2013 CHAPTER 3

Amendments of 2008 Act

The public benefit requirement

1.—(1) For section 3 of the 2008 Act (the "public benefit" test) there shall be substituted the following section—

"**3 The public benefit requirement**

(1) In this Act "the public benefit requirement" means the requirement in section 2(1)(b) that a purpose falling within section 2(2) must be for the public benefit if it is to be a charitable purpose.

(2) In determining whether the public benefit requirement is satisfied in relation to any purpose falling within section 2(2), it is not to be presumed that a purpose of a particular description is for the public benefit.

(3) In this Act any reference to the public benefit is a reference to the public benefit as that term is understood for the purposes of the law relating to charities in Northern Ireland.

(4) Subsection (3) is subject to subsection (2).".

(2) This section shall be deemed always to have had effect.

Gifts for mixed purposes

2 After section 29 of the 2008 Act (cy-pr?s schemes) there shall be inserted the following section—

"**29A Gifts for mixed purposes**

(1) This section applies where property is given for purposes so described that, consistently with the terms of the gift, the property could all be used for charitable purposes but could equally well be used wholly or partly for purposes which are not charitable.

(2) If, but for this section, the gift would be invalid, the gift shall have effect as a gift for such charitable purposes as may be determined by a scheme made by the Court or the Commission.

(3) Where the terms of a gift and the surrounding circumstances appear to the Court or the Commission to show a predominant intention on the part of the donor to further a particular charitable purpose, the Court or the Commission shall, in making a scheme under subsection (2), have regard, so far as practicable, to that intention.

(4) Where—

(a) property is disposed of by way of successive gifts so that a gift is dependent upon a prior gift; and

(b) the prior gift has been made the subject of a scheme under this section,

any gift dependent upon the prior gift shall have the like effect as it would have had if the prior gift had at all times been for the purposes determined by that scheme.".

Debt relief orders, debt relief restrictions orders and bankruptcy restrictions orders

3.—(1) The 2008 Act shall be amended as follows.

(2) In section 33 (power to act for protection of charities), in subsection (4)(a) at the end of sub-paragraph (ii) there shall be added "or

"(iii) having previously been the subject of a debt relief order, has been discharged from all the qualifying debts under the debt relief order;".

(3) In section 86 (persons disqualified for being trustees of a charity)—

(a) in subsection (1)—

(i) in paragraph (b), after the word "discharged" there shall be inserted the words " or D is the subject of a bankruptcy restrictions order ";

(ii) after paragraph (g) there shall be added the following paragraph—

"(h) D is subject to—

(i) a moratorium period under a debt relief order; or

(ii) a debt relief restrictions order.";

(b) in subsection (2)—

(i) in paragraph (b), for the words "or the sequestration" there shall be substituted the words " , the sequestration or the making of the bankruptcy restrictions order ";

(ii) in paragraph (d), for "(g) there shall be substituted " (h) ";

(c) in subsection (3), after "subsection (1)(b)" insert " or (h) ".

(4) In section 87 (person acting as charity trustee while disqualified), in subsection (2)(b) for "or (g)" there shall be substituted " ,(g) or (h) ".

Transfer to Commission of certain functions of Department

Educational endowments

4 The functions which immediately before the date on which this section comes into operation are exercisable by the Department under—

(a) the Educational Endowments (Ireland) Act 1885;

(b) the Educational Endowments (Confirmation of Schemes) Act (Northern Ireland) 1956; and

(c) the Education (Amendment) Act (Northern Ireland) 1956,

are hereby transferred as from that date to the Commission.

Commencement Information

I1 S. 4 in operation at 1.6.2015 for specified purposes by S.R. 2015/256, **art. 2**

Miscellaneous functions

5.—(1) The functions which immediately before the date on which this subsection comes into operation are exercisable by the Department under Article 90(7) of the Education and Libraries (Northern Ireland) Order 1986 (power to authorise sale of teacher's residence if provided etc. by a statutory loan prior to 1st February 1922 and now no longer required for occupation by a teacher in connection with any school) are hereby transferred as from that date to the Commission.

(2) The functions which immediately before the date on which this subsection comes into operation are exercisable by the Department under section 42(4)(b) of the Companies Act 2006 (prior written consent required in the case of a company which is a charity for affirmation of transaction to which section 41 of that Act applies) are hereby transferred as from that date to the Commission.

Commencement Information

I2 S. 5 partly in operation; s. 5(2) in operation at 19.1.2013 see s. 10(1)

Supplementary provisions

6.—(1) In the construction and for the purposes of any statutory provision or instrument passed, made or issued before the transfer date, any reference to, or which is to be construed as a reference to, the Department must, so far as may be necessary for the purpose of the transfer, be construed as a reference to the Commission.

(2) The transfer does not affect the validity of any instrument made or issued or any other act done by, or in relation to, the Department before the transfer date; and any such instrument or act, if in force immediately before that date, continues in force to the same extent and subject to the same provisions as if it had been duly made, issued or done by, or in relation to, the Commission.

(3) Anything (including any legal proceedings) in the process of being done by or in relation to the Department immediately before the transfer date may, so far as it relates to any function transferred by this section, be continued by or in relation to the Commission.

(4) All property, rights and liabilities to which the Department is entitled or subject immediately before the transfer date in connection with the functions transferred by section 4 or subsection (1) or (2) of section 5 are on that date transferred to, and by virtue of this subsection vest in, the Commission.

(5) In this section—

"instrument" includes any judgment, decree, order, award, deed, contract, regulation, byelaw, certificate or other document;

"the transfer" means the transfer of functions by section 4 or subsection (1) or (2) of section 5;

"the transfer date" means the date on which section 4 or, as the case may be, subsection (1) or (2) of section 5 comes into operation.

Miscellaneous

Interpretation

7 In this Act—

"the 2008 Act" means the Charities Act (Northern Ireland) 2008;

"the Commission" means the Charity Commission for Northern Ireland;

"the Department" means the Department for Social Development;

"statutory provision" has the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954.

Minor and consequential amendments and repeals

8.—(1) The statutory provisions set out in Schedule 1 shall have effect subject to the minor and consequential amendments specified in that Schedule.

(2) The statutory provisions set out in Schedule 2 are hereby repealed to the extent specified in the second column of that Schedule.

Power to make supplementary and transitional provision etc.

9.—(1) The Department may by order make such supplementary, incidental or consequential provision as it thinks appropriate—

(a) for the purposes of this Act;

(b) in consequence of any provision made by or under this Act, or for giving full effect to it.

(2) The Department may by order make such transitional or transitory provisions and savings as it considers appropriate in connection with—

(a) the coming into operation of any provision of this Act; or

(b) any provision made by an order under subsection (1).

(3) An order under this section may amend, modify or repeal any statutory provision.

(4) An order which does so must not be made unless a draft of the order has been laid before and approved by a resolution of the Assembly.

(5) Any other order under this section is subject to negative resolution.

Commencement

10.—(1) This Act, except sections 4 and 5(1), comes into operation on the day after Royal Assent.

(2) Sections 4 and 5(1) come into operation on such day or days as the Department may by order appoint.

Short title

11 This Act may be cited as the Charities Act (Northern Ireland) 2013.

Changes to legislation:
There are currently no known outstanding effects for the Charities Act (Northern Ireland) 2013.