

# CHARITIES ACT 2006

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## EXPLANATORY NOTES

### THE ACT

#### *Commentary on Sections*

#### *Section 22 - Relaxation of publicity requirements relating to schemes etc.*

86. This section substitutes for section 20 of the 1993 Act, which sets out the procedures to be followed by the Charity Commissioners for giving publicity to schemes and certain orders, a new section 20 and a new section 20A. The purpose of the changes is to speed up the formal procedure for the making of schemes and orders by the Charity Commission and to reduce the cost to charities, by making advertising of the changes a matter of Commission discretion.
87. *Subsections (1) and (2)* of new section 20 state that the Commission may not establish a scheme for a charity without:
- giving public notice; and
  - if it is a local charity, informing the parish council or chairman of the parish meeting.
88. *Subsection (3)* makes the timing of such notices a discretionary matter for the Commission. Under the current law, public notice must have been given for at least a month before the date of making the scheme.
89. *Subsection (4)* allows the Commission to disapply either or both of the publicity requirements in subsection (2) if it is satisfied that either or both is unnecessary. *Subsection (5)* says that the Commission must take into account any representations made to it but may proceed with the proposals without further notice at its own discretion without necessarily modifying them. After an order is made it must be displayed publicly for at least a month in the Commission's office and, if it is a local charity, at a convenient place in the charity's area. The latter requirement may be disregarded should the Commission deem it unnecessary. *Subsection (7)* gives the Commission discretion as to what information is included in the public notices and how it is presented.
90. Section 20A contains similar provision to section 20 in relation to orders of the Commission to remove trustees, officers, agents or employees of charities from their position as such within a charity. The Commission can determine the length of public notice given (*subsection (3)*), whether or not such a notice is necessary (*subsection (4)*) and the form and content of the notice (*subsection (7)*). *Subsection (5)* requires the Commission to notify the person being removed from his position not less than one month before the order is made, inviting representations from him within a stated time. This does not apply if the person cannot be found or has no known address in the United Kingdom. *Subsection (8)* allows the notice to be given by post to the recipient's last known address in the UK.