

SCHEDULES

SCHEDULE 10

Section 75

TRANSITIONAL PROVISIONS AND SAVINGS

Section 4: guidance as to operation of public benefit requirement

- 1 Any consultation initiated by the Charity Commissioners for England and Wales before the day on which section 4 of this Act comes into force is to be as effective for the purposes of section 4(4)(a) as if it had been initiated by the Commission on or after that day.

Section 5: recreational charities etc.

- 2 Where section 2 of the Recreational Charities Act 1958 (c. 17) applies to any trusts immediately before the day on which subsection (3) of section 5 of this Act comes into force, that subsection does not prevent the trusts from continuing to be charitable if they constitute a charity in accordance with section 1(1) of this Act.

Section 18: cy-près schemes

- 3 The amendment made by section 18 applies to property given for charitable purposes whether before or on or after the day on which that section comes into force.

Section 19: suspension or removal of trustee etc. from membership of charity

- 4 The amendment made by section 19 applies where the misconduct or other relevant conduct on the part of the person suspended or removed from his office or employment took place on or after the day on which section 19 comes into force.

Section 20: specific directions for protection of charity

- 5 The amendment made by section 20 applies whether the inquiry under section 8 of the 1993 Act was instituted before or on or after the day on which section 20 comes into force.

Section 26: offence of obstructing power of entry

- 6 In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003 (c. 44) (alteration of penalties for summary offences), the reference to 51 weeks in section 31A(11) of the 1993 Act (as inserted by section 26 of this Act) is to be read as a reference to 3 months.

Section 28: audit or examination of accounts of charity which is not a company

- 7 The amendments made by section 28 apply in relation to any financial year of a charity which begins on or after the day on which that section comes into force.

Status: This is the original version (as it was originally enacted).

Section 29: auditor etc. of charity which is not a company to report matters to Commission

- 8 (1) The amendments made by section 29 apply in relation to matters (“pre-commencement matters”) of which a person became aware at any time falling—
- (a) before the day on which that section comes into force, and
 - (b) during a financial year ending on or after that day,
- as well as in relation to matters of which he becomes aware on or after that day.
- (2) Any duty imposed by or by virtue of the new section 44A(2) or 46(2A) of the 1993 Act inserted by section 29 must be complied with in relation to any such pre-commencement matters as soon as practicable after section 29 comes into force.

Section 32: audit or examination of accounts of charitable companies

- 9 The amendments made by section 32 apply in relation to any financial year of a charity which begins on or after the day on which that section comes into force.

Section 33: auditor etc. of charitable company to report matters to Commission

- 10 (1) The amendment made by section 33 applies in relation to matters (“pre-commencement matters”) of which a person became aware at any time falling—
- (a) before the day on which that section comes into force, and
 - (b) during a financial year ending on or after that day,
- as well as in relation to matters of which he becomes aware on or after that day.
- (2) Any duty imposed by virtue of the new section 68A(1) of the 1993 Act inserted by section 33 must be complied with in relation to any such pre-commencement matters as soon as practicable after section 33 comes into force.

Section 35: waiver of trustee’s disqualification

- 11 The amendment made by section 35 applies whether the disqualification took effect before, on or after the day on which that section comes into force.

Section 36: remuneration of trustees etc. providing services to charity

- 12 The amendment made by section 36 does not affect the payment of remuneration or provision of services in accordance with an agreement made before the day on which that section comes into force.

Section 38: relief from liability for breach of trust or duty

- 13 Sections 73D and 73E of the 1993 Act (as inserted by section 38 of this Act) have effect in relation to acts or omissions occurring before the day on which section 38 comes into force as well as in relation to those occurring on or after that day.

Section 44: registration of charity mergers

- 14 Section 75C of the 1993 Act (as inserted by section 44 of this Act) applies to relevant charity mergers taking place before the day on which section 44 comes into force as well as to ones taking place on or after that day.

Section 67: statements relating to fund-raising

- 15 The amendments made by section 67 apply in relation to any solicitation or representation to which section 60(1), (2) or (3) of the 1992 Act applies and which is made on or after the day on which section 67 comes into force.

Section 72: Disclosure of information to and by Northern Ireland regulator

- 16 In relation to an offence committed in England and Wales before the commencement of section 154(1) of the Criminal Justice Act 2003 (c. 44) (general limit on magistrates' court's power to impose imprisonment), the reference to 12 months in section 72(6) is to be read as a reference to 6 months.

Schedule 6: group accounts

- 17 Paragraph 3(2) of the new Schedule 5A inserted in the 1993 Act by Schedule 6 to this Act does not apply in relation to any financial year of a parent charity beginning before the day on which paragraph 3(2) comes into force.

Schedule 8: minor and consequential amendments

- 18 The following provisions, namely—
(a) paragraphs 80(6) and (8), 83(3) and (4), 99(3), (4)(a) and (5)(a) and (c), 109(12), 111(7) and 171 of Schedule 8, and
(b) the corresponding entries in Schedule 9,
do not affect the operation of the Coal Industry Act 1987 (c. 3), the Reverter of Sites Act 1987 (c. 15) or the 1993 Act in relation to any appeal brought in the High Court before the day on which those provisions come into force.
- 19 Paragraph 98(2) of Schedule 8 does not affect the validity of any designation made by the Charity Commissioners for England and Wales under section 2(2) of the 1993 Act which is in effect immediately before that paragraph comes into force.
- 20 In relation to an offence committed in England and Wales before the commencement of section 154(1) of the Criminal Justice Act 2003 (c. 44) (general limit on magistrates' court's power to impose imprisonment), the reference to 12 months in section 10A(4) of the 1993 Act (as inserted by paragraph 104 of Schedule 8 to this Act) is to be read as a reference to 6 months.

Schedule 9: savings on repeal of provisions of Charities Act 1960

- 21 (1) This paragraph applies where, immediately before the coming into force of the repeal by this Act of section 35(6) of the Charities Act 1960 (c. 58) (transfer and evidence of title to property vested in trustees), any relevant provision had effect, in accordance with that provision, as if contained in a conveyance or other document declaring the trusts on which land was held at the commencement of that Act.
- (2) In such a case the relevant provision continues to have effect as if so contained despite the repeal of section 35(6) of that Act.
- (3) A “relevant provision” means a provision of any of the following Acts providing for the appointment of trustees—
(a) the Trustee Appointment Act 1850 (c. 28),
(b) the Trustee Appointment Act 1869 (c. 26),

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

- (c) the Trustees Appointment Act 1890 (c. 19), or
 - (d) the School Sites Act 1852 (c. 49) so far as applying any of the above Acts, as in force at the commencement of the Charities Act 1960.
- 22 The repeal by this Act of section 39(2) of the Charities Act 1960 (repeal of obsolete enactments) does not affect the continued operation of any trusts which, at the commencement of that Act, were wholly or partly comprised in an enactment specified in Schedule 5 to that Act (enactments repealed as obsolete).
- 23 The repeal by this Act of section 48(1) of, and Schedule 6 to, the Charities Act 1960 (consequential amendments etc.) does not affect the amendments made by Schedule 6 in—
 - (a) section 9 of the Places of Worship Registration Act 1855 (c. 81),
 - (b) section 4(1) of the Open Spaces Act 1906 (c. 25),
 - (c) section 24(4) of the Landlord and Tenant Act 1927 (c. 36), or
 - (d) section 14(1) or 31 of the New Parishes Measure 1943.
- 24 Despite the repeal by this Act of section 48(3) of the Charities Act 1960, section 30(3) to (5) of the 1993 Act continue to apply to documents enrolled by or deposited with the Charity Commissioners under the Charitable Trusts Acts 1853 to 1939.
- 25 Despite the repeal by this Act of section 48(4) of the Charities Act 1960—
 - (a) any scheme, order, certificate or other document issued under or for the purposes of the Charitable Trusts Acts 1853 to 1939 and having effect in accordance with section 48(4) immediately before the commencement of that repeal continues to have the same effect (and to be enforceable or liable to be discharged in the same way) as would have been the case if that repeal had not come into force, and
 - (b) any such document, and any document under the seal of the official trustees of charitable funds, may be proved as if the 1960 Act had not been passed.
- 26 (1) Despite the repeal by this Act of section 48(6) of the Charities Act 1960 (c. 58), the official custodian for charities is to continue to be treated as the successor for all purposes both of the official trustee of charity lands and of the official trustees of charitable funds as if—
 - (a) the functions of the official trustee or trustees had been functions of the official custodian, and
 - (b) as if the official trustee or trustees had been, and had discharged his or their functions as, holder of the office of the official custodian.
- (2) Despite the repeal of section 48(6) (and without affecting the generality of subparagraph (1))—
 - (a) any property which immediately before the commencement of that repeal was, by virtue of section 48(6), held by the official custodian as if vested in him under section 21 of the 1993 Act continues to be so held, and
 - (b) any enactment or document referring to the official trustee or trustees mentioned above continues to have effect, so far as the context permits, as if the official custodian had been mentioned instead.
- 27 The repeal by this Act of the Charities Act 1960 does not affect any transitional provision or saving contained in that Act which is capable of having continuing effect but whose effect is not preserved by any other provision of this Schedule.

Schedule 9: savings on repeal of provisions of Charities Act 1992

- 28 The repeal by this Act of section 49 of, and Schedule 5 to, the 1992 Act (amendments relating to redundant churches etc.) does not affect the amendments made by that Schedule in the Redundant Churches and Other Religious Buildings Act 1969.

Schedule 9: repeal of certain repeals made by Charities Acts 1960 and 1992

- 29 (1) It is hereby declared that (in accordance with sections 15 and 16 of the Interpretation Act 1978 (c. 30)) the repeal by this Act of any of the provisions mentioned in subparagraph (2) does not revive so much of any enactment or document as ceased to have effect by virtue of that provision.
- (2) The provisions are—
- (a) section 28(9) of the Charities Act 1960 (repeal of provisions regulating taking of charity proceedings),
 - (b) section 36 of the 1992 Act (repeal of provisions requiring Charity Commissioners' consent to dealings with charity land), and
 - (c) section 50 of that Act (repeal of provisions requiring amount of contributions towards maintenance etc. of almshouses to be sanctioned by Charity Commissioners).