



2008 CHAPTER 12

PART 4

REGISTRATION OF CHARITIES AND CHARITABLE NAMES

*The register of charities*

**Register of charities**

- 16.**—(1) The Commission shall keep a register of charities.
- (2) Every institution which is a charity under the law of Northern Ireland must be registered in the register of charities.
- (3) The register shall be kept by the Commission in such manner as it thinks fit.
- (4) The register shall contain—
- (a) the name of the charity,
  - (b) if the charity is a designated religious charity within the meaning of section 165, a statement to that effect, and
  - (c) such other particulars of, and such other information relating to, the charity as the Commission thinks fit.
- (5) The Commission shall remove from the register—
- (a) any institution which it no longer considers to be a charity, and
  - (b) any charity which has ceased to exist or does not operate.
- (6) If the removal of an institution under subsection (5)(a) is due to any change in its trusts, the removal shall take effect from the date of that change.

(7) The register (including the entries cancelled when institutions are removed from the register) shall be open to public inspection at all reasonable times.

(8) Where any information contained in the register is not in documentary form, subsection (7) shall be construed as requiring the information to be available for public inspection in legible form at all reasonable times.

(9) If the Commission so determines, subsection (7) shall not apply to any particular information contained in the register that is specified in the determination.

(10) Copies (or particulars) of the trusts of any registered charity as supplied to the Commission under section 17 shall, so long as the charity remains on the register—

- (a) be kept by the Commission, and
- (b) be open to public inspection at all reasonable times.

#### **Duties of trustees in connection with registration**

**17.—**(1) Where a charity required to be registered by virtue of section 16(2) is not registered, it is the duty of the charity trustees—

- (a) to apply to the Commission for the charity to be registered, and
- (b) to supply the Commission with the required documents and information.

(2) The “required documents and information” are—

- (a) copies of the charity’s trusts or (if they are not set out in any extant document) particulars of them,
- (b) such other documents or information as may be prescribed by regulations made by the Department, and
- (c) such other documents or information as the Commission may require for the purposes of the application.

(3) Where an institution is for the time being registered, it is the duty of the charity trustees (or the last charity trustees)—

- (a) to notify the Commission if the institution ceases to exist, or if there is any change in its trusts or in the particulars of it entered in the register, and
- (b) (so far as appropriate), to supply the Commission with particulars of any such change and copies of any new trusts or alterations of the trusts.

(4) Nothing in subsection (3) requires a person—

- (a) to supply the Commission with copies of schemes for the administration of a charity made otherwise than by the Court,
- (b) to notify the Commission of any change made with respect to a registered charity by such a scheme, or

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

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- (c) if the person refers the Commission to a document or copy already in the possession of the Commission, to supply a further copy of the document.
- (5) Where a copy of a document relating to a registered charity—
  - (a) is not required to be supplied to the Commission as the result of subsection (4), but
  - (b) is in the possession of the Commission,
 a copy of the document shall be open to inspection under section 16(10) as if supplied to the Commission under this section.

### **Effect of, and claims and objections to, registration**

**18.—**(1) An institution shall for all purposes other than rectification of the register be conclusively presumed to be or to have been a charity at any time when it is or was on the register of charities.

(2) Any person who is or may be affected by the registration of an institution as a charity may, on the ground that it is not a charity, object to its being entered by the Commission in the register, or apply to the Commission for it to be removed from the register; and the Department may by regulations make provision as to the manner in which any such objection or application is to be made, prosecuted or dealt with.

(3) If there is an appeal to the Tribunal against any decision of the Commission to enter an institution in the register, or not to remove an institution from the register, then until the Commission is satisfied whether the decision of the Commission is or is not to stand, the entry in the register shall be maintained, but shall be in suspense and marked to indicate that it is in suspense.

(4) For the purposes of subsection (1) an institution shall be deemed not to be on the register during any period when the entry relating to it is in suspense under subsection (3).

(5) Any question affecting the registration or removal from the register of an institution may, notwithstanding that it has been determined by a decision on appeal under Schedule 3, be considered afresh by the Commission and shall not be concluded by that decision, if it appears to the Commission that there has been a change of circumstances or that the decision is inconsistent with a later judicial decision.

### **Status of registered charity to appear on official publications, etc.**

**19.—**(1) The fact that a charity is registered shall be stated in legible characters—

- (a) in all notices, advertisements and other documents issued by or on behalf of the charity and soliciting money or other property for the benefit of the charity;

(b) in all bills of exchange, promissory notes, endorsements, cheques and orders for money or goods purporting to be signed on behalf of the charity; and

(c) in all bills rendered by it and in all its invoices, receipts and letters of credit.

(2) Subsection (1)(a) has effect whether the solicitation is express or implied, and whether the money or other property is to be given for any consideration or not.

(3) Any person who issues or authorises the issue of any document falling within paragraph (a) or (c) of subsection (1) which does not contain the statement required by that subsection, is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) Any person who signs any document falling within paragraph (b) of subsection (1) which does not contain the statement required by that subsection, is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

#### *Charity names*

#### **Power of Commission to require charity's name to be changed**

**20.—**(1) Where this subsection applies to a charity, the Commission may give a direction requiring the name of the charity to be changed, within such period as is specified in the direction, to such other name as the charity trustees may determine with the approval of the Commission.

(2) Subsection (1) applies to a charity if—

(a) it is a registered charity and its name (“the registered name”)—

(i) is the same as, or

(ii) is in the opinion of the Commission too like,

the name, at the time when the registered name was entered in the register in respect of the charity, of any other charity (whether registered or not);

(b) the name of the charity is in the opinion of the Commission likely to mislead the public as to the true nature—

(i) of the purposes of the charity as set out in its trusts, or

(ii) of the activities which the charity carries on under its trusts in pursuit of those purposes;

(c) the name of the charity includes any word or expression for the time being specified in regulations made by the Department and the inclusion in its name of that word or expression is in the opinion of the Commission likely to mislead the public in any respect as to the status of the charity;

(d) the name of the charity is in the opinion of the Commission likely to give the impression that the charity is connected in some way with a government department or any district council, or with any other body of persons or any individual, when it is not so connected; or

(e) the name of the charity is in the opinion of the Commission offensive;

and in this subsection any reference to the name of a charity is, in relation to a registered charity, a reference to the name by which it is registered.

(3) Any direction given by virtue of subsection (2)(a) must be given within 12 months of the time when the registered name was entered in the register in respect of the charity.

(4) Any direction given under this section with respect to a charity shall be given to the charity trustees; and on receiving any such direction the charity trustees shall give effect to it notwithstanding anything in the trusts of the charity.

(5) Where the name of any charity is changed under this section, then (without prejudice to section 17(3)) it shall be the duty of the charity trustees forthwith to notify the Commission of the charity's new name and of the date on which the change occurred.

(6) A change of name by a charity under this section does not affect any rights or obligations of the charity; and any legal proceedings that might have been continued or commenced by or against it in its former name may be continued or commenced by or against it in its new name.

(7) Article 36(3) of the [Companies \(Northern Ireland\) Order 1986 \(NI 6\)](#) (minor variations in names to be disregarded) shall apply for the purposes of this section as if the reference to Article 36(1)(c) of that Order were a reference to subsection (2)(a) above.

(8) Any reference in this section to the charity trustees of a charity shall, in relation to a charity which is a company, be read as a reference to the directors of the company.

### **Effect of direction under section 20 where charity is a company**

**21.—**(1) Where any direction is given under section 20 with respect to a charity which is a company, the direction shall be taken to require the name of the charity to be changed by resolution of the directors of the company.

(2) Where a resolution of the directors is passed in accordance with subsection (1), the company must give notice of the change to the registrar of companies.

(3) Where the name of such a charity is changed in compliance with any such direction, the registrar of companies—

- (a) shall, subject to Article 36 of the [Companies \(Northern Ireland\) Order 1986 \(NI 6\)](#) (prohibition on registration of certain names), enter the new name on the register of companies in place of the former name, and
- (b) shall issue a certificate of incorporation altered to meet the circumstances of the case;

and the change of name has effect from the date on which the altered certificate is issued.