

CHARITIES ACT 2006

EXPLANATORY NOTES

THE ACT

Commentary on Sections

Section 4: Guidance as to operation of public benefit requirement

28. The Act gives the Charity Commission a set of new objectives (see section 7), one of which is to promote understanding and awareness of the operation of the public benefit requirement. Section 4 requires the Commission to issue guidance in pursuance of that objective (*subsection (1)*) and allows the Commission to revise its guidance from time to time (*subsection (3)*). Revision of the guidance will be needed if there are changes in society which bring about developments in the legal concept of public benefit.
29. *Subsection (4)* requires the Commission to carry out consultations before issuing its guidance under this section. It must also carry out consultations before revising guidance that it has already issued, unless it thinks that consultations are not needed (because, for example, the revisions are so slight as not to justify the time and expense of consultations).
30. *Subsection (5)* requires the Commission to publish its guidance under this section, but allows it to choose the most appropriate manner of publication – for example, as a printed document; as a document on a website; etc.
31. Although the Commission will be legally required by subsection (1) of this section to issue guidance, the guidance will not be legally binding on charity trustees. *Subsection (6)* will not put charity trustees under a legal obligation to agree with or to follow the guidance but it will require them to take the guidance into consideration when doing anything, in the administration of their charity, to which the guidance is relevant.