

## SCHEDULES

### SCHEDULE 1

Section 6(7).

#### THE CHARITY COMMISSION FOR NORTHERN IRELAND

##### *Terms of appointment*

1. The members of the Commission shall hold and vacate office as such in accordance with the terms of their respective appointments.
- 2.—(1) An appointment of a person to hold office as a member of the Commission shall be for a term not exceeding 5 years.
  - (2) A person holding office as a member of the Commission—
    - (a) may resign that office by giving notice in writing to the Department, and
    - (b) may be removed from office by the Department on the ground of incapacity or misbehaviour.
  - (3) Before removing a member of the Commission, the Department shall consult the Commission.

##### *Remuneration, etc.*

3. The Department may, with the approval of the Department of Finance and Personnel, pay to or in respect of members of the Commission—
  - (a) remuneration;
  - (b) allowances and fees; and
  - (c) sums for the provision of pensions.

##### *Staff*

- 4.—(1) The Commission may with the approval of the Department and the Department of Finance and Personnel as to numbers and as to remuneration and other terms and conditions of employment—
  - (a) employ such staff as the Commission considers necessary;
  - (b) employ the services of such other persons as the Commission considers expedient for any particular purpose.
- (2) The Commission may, in the case of such of its staff as may be determined by it with the approval of the Department and the Department of Finance and

Personnel, pay such pensions, allowances or gratuities, or provide and maintain such pension schemes, as may be so determined.

(3) Payments made or expenses incurred under this paragraph shall be defrayed out of money appropriated by Act of the Assembly.

5.—(1) The Commission may make arrangements with the Department for persons employed in the Northern Ireland civil service to be seconded to the Commission.

(2) Such arrangements require the consent of the Department of Finance and Personnel.

#### *Annual report*

6.—(1) The Commission shall, as soon as reasonably practicable after the end of each financial year, make a report to the Department on—

- (a) the discharge of its functions,
- (b) the extent to which, in its opinion, its objectives (see section 7) have been met,
- (c) the performance of its general duties (see section 9), and
- (d) the management of its affairs.

(2) In sub-paragraph (1), “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.

(3) Sub-paragraph (4) 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 Department made a report under section 34 of the Charities Act (Northern Ireland) 1964; and
- (b) ended on the day before the coming into operation of section 6.

(4) The first report published by the Commission under this paragraph shall also be a report on the operations of the Department under that Act and the [Charities \(Northern Ireland\) Order 1987 \(NI 19\)](#) during the period mentioned in sub-paragraph (3).

(5) The Department shall lay a copy of the report before the Assembly.

#### *Money*

7.—(1) Expenditure incurred by the Commission may be defrayed as expenses of the Department if authorised by that Department and the Department of Finance and Personnel.

(2) Expenditure defrayed under this paragraph shall be defrayed out of money appropriated by Act of the Assembly and an authorisation for the purposes of this paragraph may be general or specific.

**8.**—(1) The Commission shall keep accounts and financial records in a form approved by the Department.

(2) The Commission shall—

- (a) prepare a statement of accounts in respect of each financial year containing such information, and in such form, as is directed by the Department with the consent of the Department of Finance and Personnel; and
- (b) send a copy to the Department and to the Comptroller and Auditor General for Northern Ireland within such period after the end of the financial year as the Department directs.

(3) The Comptroller and Auditor General for Northern Ireland shall—

- (a) examine, certify and report on the statement of accounts; and
- (b) send a copy of the statement of accounts and of the report to the Department.

(4) The Department shall lay a copy of the statement of accounts and the Comptroller and Auditor General's report before the Assembly.

(5) For the purposes of this paragraph—

- (a) a financial year is a period of 12 months ending on 31st March; but
- (b) the first financial year is the period beginning with the day on which section 6 comes into operation and ending with the first 31st March which falls at least 6 months after that day.

#### *Procedure*

**9.**—(1) In determining its own procedure the Commission may, in particular, make provision about—

- (a) the discharge of its functions by committees (which may include persons who are not members of the Commission);
- (b) a quorum for meetings of the Commission or a committee.

(2) The validity of any proceedings of the Commission or a committee shall not be affected by—

- (a) a vacancy in the office of chair or deputy chair; or
- (b) a defect in the appointment of a member.

*Power to transfer property*

- 10.**—(1) This paragraph applies where the Department—
- (a) acts as trustee of any property for a charity, and
  - (b) is of the opinion that the official custodian should so act in exercise of any function conferred on the official custodian by or under this Act.
- (2) The Department may by order transfer to the official custodian any such property, and any rights and liabilities to which the Department is entitled or subject in connection with that property.
- (3) Sub-paragraph (2)—
- (a) has effect in relation to property, rights or liabilities to which it applies in spite of any provision (of whatever nature) which would prevent or restrict the transfer of the property, rights or liabilities otherwise than under that sub-paragraph; but
  - (b) does not apply to rights or liabilities under a contract of employment.
- (4) The [Statutory Rules \(Northern Ireland\) Order 1979 \(NI 12\)](#) shall not apply to any order made under sub-paragraph (2).

*Status*

**11.** The Commission shall not be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown; and property of the Commission shall not be regarded as property of, or held on behalf of, the Crown.

*The Northern Ireland Assembly Disqualification Act 1975 (c. 25)*

**12.** In Part 2 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (bodies whose members are disqualified), at the appropriate place insert—  
“The Charity Commission for Northern Ireland”.

*The Commissioner for Complaints (Northern Ireland) Order 1996 (NI 7)*

**13.** In Schedule 2 to the Commissioner for Complaints (Northern Ireland) Order 1996 (bodies subject to investigation) at the appropriate place insert—  
“The Charity Commission for Northern Ireland”.

*The Freedom of Information Act 2000 (c. 36)*

**14.** In Part 7 of Schedule 1 to the Freedom of Information Act 2000 (bodies, etc. which are public authorities for the purposes of the Act) at the appropriate place insert—  
“The Charity Commission for Northern Ireland”.

## SCHEDULE 2

Section 12(2).

## THE CHARITY TRIBUNAL

*Membership*

- 1.—(1) The Tribunal shall consist of the President and its other members.
- (2) The First Minister and deputy First Minister acting jointly 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 that person is a barrister or solicitor of not less than 7 years' standing.
- (4) A person may be appointed as an ordinary member of the Tribunal only if it appears to the First Minister and deputy First Minister acting jointly that the person has appropriate knowledge or experience relating to charities.
2. The Lord Chief Justice may designate a legal member of the Tribunal to carry out the functions of the President when the President is unable to act or when the office is vacant.

*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 may resign that office by giving notice in writing to the Office of the First Minister and deputy First Minister.
- (3) A previous appointment as a member of the Tribunal does not affect a person's eligibility for re-appointment as a member of the Tribunal.
- 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 (c. 8) (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. The Office of the First Minister and deputy First Minister may pay to the members of the Tribunal such remuneration, and such other allowances, as that Office may determine.

*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) 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 heads (d) and (f) to other members do not include the President).

*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 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.

10. The President may, subject to rules under section 13, give directions about the practice and procedure of the Tribunal.

*Transitory provision*

**11.** Until the commencement of section 5(1) of the Justice (Northern Ireland) Act 2002 (c. 26), references in this Schedule to the First Minister and deputy First Minister acting jointly or to the Office of the First Minister and deputy First Minister shall be construed as references to the Lord Chancellor.

*The Northern Ireland Assembly Disqualification Act 1975 (c. 25)*

**12.** In Part 2 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (bodies whose members are disqualified) at the appropriate place insert—  
“The Charity Tribunal for Northern Ireland”.

## SCHEDULE 3

Section 12(3)(a).

## APPEALS AND APPLICATIONS TO 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
- (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 23*

**2.**—(1) Paragraph 1(4)(a) does not apply in relation to an appeal against an order made under section 23.

(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 head (a) or (b) of sub-paragraph (2).

#### *Reviewable matters*

3.—(1) In this Schedule references to “reviewable matters” are to—

- (a) decisions on 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 22 with regard to a particular institution,
- (b) to institute an inquiry under section 22 with regard to a class of institutions,
- (c) not to make a common investment scheme under section 43,
- (d) not to make a common deposit scheme under section 44,
- (e) not to make an order under section 46 in relation to a charity,
- (f) not to make an order under section 57 in relation to land held by or in trust for a charity,
- (g) not to make an order under section 60 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 104(1) in relation to a company which is a charity.

#### *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.



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(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**

1	2	3
Decision of the Commission not to give a direction under section 1(4) or (5) in relation to an institution or a charity.	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.
Decision of the Commission under section 16— (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	The persons are— (a) the charity trustees of the	Power to quash the decision and (if appropriate) remit

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under section 16(9) in relation to particular information contained in the register.	charity to which the information relates, (b) (if a body corporate) the charity itself, and (c) any other person who is or may be affected by the decision.	the matter to the Commission.
Direction given by the Commission under section 20 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 22 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 22 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	Power to— (a) direct the Commission that the inquiry should not consider a particular institution

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<p>Order made by the Commission under section 23 requiring a person to supply information or a document.</p>	<p>(b) (if a body corporate) any such institution.</p> <p>The persons are any person who is required to supply the information or document.</p>	<p>(b) direct the Commission to end the inquiry.</p> <p>Power to—</p> <p>(a) quash the order,</p> <p>(b) substitute for all or part of the order any other order which could have been made by the Commission.</p>
<p>Order made by the Commission under section 31(1).</p>	<p>The persons are—</p> <p>(a) in a section 31(1) (a) case, the charity trustees of the charity to which the order relates or (if a body corporate) the charity itself,</p> <p>(b) in a section 31(1) (b) case, any person discharged or removed by the order, 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 order in whole or in part and (if appropriate) remit the matter to the Commission,</p> <p>(b) substitute for all or part of the order any other order which could have been made by the Commission,</p> <p>(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 33(1) in relation to a charity.</p>	<p>The persons are—</p> <p>(a) the charity trustees of the charity,</p> <p>(b) (if a body corporate) the charity itself,</p> <p>(c) in a section 33(1) (i) case, any</p>	<p>Power to—</p> <p>(a) quash the order in whole or in part and (if appropriate) remit the matter to the Commission,</p>

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	<p>person suspended by the order, and</p> <p>(d) any other person who is or may be affected by the order.</p>	<p>(b) substitute for all or part of the order any other order which could have been made by the Commission,</p> <p>(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 33(2) in relation to a charity.</p>	<p>The persons are—</p> <p>(a) the charity trustees of the charity,</p> <p>(b) (if a body corporate) the charity itself,</p> <p>(c) in a section 33(2) (i) case, any person removed by the order, and</p> <p>(d) any other person who is or may be affected by the order.</p>	<p>Power to—</p> <p>(a) quash the order in whole or in part and (if appropriate) remit the matter to the Commission,</p> <p>(b) substitute for all or part of the order any other order which could have been made by the Commission,</p> <p>(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 33(4) removing a charity trustee.</p>	<p>The persons are—</p> <p>(a) the charity trustee,</p> <p>(b) the remaining charity trustees of the charity of which he was a charity trustee,</p>	<p>Power to—</p> <p>(a) quash the order in whole or in part and (if appropriate) remit the matter to the Commission,</p>

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<p>Order made by the Commission under section 33(5) appointing a charity trustee.</p>	<p>(c) (if a body corporate) the charity itself, and (d) any other person who is or may be affected by the order.</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>(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>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 33(10), or (b) not to discharge an order</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,</p>	<p>Power to— (a) quash the decision and (if appropriate) remit the matter to the Commission,</p>

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following such a review.	(c) if the order in question was made under section 33(1) (i), any person suspended by it, and (d) any other person who is or may be affected by the order.	(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, (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 34(2) 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 36(2) 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 37(2) which directs a person to	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.

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<p>apply property in a specified manner.</p>	<p>The persons are—</p> <ul style="list-style-type: none"> <li>(a) the charity trustees of a charity which applied to the Commission for the scheme,</li> <li>(b) (if a body corporate) the charity itself, and</li> <li>(c) any other person who is or may be affected by the decision.</li> </ul>	<p>Power to quash the decision and (if appropriate) remit the matter to the Commission.</p>
<p>Decision of the Commission not to make a common investment scheme under section 43.</p>	<p>The persons are—</p> <ul style="list-style-type: none"> <li>(a) the charity trustees of a charity which applied to the Commission for the scheme,</li> <li>(b) (if a body corporate) the charity itself, and</li> <li>(c) any other person who is or may be affected by the decision.</li> </ul>	<p>Power to quash the decision and (if appropriate) remit the matter to the Commission.</p>
<p>Decision of the Commission not to make a common deposit scheme under section 44.</p>	<p>The persons are—</p> <ul style="list-style-type: none"> <li>(a) the charity trustees of a charity which applied to the Commission for the scheme,</li> <li>(b) (if a body corporate) the charity itself, and</li> <li>(c) any other person who is or may be affected by the decision.</li> </ul>	<p>Power to quash the decision and (if appropriate) remit the matter to the Commission.</p>
<p>Decision by the Commission not to make an order under section 46 in relation to a charity.</p>	<p>The persons are—</p> <ul style="list-style-type: none"> <li>(a) the charity trustees of the charity, and</li> <li>(b) (if a body corporate) the charity itself.</li> </ul>	<p>Power to quash the decision and (if appropriate) remit the matter to the Commission.</p>
<p>Decision of the Commission not to make a common investment scheme under section 43.</p>	<p>The persons are—</p> <ul style="list-style-type: none"> <li>(a) the charity trustees of the charity,</li> </ul>	<p>Power to—</p> <ul style="list-style-type: none"> <li>(a) quash the direction and (if appropriate)</li> </ul>

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in the name of or on behalf of a charity.	<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>remit the matter to the Commission, substitute for the direction any other direction which could have been given by the Commission,</p> <p>(b)</p> <p>(c) add to the direction anything which could have been contained in a direction given by the Commission.</p>
Decision of the Commission not to make an order under section 57 in relation to land held by or in trust for 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 decision.</p>	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 60 in relation to a mortgage of land held by or in trust for 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 decision.</p>	Power to quash the decision and (if appropriate) remit the matter to the Commission.
Order made by the Commission under section 65(6) requiring	The persons are—	Power to— (a) quash the order,



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the accounts of a charity to be audited.	<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>(b) substitute for the order any other order which could have been made by the Commission,</p> <p>(c) add to the order anything which could have been contained in an order made by the Commission.</p>
Order made by the Commission under section 66(2) in relation to a charity, or a decision of the Commission not to make such an order in relation to 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,</p> <p>(c) in the case of a decision not to make an order, the auditor, independent examiner or examiner, and</p> <p>(d) any other person who is or may be affected by the order or the decision.</p>	<p>Power to—</p> <p>(a) quash the order or decision and (if appropriate) remit the matter to the Commission,</p> <p>(b) substitute for the order any other order of a kind the Commission could have made,</p> <p>(c) make any order which the Commission could have made.</p>
Decision of the Commission not to dispense with the requirements of section 70(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	<p>The persons are—</p> <p>(a) the trustees of the charity, and</p>	<p>Power to quash—</p> <p>(a) the decision,</p> <p>(b) any conditions or directions</p>

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(b) incorporation under section 73(1) to the trustees of a charity, or not to grant such a certificate.	(b) any other person who is or may be affected by the decision.	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 79(4).	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 79(4).	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 certificate of incorporation.	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 79(4).
Order of the Commission under section 84(1) or (2) 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,

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Decision of the Commission under section 86(4) 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.	(c) add to the order anything which could have been contained in an order made by the Commission.  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 87(4) 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 section 90(5) or (6) requiring a trustee or connected person to repay, or not to receive, remuneration.	The persons are— (a) the trustee or connected person, (b) the other charity trustees of the charity concerned, and	Power to— (a) quash the order and (if appropriate) remit the matter to the Commission, (b) substitute for the order any

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Decision of the Commission to give, or withhold, consent under section 96(2), 97(4) or 98(1) in relation to a body corporate which is a charity.	<p>(c) any other person who is or may be affected by the order.</p> <p>The persons are—</p> <p>(a) the charity trustees of the charity,</p> <p>(b) the body corporate itself, and</p> <p>(c) any other person who is or may be affected by the decision.</p>	<p>other order which could have been made by the Commission.</p> <p>Power to quash the decision and (if appropriate) remit the matter to the Commission.</p>
Order made by the Commission under section 104(1) in relation to a company which is a charity.	<p>The persons are—</p> <p>(a) the directors of the company,</p> <p>(b) the company 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 order and (if appropriate) remit the matter to the Commission,</p> <p>(b) substitute for the order any other order which could have been made by the Commission,</p> <p>(c) add to the order anything which could have been contained in an order made by the Commission.</p>
Order made by the Commission under section 104(4) which gives directions to a person or to charity trustees.	<p>The persons are—</p> <p>(a) in the case of directions given to a person, that person,</p> <p>(b) in the case of directions given to charity</p>	<p>Power to—</p> <p>(a) quash the order,</p> <p>(b) substitute for the order any other order which could have been made by the Commission,</p>

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<p>Decision of the Commission under section 110 to grant an application for the constitution of a CIO and its registration as a charity.</p>	<p>trustees, those charity trustees and (if a body corporate) the charity of which they are charity trustees, and</p> <p>(c) any other person who is or may be affected by the directions.</p> <p>The persons are any person (other than the persons who made the application) who is or may be affected by the decision.</p>	<p>(c) add to the order anything which could have been contained in an order made by the Commission.</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 rectify the register of charities.</p>
<p>Decision of the Commission under section 110 not to grant an application for the constitution of a CIO and its registration as a charity.</p>	<p>The persons are—</p> <p>(a) the persons who made the application, and</p> <p>(b) any other person who is or may be affected by the decision.</p>	<p>Power to—</p> <p>(a) quash the decision and (if appropriate) remit the matter to the Commission,</p> <p>(b) direct the Commission to grant the application.</p>
<p>Decision of the Commission under section 113 not to grant an application for the conversion of a charitable company or a registered society into a CIO and the</p>	<p>The persons are—</p> <p>(a) the charity which made the application,</p> <p>(b) the charity trustees of the charity, and</p> <p>(c) any other person who is or may be</p>	<p>Power to—</p> <p>(a) quash the decision and (if appropriate) remit the matter to the Commission,</p> <p>(b) direct the Commission</p>

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CIO's registration as a charity.	affected by the decision.	to grant the application.
Decision of the Commission under section 116 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.
Decision of the Commission under section 116 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 118(1).	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 118(1).	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 to notify	The persons are—	Power to quash the decision.

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charity trustees under section 124(2) that it objects to a resolution of the charity trustees under section 123(2) or 126(2).	(a) the charity trustees, and (b) any other person who is or may be affected by the decision.	
Decision of the Commission not to concur under section 129 with a resolution of charity trustees under section 129(3) or section 130(2).	The persons are— (a) the charity trustees, (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 under section 138 to refuse to issue a public collections certificate or to attach any condition to such a certificate.	The person who applied for the certificate.	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 that the Commission could have made.
Decision of the Commission under section 141 not to direct that a public collections certificate be transferred.	The persons are— (a) the person to whom the certificate has been issued, 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 that

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<p>Decision of the Commission under section 142—</p> <p>(a) to withdraw or suspend a public collections certificate,</p> <p>(b) to attach a condition to such a certificate, or</p> <p>(c) to vary an existing condition of such a certificate.</p>	<p>The person to whom the certificate has been issued.</p>	<p>the Commission could have made.</p> <p>Power to—</p> <p>(a) quash the decision and (if appropriate) remit the matter to the Commission,</p> <p>(b) substitute for the decision any other decision of a kind that the Commission could have made.</p>
<p>Decision of the Commission to refuse to make a designation under section 166 in relation to a charity.</p>	<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>	<p>Power to—</p> <p>(a) quash the decision and (if appropriate) remit the matter to the Commission, and</p> <p>(b) direct the Commission to make a designation under section 166 in relation to the charity.</p>
<p>Decision of the Commission under section 166(5) to withdraw the designation of a charity as a designated religious charity.</p>	<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>	<p>Power to quash the decision and (if appropriate) remit the matter to the Commission.</p>
<p>Decision of the Commission under paragraph 15 of Schedule 7 to refuse to</p>	<p>The persons are—</p> <p>(a) the CIO,</p>	<p>Power to quash the decision and (if appropriate)—</p>



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register an amendment to the constitution of a CIO.	(b) the charity trustees of the CIO, and (c) any other person who is or may be affected by the decision.	(a) remit the matter to the Commission, (b) direct the Commission to register the amendment.

*Power to amend Table, etc.*

- 6.—(1) The Department 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 a statutory provision which applies this Schedule, as the Department 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 the Assembly.

SCHEDULE 4

Section 12(3)(b).

REFERENCES TO THE TRIBUNAL

*References by the 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.

(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.

(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.

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(3) Where—

- (a) heads (a) and (b) of sub-paragraph (2) are satisfied, and
- (b) the question has been decided in proceedings on the reference,

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) applies if—

- (a) paragraph 3(2) 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 a statutory provision (“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 heads (a) and (b) of paragraph 3(2) are satisfied.

(3) Nothing in this paragraph or section 124 prevents the specified period being suspended concurrently by virtue of sub-paragraph (2) and that section.

*Agreement for Commission to act while reference in progress*

5.—(1) Paragraph 3(2) 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)) 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) of any period during which it would otherwise be permitted or required to take them.

(3) Paragraph 3(3) 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) applies in respect of an order or decision made, or direction given, by the Commission in accordance with paragraph 3(3).

(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 13(1) may include provision as to who is to be treated for the purposes of sub-paragraph (2) as being (or not being) a party to the proceedings.

(4) Any statutory provision (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).

*Interpretation*

7. In this Schedule “charity law” means—

- (a) any statutory provision contained in, or made under, this Act,
- (b) any other statutory provision specified in regulations made by the Department, and
- (c) any rule of law which relates to charities.

## SCHEDULE 5

Section 57(2).

MEANING OF “CONNECTED PERSONS”  
FOR PURPOSES OF SECTION 57(2)

1.—(1) In section 57(2) “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—
- (a) a charity trustee or trustee for the charity;
  - (b) a person who is the donor of any land to the charity (whether the gift was made on or after the establishment of the charity);
  - (c) a child, parent, grandchild, grandparent, brother or sister of any such trustee or donor;
  - (d) an officer, agent or employee of the charity;
  - (e) the spouse or civil partner of any person falling within any of heads (a) to (d);

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- (f) a person carrying on business in partnership with anyone falling within any of heads (a) to (e);
- (g) an institution which is controlled—
  - (i) by any person falling within any of heads (a) to (f), or
  - (ii) by two or more such persons taken together; or
- (h) a body corporate in which—
  - (i) any connected person falling within any of heads (a) to (g) has a substantial interest, or
  - (ii) two or more such persons, taken together, have a substantial interest.

**2.—**(1) In paragraph 1(2)(c) “child” includes a stepchild.

(2) For the purposes of paragraph 1(2)(e) a person living with another as that person’s husband or wife shall be treated as that person’s spouse.

(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.

**3.** For the purposes of paragraph 1(2)(g) a person controls an institution if that person is able to secure that the affairs of the institution are conducted in accordance with the wishes of that person.

**4.—**(1) For the purposes of paragraph 1(2)(h) any such connected person as is there mentioned has a substantial interest in a body corporate if the person or institution in question—

- (a) is interested in shares comprised in the equity share capital of that body of a nominal value of more than one-fifth of that share capital, or
- (b) is entitled to exercise, or control the exercise of, more than one-fifth of the voting power at any general meeting of that body.

(2) The rules set out in Schedule 1 to the Companies Act 2006 (c. 46) (rules for interpretation of certain provisions of that Act) shall apply for the purposes of subparagraph (1) as they apply for the purposes of section 254 of that Act (“connected persons” etc.).

(3) In this paragraph “equity share capital” and “share” have the same meaning as in that Act.

## SCHEDULE 6

Sections 64(8) &amp; 72.

## GROUP ACCOUNTS

*Interpretation*

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

(2) A charity is a “parent charity” if 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 1162 of, and Schedule 7 to, the Companies Act 2006 (c. 46).

(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 1(4), 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 1(5) 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) for the purposes of this paragraph,

“undertaking” has the meaning given by sub-paragraph (7).

(7) For those purposes “undertaking” means—

- (a) an undertaking as defined by section 1161(1) of the Companies Act 2006 (c. 46), 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 63(1) or, as the case may be, section 386 of the Companies Act 2006 (duty to keep accounting records) 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.

(2) If a parent charity has a subsidiary undertaking in relation to which the requirements of section 63(1) or section 386 of the Companies Act 2006 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—

- (a) the charity is a parent charity at the end of that year; and
- (b) (where it is a company) it is not required to prepare consolidated accounts for that year under section 399 of the Companies Act 2006 (c. 46) (duty to prepare group accounts), whether or not such accounts are in fact prepared.

(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 Department.

(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 (other than a parent charity which is a company) in relation to a financial year—

(a) that requirement so applies in addition to the requirement in section 64(1), and

(b) the option of preparing the documents mentioned in section 64(3) is not available in relation to that year (whatever the amount of the charity's gross income for that year).

(7) If the requirement in sub-paragraph (2) applies to the charity trustees of a parent charity in relation to a financial year and the charity is a company, that requirement so applies in addition to the requirement in section 394 of the Companies Act 2006 (duty to prepare individual accounts).

(8) 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 Department.

(3) Regulations made by the Department 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 6 years from the end of the financial year to which the accounts relate.

(2) Subsection (4) of section 63 shall apply in relation to the preservation of any such accounts as it applies in relation to the preservation of any accounting records



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(the references to subsection (3) of that section being construed as references to sub-paragraph (1) above).

(3) For the purposes of sub-paragraph (2), section 63 applies as if subsection (5) of that section were omitted.

*Audit 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 head (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 head, and
- (b) the reference in head (b) to the relevant assets threshold is a reference to the sum prescribed as the relevant assets threshold for the purposes of that head.

“Prescribed” means prescribed by regulations made by the Department.

(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 by a person within section 65(2)(a) or (b).

(5) Where it appears to the Commission that sub-paragraph (4) has not been complied with in relation to that year within 10 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 65(2)(a) or (b), and
- (b) if it so orders, the auditor shall be a person appointed by the Commission.

(6) Section 65(8) shall apply in relation to any such audit as it applies in relation to an audit carried out by an auditor appointed under section 65(6) (reading the reference to the funds of the charity as a reference to the funds of the parent charity).

(7) If this paragraph applies in relation to a financial year of a parent charity by virtue of sub-paragraph (1)—

- (a) subject to head (b), 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);
  - (b) where the parent charity is a company and its own accounts for that year are not required to be audited in accordance with Part 16 of the Companies Act 2006 (c. 46), section 65(2) shall apply in relation to those accounts (whether or not it would otherwise so apply).
- (8) In this paragraph, "the appropriate audit provision", in relation to a financial year of a parent company, means—
- (a) subject to head (b), section 65(2);
  - (b) if the parent charity is a company, section 65(2) or Part 16 of the Companies Act 2006 (as the case may be).

*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 this paragraph applies in relation to a financial year of a parent charity, subsections (3) to (9) of section 65 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
  - (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 the group accounts for a financial year of a parent charity are to be examined or audited in accordance with section 65(3) (as applied by sub-paragraph (2) above), section 65(3) shall apply in relation to the parent charity's own accounts for that year (whether or not it would otherwise so apply).

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*Supplementary provisions relating to audits, etc.*

**8.**—(1) Section 66(1) 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 65 is to be construed as a reference to paragraph 6 above or to any of that section 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 65 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 65(2) or (3) is to be construed as a reference to the requirements of paragraph 6(4) or those applied by paragraph 7(2) above.

(3) Without prejudice to the generality of section 66(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 499 or 500 of the Companies Act 2006 (c. 46) in connection with the rights exercisable by an auditor of a company in relation to a subsidiary undertaking of the company.

(4) In section 66(2) the reference to section 65(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 67(2) to (5) and (7) 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 as they apply in relation to a person such as is mentioned in section 67(1).

(2) In section 67(2)(a), as it applies in accordance with sub-paragraph (1), 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 68 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 Department.

(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 head (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) When transmitted to the Commission in accordance with section 68(3), the annual report shall have attached to it both 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 65 (as applied by paragraph 7 above), a copy of the report made by the person carrying out the examination.

(5) The requirements in this paragraph are in addition to those in section 68.

#### *Public inspection of annual reports, etc.*

**11.** In section 69(3), 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*

**12.—(1)** Section 71(1) applies in relation to a requirement within sub-paragraph (2) as it applies in relation to a requirement within section 71(1)(a).

(2) A requirement is within this sub-paragraph where it is imposed by section 68(3), taken with—

- (a) section 68(4) and (5), and
- (b) paragraph 10(4) above,

as applicable.

(3) In sub-paragraph (2) the reference to section 68(3) is a reference to that provision as applied by paragraph 10(4).

(4) In section 71(1)(b) the reference to section 69(3) includes a reference to that provision as extended by paragraph 11.

*Aggregate gross income*

**13.** The Department 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.

SCHEDULE 7

Section 121.

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.

**4.** Money payable by a member to the CIO under the constitution is a debt due from the member 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 the person 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.

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

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- (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 the constitutional powers of the trust.

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 powers, and (in the case of a charity trustee) to perform functions, in a capacity as such, in the way that member or trustee 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 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 the trustee has or purports to have, and
- (b) if the trustee 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 Department 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, the trustee did not disclose to all the charity trustees of the CIO any material interest 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 in the performance of functions as such.

*Procedure*

**13.—(1)** The Department 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 statutory provision, 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



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- (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), a resolution containing an amendment which would make any regulated alteration is to that extent ineffective 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 88) 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 89(5) and (6), for determining whether a person is connected with a charity trustee for the purposes of section 88.

#### *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 statutory provision), or
- (b) the amendment would change the name of the CIO, and the Commission could have refused an application under section 110 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.
- (5) But if the Commission does register such an amendment, paragraph 14(5) does not apply.

## SCHEDULE 8

Section 183.

## MINOR AND CONSEQUENTIAL AMENDMENTS

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

1.—(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 Part 13 of the Charities Act (Northern Ireland) 2008;”.

*The Industrial and Provident Societies Act (Northern Ireland) 1969 (c. 24)*

2. In section 38A(6) (power of registered societies to disapply section 38), for “the Charities Act (Northern Ireland) 1964 (c. 33)” substitute “the Charities Act (Northern Ireland) 2008”.

*The Administration of Estates (Northern Ireland) Order 1979 (NI 14)*

3. In Article 9 (grant of representation to trust corporation) in paragraph (4)(a) after “High Court” insert “or the Charity Commission for Northern Ireland”.

*The Education and Libraries (Northern Ireland) Order 1986 (NI 3)*

4. In Article 90(7) (teachers' residences provided, etc. by statutory loan prior to 1st February 1922)—

- (a) in sub-paragraph (a), for “under section 18 of the Charities Act (Northern Ireland) 1964” substitute “by an order under section 57 of the Charities Act (Northern Ireland) 2008”, and
- (b) in sub-paragraph (b), for “section 13 of that Act” substitute “section 29 of that Act”.

*The Companies (Northern Ireland) Order 1986 (NI 6)*

5. In Article 217(10)(a) (interests to be disregarded), after “under” insert “section 43 or 44 of the Charities Act (Northern Ireland) 2008,”.

6. In Schedule 13 (provisions supplementing and interpreting Articles 332 to 336), in paragraph 11(1)(b), after “under” insert “section 43 or 44 of the Charities Act (Northern Ireland) 2008,”.

*The Street Trading Act (Northern Ireland) 2001 (c. 8)*

7.—(1) Section 2(1) (activities which are not street trading) is amended as follows.

(2) In paragraph (d), omit sub-paragraph (ii) and the word “or” immediately preceding it.

(3) After that paragraph insert—

“(dd) conducting a public charitable collection that—

- (i) is conducted in accordance with section 134 or 135 of the Charities Act (Northern Ireland) 2008, or
- (ii) is an exempt collection by virtue of section 136 of that Act;”.

*The Trustee Act (Northern Ireland) 2001 (c. 14)*

8. In section 43(1) (interpretation), in the definition of “charitable trust”, for “the Charities Act (Northern Ireland) 1964 (c. 33)” substitute “the Charities Act (Northern Ireland) 2008”.

*The Criminal Justice and Police Act 2001 (c. 16)*

9. In Schedule 1 (powers of seizure to which section 50 applies), at the end of Part 1 insert—

*“Charities Act (Northern Ireland) 2008*

**73H.** The power of seizure conferred by section 52(3) of the Charities Act (Northern Ireland) 2008 (seizure of material for the purposes of an inquiry under section 22 of that Act).”.

*The Housing (Northern Ireland) Order 2003 (NI 2)*

**10.** In Article 119(6) (religious denominations, charities, &c.) for “the Charities Act (Northern Ireland) 1964” substitute “the Charities Act (Northern Ireland) 2008”.

*The Companies (Audit, Investigations and Community Enterprise) Act 2004 (c. 27)*

**11.** In section 63(1) (interpretation), for the definition of “Northern Ireland charity” substitute—

““Northern Ireland charity” means a charity within the meaning of the Charities Act (Northern Ireland) 2008 (see section 1 of that Act);”.

*The Pensions (Northern Ireland) Order 2005 (NI 1)*

**12.** In Schedule 3 (disclosure for facilitating discharge of functions by other supervising authorities)—

- (a) in the entry relating to the Department, omit the words “the Charities Act (Northern Ireland) 1964 (c. 33)”; and
- (b) at the end add—

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“The Charity Commission for Northern Ireland.	Functions under the Charities Act (Northern Ireland) 2008.”.
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*The Companies Act 2006 (c. 46)*

**13.—(1)** In section 21(2)(b) for “Article 9 of the [Charities \(Northern Ireland\) Order 1987 \(SI 1987/2048 \(N.I.19\)\)](#)” substitute “section 96 of the Charities Act (Northern Ireland) 2008”.

(2) In section 31(4)(b) for “Article 9 of the [Charities \(Northern Ireland\) Order 1987 \(SI 1987/2048 \(N.I.19\)\)](#)” substitute “section 96 of the Charities Act (Northern Ireland) 2008”.

(3) In section 1140(2)(c)(ii) after “Charities Act [1993 \(c. 10\)](#)” insert “or section 33 of Charities Act (Northern Ireland) 2008”.

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(4) In section 1154(1)(b) after “Charities Act 1993 (c. 10)” insert “or section 33 of the Charities Act (Northern Ireland) 2008”.

(5) In section 1154(2) after paragraph (b) insert—

“(bb) in the case of appointment of a receiver or manager under section 33 of the Charities Act (Northern Ireland) 2008, by the Charity Commission for Northern Ireland;”.

(6) In Schedule 1, in paragraph 6(4) after “Charities Act 1993 (c. 10)” insert “, section 44 or 45 of the Charities Act (Northern Ireland) 2008”.

## SCHEDULE 9

Section 184.

### REPEALS

Short Title	Extent of repeal
The 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.
The House to House Charitable Collections Act (Northern Ireland) 1952 (c. 6).	The whole Act.
The Charities Act (Northern Ireland) 1964 (c. 33).	The whole Act.
The Theft Act (Northern Ireland) 1969 (c. 16).	In Schedule 2, the entry relating to the House to House Charitable Collections Act (Northern Ireland) 1952.
The Judicature (Northern Ireland) Act 1978 (c. 23).	In Schedule 5, Part 2, the entry relating to the Charities Act (Northern Ireland) 1964.
The County Courts (Northern Ireland) Order 1980 (NI 3).	In Schedule 1, Part 2, the entry relating to the Charities Act (Northern Ireland) 1964 (c. 33).
The Charities (Northern Ireland) Order 1987 (NI 19).	The whole Order.
The Companies (No. 2) (Northern Ireland) Order 1990 (NI 10).	Article 47.
The Street Trading Act (Northern Ireland) 2001 (c. 8).	The Pensions (Northern Ireland) Order 2005 (NI 1).

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Short Title	Extent of repeal
In section 2(1), paragraph (d)(ii) and the word “or” immediately preceding it.	In Schedule 3, in the entry relating to the Department, the words “the Charities Act (Northern Ireland) 1964”.