3) Subsection (2) above does not apply in relation to Revenue and Customs information disclosed to the Commission under section 10(1) above; but any such information may not be further disclosed (whether under subsection (1) above or otherwise) except with the consent of the Commissioners for Her Majesty’s Revenue and Customs.
- (4) Any responsible person who discloses information in contravention of subsection (3) above is guilty of an offence and liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum, or both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or both.
- (5) It is a defence for a responsible person charged with an offence under subsection (4) above of disclosing information to prove that he reasonably believed—
 - (a) that the disclosure was lawful, or
 - (b) that the information had already and lawfully been made available to the public.
- (6) In the application of this section to Scotland or Northern Ireland, the reference to 12 months in subsection (4) is to be read as a reference to 6 months.
- (7) In this section “responsible person” means a person who is or was—
 - (a) a member of the Commission,
 - (b) a member of the staff of the Commission,
 - (c) a person acting on behalf of the Commission or a member of the staff of the Commission, or
 - (d) a member of a committee established by the Commission.

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10B Disclosure to and by principal regulators of exempt charities

- (1) Sections 10 and 10A above apply with the modifications in subsections (2) to (4) below in relation to the disclosure of information to or by the principal regulator of an exempt charity.
- (2) References in those sections to the Commission or to any of its functions are to be read as references to the principal regulator of an exempt charity or to any of the functions of that body or person as principal regulator in relation to the charity.
- (3) Section 10 above has effect as if for subsections (2) and (3) there were substituted—
 - “(2) But Revenue and Customs information may be disclosed under subsection (1) only if it relates to—
 - (a) the exempt charity in relation to which the principal regulator has functions as such, or
 - (b) a subsidiary undertaking of the exempt charity.
 - (3) In subsection (2)(b) above “subsidiary undertaking of the exempt charity” means an undertaking (as defined by section 259(1) of the Companies Act 1985) in relation to which—
 - (a) the exempt charity is (or is to be treated as) a parent undertaking in accordance with the provisions of section 258 of, and Schedule 10A to, the Companies Act 1985, or
 - (b) the exempt charity and one or more other charities would, if they were a single charity, be (or be treated as) a parent undertaking in accordance with those provisions.”
- (4) Section 10A above has effect as if for the definition of “responsible person” in subsection (7) there were substituted a definition specified by regulations under section 13(4)(b) of the Charities Act 2006 (regulations prescribing principal regulators).
- (5) Regulations under section 13(4)(b) of that Act may also make such amendments or other modifications of any enactment as the Secretary of State considers appropriate for securing that any disclosure provisions that would otherwise apply in relation to the principal regulator of an exempt charity do not apply in relation to that body or person in its or his capacity as principal regulator.
- (6) In subsection (5) above “disclosure provisions” means provisions having effect for authorising, or otherwise in connection with, the disclosure of information by or to the principal regulator concerned.

10C Disclosure of information: supplementary

- (1) In sections 10 and 10A above “relevant public authority” means—
 - (a) any government department (including a Northern Ireland department),
 - (b) any local authority,
 - (c) any constable, and

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- (d) any other body or person discharging functions of a public nature (including a body or person discharging regulatory functions in relation to any description of activities).
 - (2) In section 10A above “relevant public authority” also includes any body or person within subsection (1)(d) above in a country or territory outside the United Kingdom.
 - (3) In sections 10 to 10B above and this section—
 - “enactment” has the same meaning as in the Charities Act 2006;
 - “Revenue and Customs information” means information held as mentioned in section 18(1) of the Commissioners for Revenue and Customs Act 2005.
 - (4) Nothing in sections 10 and 10A above (or in those sections as applied by section 10B(1) to (4) above) authorises the making of a disclosure which—
 - (a) contravenes the Data Protection Act 1998, or
 - (b) is prohibited by Part 1 of the Regulation of Investigatory Powers Act 2000.”
- 105 (1) Section 11 (supply of false or misleading information) is amended as follows.
- (2) For “Commissioners” (in each place including the sidenote) substitute “Commission”.
 - (3) In subsection (1)(b) for “their functions” substitute “its functions”.
- 106 In the heading for Part 4 for “AND COMMISSIONERS” substitute “AND COMMISSION”.
- 107 (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”.
 - (4) In subsection (9)—
 - (a) for “the Commissioners” (in both places) substitute “the Commission”, and
 - (b) for “they think fit” substitute “it thinks fit”.
- 108 In the heading preceding section 16 for “*Powers of Commissioners*” substitute “*Powers of Commission*”.
- 109 (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)—
 - (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”.
 - (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”.
- (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
 - (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”.
- (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”.
- (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”.
- (12) Omit subsections (11) to (14).
- (13) In subsection (15)(b) for “the Commissioners may exercise their” substitute “the Commission may exercise its”.
- 110 (1) Section 17 (further power to make schemes or alter application of charitable property) is amended as follows.
- (2) In subsection (1)—
- (a) for “the Commissioners” (in both places) substitute “the Commission”, and
 - (b) for “by them” substitute “by the Commission”.
- (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”,
 - (b) for “if they were” substitute “if the Commission was”,
 - (c) for “they act” substitute “it acts”, and
 - (d) for “to them” substitute “to it”.
- (6) In subsection (7) for “the Commissioners” substitute “the Commission”.

- (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”.
- 111 (1) Section 18 (power to act for protection of charities) is amended as follows.
- (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”,
 - (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”.
- (3) In subsection (2)—
- (a) for “they have” substitute “it has”,
 - (b) for “the Commissioners are” substitute “the Commission is”, and
 - (c) for “the Commissioners may of their” substitute “the Commission may of its”.
- (4) In subsection (4)—
- (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”,
 - (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)—
- (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).
- (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)—
- (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

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- (e) for “they shall” substitute “the Commission shall”.
- 112 (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.”
- (3) In subsection (2)—
- (a) for “the Commissioners” (in both places) substitute “the Commission”, and
- (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
- (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”.
- 113 After section 19B (inserted by section 21 of this Act) insert—

“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—
- (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.
- (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—
- (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.
- (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.

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- (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.”
- 114 In section 22(3) (property vested in official custodian) for “the Commissioners” substitute “the Commission”.
- 115 (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”,
- (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)—
- (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
- (b) for “the Commissioners is or are” substitute “the Commission is”.
- 116 In section 24 (schemes to establish common investment funds), in subsections (1) and (2), for “the Commissioners” substitute “the Commission”.
- 117 In section 25(1) (schemes to establish common deposit funds) for “the Commissioners” substitute “the Commission”.
- 118 For the heading preceding section 26 substitute “*Additional powers of Commission*”.
- 119 In section 26(1) (power to authorise dealings with charity property)—
- (a) for “the Commissioners” substitute “the Commission”, and
- (b) for “they may” substitute “the Commission may”.
- 120 (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)—
- (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”,
- (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”.
- (5) In subsection (4)—
- (a) for “to them” substitute “to the Commission”, and

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- (b) for “the Commissioners determine” substitute “the Commission determines”.
- 121 (1) Section 28 (power to give directions about dormant bank accounts) is amended as follows.
- (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
 - (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
 - (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”,
 - (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
 - (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)—
- (a) for “the Commissioners have” substitute “the Commission has”, and
 - (b) for “the Commissioners” (in the second place) substitute “the Commission”.
- 122 (1) Section 30 (powers for preservation of charity documents) is amended as follows.
- (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”,
 - (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)—
- (a) for “the Commissioners” substitute “the Commission”,

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- (b) for “by them” substitute “by the Commission”, and
 - (c) for “with them” substitute “with the Commission”.
- 123 (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”.
 - (3) In subsection (3) for “the Commissioners are” substitute “the Commission is”.
- 124 (1) Section 32 (proceedings by Commissioners) is amended as follows.
 - (2) In subsections (1) and (3) for “the Commissioners” substitute “the Commission”.
 - (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”.
- 125 (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
 - (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
 - (b) for “they think” substitute “the Commission thinks”.
- 126 In section 34 (report of inquiry to be evidence in certain proceedings), in subsections (1) and (2), for “the Commissioners” substitute “the Commission”.
- 127 In section 35(1) (application of certain provisions to trust corporations) for “the Commissioners” substitute “the Commission”.
- 128 (1) Section 36 (restrictions on dispositions) is amended as follows.
 - (2) In subsection (1)—
 - (a) for “sold” substitute “conveyed, transferred”, and
 - (b) for “the Commissioners” substitute “the Commission”.
 - (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)—
 - (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—

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- (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)—
- (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”.
- 129 In section 37 (supplementary provisions relating to dispositions), in subsections (2) and (4)—
- (a) for “sold” substitute “conveyed, transferred”, and
 - (b) for “the Commissioners” substitute “the Commission”.
- 130 In section 38(1) (restrictions on mortgaging) for “the Commissioners” substitute “the Commission”.
- 131 (1) Section 39 (supplementary provisions relating to mortgaging) is amended as follows.
- (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.
- (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.”
- 132 In section 41(4) (obligation to preserve accounting records) for “the Commissioners consent” substitute “the Commission consents”.
- 133 (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

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- relating to such groups, are contained in Schedule 5A to this Act (see section 49A below).”
- 134 (1) Section 43 (annual audit or examination of charity accounts) is amended as follows.
- (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”.
- (5) In subsection (7)—
- (a) for “The Commissioners” substitute “The Commission”, and
- (b) for “they think” substitute “it thinks”.
- 135 (1) Section 43A (annual audit or examination of English 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”.
- (3) In subsection (5)—
- (a) for “The Commissioners” substitute “The Commission”, and
- (b) for “they think” substitute “it thinks”.
- 136 (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”.
- (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.”
- 137 (1) Section 44 (supplementary provisions relating to audits) is amended as follows.
- (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—
- (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;”
- (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”.

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- (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”.
- (4) Omit subsection (3).
- 138 (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”,
 - (b) before “the annual report” insert “a copy of”, and
 - (c) for “the Commissioners” (in both places) substitute “the Commission”.
- (4) In subsection (3A)—
- (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, be transmitted to them” substitute “the Commission so requests, be transmitted to it”, and
 - (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
 - (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”,
 - (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.”
- (9) In subsection (8) for “in subsection (3)” substitute “to subsection (3)”.
- 139 (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”.
- (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—

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- (a) falls within section 3A(2)(d) above (whether or not it also falls within section 3A(2)(b) or (c)), and
 - (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)."
 - (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
 - (b) is not registered."
 - (5) In subsection (5)—
 - (a) for "the Commissioners" (in the first place) substitute "the Commission", and
 - (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
 - (b) subsections (4) to (6)."
 - (7) Omit subsection (8).
- 140 (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",
 - (b) for "the Commissioners so determine" substitute "the Commission so determines", and
 - (c) for "they may" substitute "it may".
 - (3) In subsection (2)(a) after "accounts" insert "or (if subsection (4) below applies) of its most recent annual report".
 - (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.

 - (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."
- 141 (1) Section 48 (annual returns by registered charities) is amended as follows.

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- (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)—
 - (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”.
- 142 For section 49 (offences) substitute—

“49 Offences

- (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).
 - (2) The penalty is—
 - (a) a fine not exceeding level 4 on the standard scale, and
 - (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.”
- 143 (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
 - (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
 - (c) for “under section 3” substitute “in accordance with section 3A”.
- 144 (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)—

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- (a) for “The Commissioners” substitute “The Commission”, and
 - (b) for “they may specify” substitute “it may specify”.
- 145 In section 53(1) (nomination of trustees, and filling up vacancies) for “the Commissioners” substitute “the Commission”.
- 146 (1) Section 56 (power of Commissioners to amend certificate of incorporation) is amended as follows.
 - (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”.
 - (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”.
 - (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”.
 - (6) In the sidenote, for “Commissioners” substitute “Commission”.
- 147 (1) Section 57 (records of applications and certificates) is amended as follows.
 - (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
 - (b) for “the secretary of the Commissioners” substitute “a member of the staff of the Commission”.
- 148 In section 58 (enforcement of orders and directions) for “the Commissioners” substitute “the Commission”.
- 149 (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
 - (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”.

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

- (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”.
- (5) Omit subsection (7).
- (6) In the sidenote, for “Commissioners” substitute “Commission”.
- 150 (1) Section 63 (winding up) is amended as follows.
- (2) In subsection (2)—
- (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”.
- (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”.
- 151 In section 64(3) (alteration of objects clause) for “the Commissioner’s consent” substitute “the Commission’s consent”.
- 152 In section 65(4) (invalidity of certain transactions) for “the Commissioners” substitute “the Commission”.
- 153 In section 66 (requirement of consent of Commissioners to certain acts), in subsection (1) and the sidenote, for “Commissioners” substitute “Commission”.
- 154 (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”.
- (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”.
- 155 For the heading preceding section 72 substitute “*Charity trustees*”.
- 156 (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”.

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

- (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”.
- (5) After subsection (7) add—
- “(8) In this section “the Commissioners” means the Charity Commissioners for England and Wales.”
- 157 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)”.
- 158 For the heading preceding section 74 substitute “*Miscellaneous powers of charities*”.
- 159 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”.
- 160 In section 77(1) (reviews of local charities by local authority) for “the Commissioners” substitute “the Commission”.
- 161 (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”.
- 162 (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—
 - “(c) sections 19 to 19C, 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
 - (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”.
 - (5) In subsection (4)—

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

- (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”.
- (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”.
- (7) In the sidenote, for “Commissioners” substitute “Commission”.
- 163 (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”.
 - (4) At the end add “or section 75D”.
 - (5) In the sidenote, for “Commissioners” substitute “Commission”.
- 164 (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
 - (b) for “kept by them” substitute “kept by the Commission”.
 - (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) In the sidenote, for “Commissioners” substitute “Commission”.
- 165 (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”.
 - (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”.
 - (4) In subsection (4) after “above” insert “or Schedule 5A,”.
- 166 (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

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

- (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”.
- 167 (1) Section 88 (enforcement of orders of Commissioners) is amended as follows.
- (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”.
- (4) For “the Commissioners to” substitute “the Commission to”.
- (5) In the sidenote, for “Commissioners” substitute “Commission”.
- 168 (1) Section 89 (other provisions as to orders of Commissioners) is amended as follows.
- (2) In subsection (1)—
- (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”.
- (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”.
- (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”, and
- (d) for “to them” substitute “to it”.
- (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”.
- 169 In section 90 (directions of the Commissioners) for “the Commissioners” (in each place including the sidenote) substitute “the Commission”.
- 170 In section 91 (service of orders and directions), in subsections (1), (4) and (5), for “the Commissioners” (in each place) substitute “the Commission”.
- 171 Omit section 92 (appeals from Commissioners).
- 172 In section 93 (miscellaneous provisions as to evidence), for subsection (3) substitute—

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

- “(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).
- (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.
- (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.”
- 173 (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 2006;”.
- (3) Omit—
- (a) in the definition of “exempt charity” in subsection (1), the words “(subject to section 24(8) above)”, and
- (b) subsection (4).
- (4) In subsections (5) and (6) for “The Commissioners” substitute “The Commission”.
- 174 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 2006;”;
- (b) for the definition of “the Commissioners” substitute—
- ““the Commission” means the Charity Commission;”;
- (c) in the definition of “institution”, after ““institution”” insert “means an institution whether incorporated or not, and”; and
- (d) at the appropriate place insert—
- ““members”, in relation to a charity with a body of members distinct from the charity trustees, means any of those members;”
- ““the Minister” means the Minister for the Cabinet Office;”
- ““principal regulator”, in relation to an exempt charity, means the charity’s principal regulator within the meaning of section 13 of the Charities Act 2006;”
- ““the Tribunal” means the Charity Tribunal;”.
- 175 In section 97(3) (general interpretation) for “Part IV or IX” substitute “Part 4, 7, 8A or 9”.
- 176 In section 100(3) (extent) for “Section 10” substitute “Sections 10 to 10C”.

- 177 In paragraph (a) of Schedule 2 (exempt charities) for “the Commissioners” (in the first place) substitute “the Charity Commissioners for England and Wales”.
- 178 (1) Schedule 5 (meaning of “connected person” for the purposes of section 36(2)) is amended as follows.
- (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.
- (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 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)”,
- (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.”
- (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)

- 179 (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;
- (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”.

Pensions Act 1995 (c. 26)

- 180 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—

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

“The Charity Commission.	Functions under the Charities Act 1993 or the Charities Act 2006.”
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Reserve Forces Act 1996 (c. 14)

- 181 (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”.
- (3) In paragraph 4(1)—
- (a) for “Charity Commissioners consider” substitute “Charity Commission considers”, and
 - (b) for “they” substitute “it”.
- (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—
- (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)

- 182 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”.

Housing Act 1996 (c. 52)

- 183 The Housing Act 1996 has effect subject to the following amendments.
- 184 In section 3(3) (registration as social landlord) for “Charity Commissioners” substitute “Charity Commission”.
- 185 In section 4(6) (removal from the register of social landlords) for “Charity Commissioners” substitute “Charity Commission”.
- 186 In section 6(3) (notice of appeal against decision on removal) for “Charity Commissioners” substitute “Charity Commission”.
- 187 In section 44(3) (consultation on proposals as to ownership and management of landlord’s land) for “Charity Commissioners” substitute “Charity Commission”.
- 188 In section 45(4) (service of copy of agreed proposals) for “Charity Commissioners” substitute “Charity Commission”.
- 189 In section 46(2) (notice of appointment of manager to implement agreed proposals) for “Charity Commissioners” substitute “Charity Commission”.
- 190 In section 56(2) (meaning of “the Relevant Authority”) for “Charity Commissioners” substitute “Charity Commission”.

- 191 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.
- 192 (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”.
 - (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.”
 - (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)

- 193 The School Standards and Framework Act 1998 has effect subject to the following amendments.
- 194 (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”.
 - (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).”
 - (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.”
 - (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.”

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

- 195 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).”

Cathedrals Measure 1999 (No. 1)

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

Trustee Act 2000 (c. 29)

- 197 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)

- 198 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)

- 199 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)

- 200 The Companies (Audit, Investigations and Community Enterprise) Act 2004 has effect subject to the following amendments.
- 201 In section 39 (existing companies: charities), in subsections (1) and (2), for “Charity Commissioners” substitute “Charity Commission”.
- 202 In section 40 (existing companies: Scottish charities), in subsections (4)(b) and (6), for “Charity Commissioners” substitute “Charity Commission”.
- 203 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”.
- 204 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”.

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

Pensions Act 2004 (c. 35)

- 205 The Pensions Act 2004 has effect subject to the following amendments.
- 206 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 2006.”
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- 207 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 2006.”
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Constitutional Reform Act 2005 (c. 4)

- 208 In Part 3 of Schedule 14 to the Constitutional Reform Act 2005 (the Judicial Appointments Commission: relevant offices etc.) after the entries relating to section 6(5) of the Tribunals and Inquiries Act 1992 insert—

“President of the Charity Tribunal	Paragraph 1(2) of Schedule 1B to the Charities Act 1993 (c. 10).
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Legal member of the Charity Tribunal
Ordinary member of the Charity Tribunal”

Charities and Trustee Investment (Scotland) Act 2005 (asp 10)

- 209 The Charities and Trustee Investment (Scotland) Act 2005 has effect subject to the following amendments.

- 210 In section 36(1) (powers of OSCR in relation to English and Welsh charities)—
- (a) for “Charity Commissioners for England and Wales inform” substitute “Charity Commission for England and Wales informs”,
 - (b) for “under section 3” substitute “in accordance with section 3A”, and
 - (c) for “section 3(5) of that Act,” substitute “subsection (2) of that section.”.

- 211 In section 69(2)(d)(i) (persons disqualified from being charity trustees)—
- (a) at the beginning insert “by the Charity Commission for England and Wales under section 18(2)(i) of the Charities Act 1993 or”, and
 - (b) for “under section 18(2)(i) of the Charities Act 1993 (c. 10),” substitute “, whether under section 18(2)(i) of that Act or under”.

Equality Act 2006 (c. 3)

- 212 (1) The Equality Act 2006 has effect subject to the following amendments.
- (2) In section 58(2) (charities relating to religion or belief)—
- (a) for “Charity Commissioners for England and Wales” substitute “Charity Commission”, and

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(b) for “the Commissioners” substitute “the Commission”.

(3) In section 79(1)(a) (interpretation) after “given by” insert “section 1(1) of”.

SCHEDULE 9

Section 75

REPEALS AND REVOCATIONS

<i>Short title and chapter or title and number</i>	<i>Extent of repeal or revocation</i>
Police, Factories, &c. (Miscellaneous Provisions) Act 1916 (c. 31)	In section 5(1), in paragraph (b) of the proviso, the words from “, and no representation” onwards.
Recreational Charities Act 1958 (c. 17)	Section 2.
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.
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”. In section 79, in subsection (6) the words “(subject to subsection (7))”, and subsection (7). Schedule 5. In Schedule 6, paragraph 9. In Schedule 7, the entry relating to the Police, Factories, &c. (Miscellaneous Provisions) Act 1916.
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).

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

<i>Short title and chapter or title and number</i>	<i>Extent of repeal or revocation</i>
	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).
	Schedule 1.
	In Schedule 2, in paragraph (b) the words “and the colleges of Winchester and Eton”, and paragraph (x).
	In Schedule 6, paragraphs 1(2), 26, 28 and 29(2) to (4), (7) and (8).
National Lottery etc. Act 1993 (c. 39)	In Schedule 5, paragraph 12.
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.
Teaching and Higher Education Act 1998 (c. 30)	Section 41. In Schedule 3, paragraph 9.

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

<i>Short title and chapter or title and number</i>	<i>Extent of repeal or revocation</i>
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.
Intervention Board for Agricultural Produce (Abolition) Regulations 2001 (S.I. 2001/3686)	Regulation 6(11)(a).
Regulatory Reform (National Health Service Charitable and Non-Charitable Trust Accounts and Audit) Order 2005 (S.I. 2005/1074)	Article 3(5).

SCHEDULE 10

Section 75

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.

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 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.

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.

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.

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.

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.

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—
(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.

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

- 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,
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.

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

- 12 The amendment made by section 36 does not affect the payment of remuneration or provision of services in accordance with an agreement made before the day on which that section comes into force.

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

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.

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.

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.

Section 72: Disclosure of information to and by Northern Ireland regulator

- 16 In relation to an offence committed in England and Wales before the commencement of section 154(1) of the Criminal Justice Act 2003 (c. 44) (general limit on magistrates' court's power to impose imprisonment), the reference to 12 months in section 72(6) is to be read as a reference to 6 months.

Schedule 6: group accounts

- 17 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

- 18 The following provisions, namely—
(a) paragraphs 80(6) and (8), 83(3) and (4), 99(3), (4)(a) and (5)(a) and (c), 109(12), 111(7) and 171 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.
- 19 Paragraph 98(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 In relation to an offence committed in England and Wales before the commencement of section 154(1) of the Criminal Justice Act 2003 (c. 44) (general limit on magistrates' court's power to impose imprisonment), the reference to 12 months in section 10A(4) of the 1993 Act (as inserted by paragraph 104 of Schedule 8 to this Act) is to be read as a reference to 6 months.

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.
- (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.
- (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),
 - (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.
- 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).
- 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),
 - (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.
- 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
 - (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.
- 26 (1) Despite the repeal by this Act of section 48(6) of the Charities Act 1960 (c. 58), 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—
- (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.

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

- (2) Despite the repeal of section 48(6) (and without affecting the generality of subparagraph (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
 - (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.
- 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.

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 subparagraph (2) does not revive so much of any enactment or document as ceased to have effect by virtue of that provision.
- (2) The provisions are—
- (a) section 28(9) of the Charities Act 1960 (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
 - (c) section 50 of that Act (repeal of provisions requiring amount of contributions towards maintenance etc. of almshouses to be sanctioned by Charity Commissioners).