

SCHEDULES

SCHEDULE 3

Section 47.

MINOR AND CONSEQUENTIAL AMENDMENTS OF CHARITIES ACT 1960

- 1 In section 1(2) (constitution etc. of Commissioners), for “servants” substitute “employees”.
- 2 In section 8 (receipt and audit of accounts of charities)—
- (a) omit subsections (1) and (2);
 - (b) in subsection (3), for “that the condition and accounts of a charity” substitute “, in the case of a charity which is a company, that the condition and accounts of the charity”;
 - (c) in subsection (4)(b), for “servant” substitute “employee”;
 - (d) in subsection (6), omit paragraph (a); and
 - (e) omit subsection (7).
- 3 For section 9 substitute—

“9 Supply by Commissioners of copies of documents open to public inspection

The Commissioners shall, at the request of any person, furnish him with copies of, or extracts from, any document in their possession which is for the time being open to inspection under this Act.”

- 4 In section 16 (entrusting charity property to official custodian)—
- (a) for subsection (1) substitute—
 - “(1) The court may by order—
 - (a) vest in the official custodian for charities any land or interest in land held by or in trust for a charity;
 - (b) authorise or require the persons in whom any such land or interest is vested to transfer it to him; or
 - (c) appoint any person to transfer any such land or interest to him;and for this purpose “interest in land” means any interest in land other than such an interest by way of mortgage or other security.”; and
 - (b) omit subsection (2).
- 5 In section 17 (supplementary provisions as to property vested in official custodian)—
- (a) in subsection (2)—
 - (i) at the beginning insert “Subject to subsection (2A) below,”; and
 - (ii) for the words from “require him” onwards substitute “execute or do in their own name and on their own behalf if the land or interest were vested in them.”;

Status: This is the original version (as it was originally enacted).

- (b) after that subsection insert—
 - “(2A) If any land or interest in land is so vested in the official custodian for charities by virtue of an order under section 20 of this Act, the power conferred on the charity trustees by subsection (2) above shall not be exercisable by them in relation to any transaction affecting the land or interest, unless the transaction is authorised by order of the court or of the Commissioners.”; and
 - (c) in each of subsections (4) and (5), after “(2)” insert “, (2A)”.
- 6 In section 18(1)(b) (concurrent jurisdiction with High Court for certain purposes), for “servant” substitute “employee”.
- 7 In section 19(6) (further powers to make schemes or alter application of charitable property)—
 - (a) omit “or the like reference from the Secretary of State”; and
 - (b) for “or reference made with a view to a scheme,” substitute “for a scheme, or in a case where they act by virtue of subsection (6) or (6A) of that section.”.
- 8 In section 21 (publicity for proceedings under sections 18 and 20 of the Act)—
 - (a) in subsection (2), after “shall not apply” insert “in the case of an order under section 20(1)(ii), or”; and
 - (b) in subsection (3), for “servant” substitute “employee”.
- 9 In section 22 (common investment schemes)—
 - (a) omit subsection (6); and
 - (b) in subsection (9), omit the words from “, and the” to “endowment” (where last occurring).
- 10 In section 28 (authorisation by Commissioners of charity proceedings)—
 - (a) at the end of subsection (3) add “(other than those conferred by section 26A of this Act).”; and
 - (b) at the end of subsection (6) add “, or to the taking of proceedings by the Commissioners in accordance with section 26A of this Act.”
- 11 In section 30C(1) (charitable companies: status to appear on correspondence, etc.)—
 - (a) in paragraph (c), omit “by or”; and
 - (b) in paragraph (e), for “its bills of parcels,” substitute “bills rendered by it and in all its”.
- 12 Omit section 31 (protection of expression “common good”).
- 13 In section 32 (general obligation to keep accounts)—
 - (a) in subsection (2)—
 - (i) for “seven” substitute “six”, and
 - (ii) for “permit them to be” substitute “consent in writing to their being”; and
 - (b) for subsection (3) substitute—
 - “(3) This section applies only to exempt charities.”

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14 In section 34(2) (manner of executing documents), in paragraph (c), for “and to the persons” onwards substitute “the charity trustees from time to time of the charity and exercisable by such trustees.”

15 After section 40 insert—

“40A Service of orders and directions under this Act

(1) This section applies to any order or direction made or given by the Commissioners under this Act.

(2) An order or direction to which this section applies may be served on a person (other than a body corporate)—

- (a) by delivering it to that person;
- (b) by leaving it at his last known address in the United Kingdom; or
- (c) by sending it by post to him at that address.

(3) An order or direction to which this section applies may be served on a body corporate by delivering it or sending it by post—

- (a) to the registered or principal office of the body in the United Kingdom, or
- (b) if it has no such office in the United Kingdom, to any place in the United Kingdom where it carries on business or conducts its activities (as the case may be).

(4) Any such order or direction may also be served on a person (including a body corporate) by sending it by post to that person at an address notified by that person to the Commissioners for the purposes of this subsection.

(5) In this section any reference to the Commissioners includes, in relation to a direction given under section 6(3) of this Act, a reference to any person conducting an inquiry under that section.”

16 In section 41 (enforcement of orders of Commissioners etc.), for paragraph (a) substitute—

“(a) to an order of the Commissioners under section 7(1) of this Act; or”.

17 In section 43 (regulations), after subsection (2) insert—

“(2A) Any regulations under this Act may make—

- (a) different provision for different cases;
- (b) such supplemental, incidental, consequential or transitional provision or savings as the person or persons making them considers or consider appropriate.”

18 In section 45 (construction of references to a charity etc.)—

- (a) in subsection (3)—
 - (i) omit “Subject to subsection (9) of section twenty-two of this Act,”,
and
 - (ii) for “so expended” substitute “expended for the purposes of the charity”; and
- (b) in subsection (4), for the words from “not having” to “without” substitute “whose income from all sources does not in aggregate amount to more than a specified amount shall be construed—

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- (i) by reference to the gross revenues of the charity, or
- (ii) if the Commissioners so determine, by reference to the amount which they estimate to be the likely amount of those revenues,

but without (in either case)”.

- 19 In section 46 (other definitions)—
- (a) in the definition of “permanent endowment” omit “, subject to subsection (9) of section twenty-two of this Act,”; and
 - (b) at the end add—

“(2) In this Act, except in so far as the context otherwise requires, “document” includes information recorded in any form, and, in relation to information recorded otherwise than in legible form—

- (a) any reference to its production shall be construed as a reference to the furnishing of a copy of it in legible form, and
- (b) any reference to the furnishing of a copy of, or extract from, it shall accordingly be construed as a reference to the furnishing of a copy of, or extract from, it in legible form.”;

and the existing provisions of section 46 (as amended by sub-paragraph (a) above) shall accordingly constitute subsection (1) of that section.

- 20 In each of sub-paragraphs (1) and (2) of paragraph 2 of Schedule 1 (appointment of assistant commissioners etc.), for “servants” substitute “employees”.

- 21 (1) Paragraph 3 of Schedule 1 (procedure of Commissioners) shall be amended as follows.

(2) In sub-paragraph (4), for “two shall be the quorum; and” substitute “then—

- (a) if not more than four commissioners hold office for the time being, the quorum shall be two commissioners (of whom at least one must be a person having a qualification such as is mentioned in paragraph 1(2) above); and
- (b) if five commissioners so hold office, the quorum shall be three commissioners (of whom at least one must be a person having such a qualification);

and”.

(3) At the end of the paragraph add—

“(6) It is hereby declared that the power of a commissioner or assistant commissioner to act for and in the name of the Commissioners in accordance with sub-paragraph (3) above may, in particular, be exercised in relation to functions of the Commissioners under sections 6, 20, 20A and 30 of this Act.”

- 22 In Schedule 2 (exempt charities), after paragraph (d) insert—

- “(da) the National Gallery Trustees;
- “(db) the Tate Gallery Trustees;
- “(dc) the National Portrait Gallery;

(dd) the Wallace Collection Trustees;”.