

## SCHEDULES

### SCHEDULE 8

#### MINOR AND CONSEQUENTIAL AMENDMENTS

#### *Charities Act 1993 (c. 10)*

104 For section 10 substitute—

#### **“10 Disclosure of information to Commission**

- (1) Any relevant public authority may disclose information to the Commission if the disclosure is made for the purpose of enabling or assisting the Commission to discharge any of its functions.
- (2) But Revenue and Customs information may be disclosed under subsection (1) only if it relates to an institution, undertaking or body falling within one (or more) of the following paragraphs—
  - (a) a charity;
  - (b) an institution which is established for charitable, benevolent or philanthropic purposes;
  - (c) an institution by or in respect of which a claim for exemption has at any time been made under section 505(1) of the Income and Corporation Taxes Act 1988;
  - (d) a subsidiary undertaking of a charity;
  - (e) a body entered in the Scottish Charity Register which is managed or controlled wholly or mainly in or from England or Wales.
- (3) In subsection (2)(d) above “subsidiary undertaking of a charity” means an undertaking (as defined by section 259(1) of the Companies Act 1985) in relation to which—
  - (a) a charity is (or is to be treated as) a parent undertaking in accordance with the provisions of section 258 of, and Schedule 10A to, the Companies Act 1985, or
  - (b) two or more charities would, if they were a single charity, be (or be treated as) a parent undertaking in accordance with those provisions.
- (4) For the purposes of the references to a parent undertaking—
  - (a) in subsection (3) above, and
  - (b) in section 258 of, and Schedule 10A to, the Companies Act 1985 as they apply for the purposes of that subsection,  
“undertaking” includes a charity which is not an undertaking as defined by section 259(1) of that Act.

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*Status: This is the original version (as it was originally enacted).*

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### **10A Disclosure of information by Commission**

- (1) Subject to subsections (2) and (3) below, the Commission may disclose to any relevant public authority any information received by the Commission in connection with any of the Commission's functions—
  - (a) if the disclosure is made for the purpose of enabling or assisting the relevant public authority to discharge any of its functions, or
  - (b) if the information so disclosed is otherwise relevant to the discharge of any of the functions of the relevant public authority.
- (2) In the case of information disclosed to the Commission under section 10(1) above, the Commission's power to disclose the information under subsection (1) above is exercisable subject to any express restriction subject to which the information was disclosed to the Commission.
- (3) Subsection (2) above does not apply in relation to Revenue and Customs information disclosed to the Commission under section 10(1) above; but any such information may not be further disclosed (whether under subsection (1) above or otherwise) except with the consent of the Commissioners for Her Majesty's Revenue and Customs.
- (4) Any responsible person who discloses information in contravention of subsection (3) above is guilty of an offence and liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum, or both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or both.
- (5) It is a defence for a responsible person charged with an offence under subsection (4) above of disclosing information to prove that he reasonably believed—
  - (a) that the disclosure was lawful, or
  - (b) that the information had already and lawfully been made available to the public.
- (6) In the application of this section to Scotland or Northern Ireland, the reference to 12 months in subsection (4) is to be read as a reference to 6 months.
- (7) In this section "responsible person" means a person who is or was—
  - (a) a member of the Commission,
  - (b) a member of the staff of the Commission,
  - (c) a person acting on behalf of the Commission or a member of the staff of the Commission, or
  - (d) a member of a committee established by the Commission.

### **10B Disclosure to and by principal regulators of exempt charities**

- (1) Sections 10 and 10A above apply with the modifications in subsections (2) to (4) below in relation to the disclosure of information to or by the principal regulator of an exempt charity.

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

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- (2) References in those sections to the Commission or to any of its functions are to be read as references to the principal regulator of an exempt charity or to any of the functions of that body or person as principal regulator in relation to the charity.
- (3) Section 10 above has effect as if for subsections (2) and (3) there were substituted—
- “(2) But Revenue and Customs information may be disclosed under subsection (1) only if it relates to—
- (a) the exempt charity in relation to which the principal regulator has functions as such, or
  - (b) a subsidiary undertaking of the exempt charity.
- (3) In subsection (2)(b) above “subsidiary undertaking of the exempt charity” means an undertaking (as defined by section 259(1) of the Companies Act 1985) in relation to which—
- (a) the exempt charity is (or is to be treated as) a parent undertaking in accordance with the provisions of section 258 of, and Schedule 10A to, the Companies Act 1985, or
  - (b) the exempt charity and one or more other charities would, if they were a single charity, be (or be treated as) a parent undertaking in accordance with those provisions.”
- (4) Section 10A above has effect as if for the definition of “responsible person” in subsection (7) there were substituted a definition specified by regulations under section 13(4)(b) of the Charities Act 2006 (regulations prescribing principal regulators).
- (5) Regulations under section 13(4)(b) of that Act may also make such amendments or other modifications of any enactment as the Secretary of State considers appropriate for securing that any disclosure provisions that would otherwise apply in relation to the principal regulator of an exempt charity do not apply in relation to that body or person in its or his capacity as principal regulator.
- (6) In subsection (5) above “disclosure provisions” means provisions having effect for authorising, or otherwise in connection with, the disclosure of information by or to the principal regulator concerned.

### **10C Disclosure of information: supplementary**

- (1) In sections 10 and 10A above “relevant public authority” means—
- (a) any government department (including a Northern Ireland department),
  - (b) any local authority,
  - (c) any constable, and
  - (d) any other body or person discharging functions of a public nature (including a body or person discharging regulatory functions in relation to any description of activities).

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- (2) In section 10A above “relevant public authority” also includes any body or person within subsection (1)(d) above in a country or territory outside the United Kingdom.
- (3) In sections 10 to 10B above and this section—
  - “enactment” has the same meaning as in the Charities Act 2006;
  - “Revenue and Customs information” means information held as mentioned in section 18(1) of the Commissioners for Revenue and Customs Act 2005.
- (4) Nothing in sections 10 and 10A above (or in those sections as applied by section 10B(1) to (4) above) authorises the making of a disclosure which—
  - (a) contravenes the Data Protection Act 1998, or
  - (b) is prohibited by Part 1 of the Regulation of Investigatory Powers Act 2000.”