



# Charities Act 2011

## 2011 CHAPTER 25

### PART 17

#### THE TRIBUNAL

### CHAPTER 3

#### REFERENCES TO TRIBUNAL

#### **325 References by Commission**

- (1) A question which—
  - (a) has arisen in connection with the exercise by the Commission of any of its functions, and
  - (b) involves either the operation of charity law in any respect or its application to a particular state of affairs,may be referred to the Tribunal by the Commission if the Commission considers it desirable to refer the question to the Tribunal.
- (2) The Commission may make such a reference only with the consent of the Attorney General.
- (3) The Commission is to be a party to proceedings before the Tribunal on the reference.
- (4) The following are entitled to be parties to proceedings before the Tribunal on the reference—
  - (a) the Attorney General, and
  - (b) with the Tribunal's permission—
    - (i) the charity trustees of any charity which is likely to be affected by the Tribunal's decision on the reference,
    - (ii) any such charity which is a body corporate, and
    - (iii) any other person who is likely to be so affected.

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### **326 References by Attorney General**

- (1) A question which involves—
  - (a) the operation of charity law in any respect, or
  - (b) the application of charity law to a particular state of affairs,
 may be referred to the Tribunal by the Attorney General if the Attorney General considers it desirable to refer the question to the Tribunal.
- (2) The Attorney General is to be a party to proceedings before the Tribunal on the reference.
- (3) The following are entitled to be parties to proceedings before the Tribunal on the reference—
  - (a) the Commission, and
  - (b) with the Tribunal's permission—
    - (i) the charity trustees of any charity which is likely to be affected by the Tribunal's decision on the reference,
    - (ii) any such charity which is a body corporate, and
    - (iii) any other person who is likely to be so affected.

### **327 Powers of Commission in relation to matters referred to Tribunal**

- (1) This section applies where a question which involves the application of charity law to a particular state of affairs has been referred to the Tribunal under section 325 or 326.
- (2) The Commission must not take any steps in reliance on any view as to the application of charity law to that state of affairs until—
  - (a) proceedings on the reference (including any proceedings on appeal) have been concluded, and
  - (b) any period during which an appeal (or further appeal) may ordinarily be made has ended.
- (3) Where—
  - (a) paragraphs (a) and (b) of subsection (2) are satisfied, and
  - (b) the question has been decided in proceedings on the reference,
 the Commission must give effect to that decision when dealing with the particular state of affairs to which the reference related.

### **328 Suspension of time limits while reference is in progress**

- (1) Subsection (2) applies if—
  - (a) section 327(2) prevents the Commission from taking any steps which it would otherwise be permitted or required to take, and
  - (b) the steps in question may be taken only during a period specified in an enactment (“the specified period”).
- (2) The running of the specified period is suspended for the period which—
  - (a) begins with the date on which the question is referred to the Tribunal, and
  - (b) ends with the date on which paragraphs (a) and (b) of section 327(2) are satisfied.
- (3) Nothing in—

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- (a) this section, or
  - (b) section 271 or 278 (suspension of period during which Commission may object to resolution of unincorporated charity),
- prevents the specified period being suspended concurrently by virtue of subsection (2) and any of the provisions of sections 271 and 278.

### **329 Agreement for Commission to act while reference is in progress**

- (1) Section 327(2) does not apply in relation to any steps taken by the Commission with the agreement of—
  - (a) the persons who are parties to the proceedings on the reference at the time when those steps are taken, and
  - (b) (if not within paragraph (a)) the charity trustees of any charity which—
    - (i) is likely to be directly affected by the taking of those steps, and
    - (ii) is not a party to the proceedings at that time.
- (2) The Commission may take those steps despite the suspension in accordance with section 328(2) of any period during which it would otherwise be permitted or required to take them.
- (3) Section 327(3) does not require the Commission to give effect to a decision as to the application of charity law to a particular state of affairs to the extent that the decision is inconsistent with any steps already taken by the Commission in relation to that state of affairs in accordance with this section.

### **330 Appeals and applications in respect of matters determined on references**

- (1) No appeal or application may be made to the Tribunal by a person to whom subsection (2) applies in respect of an order or decision made, or direction given, by the Commission in accordance with section 327(3).
- (2) This subsection applies to a person who was at any stage a party to the proceedings in which the question referred to the Tribunal was decided.
- (3) Any enactment (including one contained in this Act) which provides for an appeal or application to be made to the Tribunal has effect subject to subsection (1).

### **331 Interpretation**

- (1) In this Chapter—

“charity law” means—

  - (a) any enactment contained in, or made under, this Act or the Charities Act 2006,
  - (b) any other enactment specified in regulations made by the [<sup>F1</sup>Secretary of State], and
  - (c) any rule of law which relates to charities, and

“enactment” includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978), and includes an enactment whenever passed or made.
- (2) The exclusions contained in section 10(2) (ecclesiastical corporations etc.) do not have effect for the purposes of this Chapter.

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**Annotations:**

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**Amendments (Textual)**

- F1** Words in s. 331(1)(b) substituted (9.11.2016) by [The Transfer of Functions \(Elections, Referendums, Third Sector and Information\) Order 2016 \(S.I. 2016/997\)](#), art. 1(2), **Sch. 2 para. 25(2)(kk)** (with art. 12)

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 178(3)(4) inserted by 2016 c. 4 s. 9(6)
- s. 178A inserted by 2016 c. 4 s. 9(7)
- s. 179(7) added by 2016 c. 4 s. 9(10)
- s. 181(2A) inserted by 2016 c. 4 s. 9(12)
- s. 182(1A) words in s. 182(1) renumbered as s. 182(1A) by 2016 c. 4 s. 11(3)
- s. 182(1A) words inserted by 2016 c. 4 s. 11(4)
- s. 184A inserted by 2016 c. 4 s. 12
- s. 348(4)(za) inserted by 2016 c. 4 s. 9(21)