

SCHEDULES

SCHEDULE 8

Section 354

TRANSITIONALS AND SAVINGS

PART 1

GENERAL

Continuity of the law

- 1 The repeal and re-enactment of provisions by this Act does not affect the continuity of the law.
- 2 A reference, express or implied, in this Act, another enactment or an instrument or document, to a provision of this Act is, subject to its context, to be read as being or including a reference to the corresponding provision repealed by this Act, in relation to times, circumstances or purposes in relation to which the repealed provision had effect.
- 3 (1) A reference, express or implied, in any enactment, instrument or document to a provision repealed by this Act is, subject to its context, to be read as being or including a reference to the corresponding provision of this Act, in relation to times, circumstances or purposes in relation to which that provision has effect.
(2) Where a power conferred by an Act is expressed to be exercisable in relation to enactments contained in Acts passed before or in the same Session as the Act conferring the power, the power is also exercisable in relation to provisions of this Act that reproduce such enactments.
(3) The powers in—
 - (a) section 75(4) and (5) of the Charities Act 2006 (to make supplementary and consequential provision etc.), and
 - (b) section 77 of that Act (to make amendments in consequence of, or in connection with, changes to the provisions of company law relating to the accounts of charitable companies etc.),are, so far as they were exercisable in relation to any provision repealed and re-enacted by this Act, exercisable in relation to the corresponding provision of this Act.
- (4) Sub-paragraphs (2) and (3) do not affect the generality of sub-paragraph (1).
- 4 Anything done, or having effect as if done, under (or for the purposes of or in reliance on) a provision repealed by this Act, and in force or effective immediately before the commencement of this Act, has effect after that commencement as if done under (or for the purposes of or in reliance on) the corresponding provision of this Act.
- 5 Paragraphs 1 to 4 have effect in place of section 17(2) of the Interpretation Act 1978; but nothing in this Schedule affects any other provision of that Act.

Status: This is the original version (as it was originally enacted).

Effect of old transitionals and savings

- 6 The repeals made by this Act do not affect the operation of any transitional provision or saving relating to the coming into force of a provision reproduced in this Act in so far as the transitional provision or saving is not specifically reproduced in this Act but remains capable of having effect in relation to the corresponding provision of this Act or otherwise.
- 7 (1) The repeal by this Act of an enactment previously repealed subject to savings does not affect the continued operation of those savings.
- (2) The repeal by this Act of a saving on the previous repeal of an enactment does not affect the operation of the saving in so far as it is not specifically reproduced in this Act but remains capable of having effect.

Use of existing forms etc.

- 8 Any reference to an enactment repealed by this Act which is contained in a document made, served or issued after the commencement of the repeal is, subject to its context, to be read as being or including a reference to the corresponding provision of this Act.

PART 2

RECREATIONAL ETC. PURPOSES

General

- 9 In this Part of this Schedule “the 1958 Act” means the Recreational Charities Act 1958.
- 10 (1) Where section 2 of the 1958 Act applied to any trusts immediately before the day on which section 5(3) of the Charities Act 2006 came into force, the repeal by this Act of paragraph 2 of Schedule 10 to the 2006 Act does not prevent the trusts from continuing to be charitable if they constitute a charity in accordance with section 1(1) of this Act.
- (2) Sub-paragraph (1)—
- (a) affects the law of Scotland only so far as it affects the construction of references to charities or charitable purposes in enactments which relate to matters falling within Section A1 of Part 2 of Schedule 5 to the Scotland Act 1998 (reserved matters: fiscal policy etc.);
- (b) affects the law of Northern Ireland only so far as it affects the construction of references to charities or charitable purposes in enactments which relate to matters falling within paragraph 9 of Schedule 2 to the Northern Ireland Act 1998 (excepted matters: taxes and duties).
- 11 The repeal by this Act of subsections (2) and (3) of section 3 of the 1958 Act does not affect any saving in either of those subsections which is capable of having continuing effect.

Scotland

- 12 Sections 1 and 2 of the 1958 Act as in force before the commencement of section 5 of the Charities Act 2006 continue to have effect in relation to the law of Scotland 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
- (b) are not contained in enactments relating to matters falling within Section A1 of Part 2 of Schedule 5 to the Scotland Act 1998 (reserved matters: fiscal policy etc.).

Northern Ireland

13 Sections 1 and 2 of the 1958 Act as in force before the commencement of section 5 of the Charities Act 2006 continue to have effect in relation to the law of 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
- (b) are not contained in enactments relating to matters falling within paragraph 9 of Schedule 2 to the Northern Ireland Act 1998 (excepted matters: taxes and duties).

PART 3

MISCELLANEOUS

Regulations relating to fees

14 Despite the revocation by this Act of the Charities (Pre-consolidation Amendments) Order 2011 (S.I. 2011/1396), regulations having effect as if made under section 19 continue to have effect as if any reference to the furnishing of a document were a reference to the provision of the document.

Exempt charities

15 (1) Despite the repeal by this Act of section 11(13) of the Charities Act 2006 (power to make amendments or modifications of enactments in connection with changes in exempt charities), the Minister may by order make such amendments or other modifications of any enactment as the Minister considers appropriate in connection with—

- (a) charities of a particular description becoming, or ceasing to be, exempt charities, or
 - (b) a particular charity becoming, or ceasing to be, an exempt charity,
- as a result of provision made by or under section 11 of the 2006 Act.

(2) In sub-paragraph (1) “enactment” includes—

- (a) any provision of subordinate legislation (within the meaning of the Interpretation Act 1978), and
- (b) a provision of a Measure of the Church Assembly or of the General Synod of the Church of England;

and references to enactments include enactments whenever passed or made.

16 The repeal and re-enactment by this Act of—

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

- (a) section 11(13) of the Charities Act 2006 (power to make amendments or modifications of enactments in connection with changes in exempt charities), and
- (b) section 13(5) of that Act (power to make amendments or modifications of enactments in connection with principal regulator regulations),

is not to be treated as preventing any amendment or modification being made of an enactment contained in this Act which re-enacts an enactment of which an amendment or modification could have been made under section 11(13) or 13(5).

Application cy-près: donors unknown or disclaiming or treated as disclaiming

- 17 Sections 63, 64 and 67 apply to property given for charitable purposes whether before or on or after the commencement of this Act.

Official custodian as successor to official trustee of charity lands and official trustees of charity funds

- 18 (1) Despite the repeal by this Act of paragraph 26 of Schedule 10 to the Charities Act 2006, 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) the official trustee or trustees had been, and had discharged the functions of the official trustee or trustees as, holder of the office of the official custodian.
- (2) Despite the repeal of paragraph 26 of that Schedule (and without affecting the generality of sub-paragraph (1))—
- (a) any property which immediately before the commencement of that repeal was, by virtue of paragraph 26(2) of that Schedule, held by the official custodian continues to be so held, as if vested in the official custodian under section 90, 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.

Savings for consequential amendments

- 19 (1) The repeal by this Act of paragraph 23(a) of Schedule 10 to the Charities Act 2006 (saving for consequential amendment made by the Charities Act 1960) does not affect the amendment made by Schedule 6 to the Charities Act 1960 in section 9 of the Places of Worship Registration Act 1855.
- (2) The repeal by this Act of paragraph 23(d) of Schedule 10 to the Charities Act 2006 (saving for consequential amendment made by the Charities Act 1960) does not affect the amendment made by Schedule 6 to the Charities Act 1960 in section 31 of the New Parishes Measure 1943.
- (3) The repeal by this Act of paragraph 30 of Schedule 6 to the Charities Act 1993 does not affect the amendments made by that paragraph in—
- (a) section 90(4) of the Local Government Act 1985, or
 - (b) section 192(11) of the Education Reform Act 1988.

Universities of Durham and Newcastle-upon-Tyne Act 1963

- 20 Despite the revocation by this Act of the Charities (Pre-consolidation Amendments) Order 2011 ([S.I. 2011/1396](#)), the Universities of Durham and Newcastle-upon-Tyne Act 1963 continues to have effect as if Schedule 7 to the Charities Act 1993 (repeals) had never referred to section 10 of the 1963 Act.