

SCHEDULES

SCHEDULE 2

Section 40

MINOR AND CONSEQUENTIAL AMENDMENTS

PART 1

AMENDMENTS RELATING TO PART 1

- 1 The Charities Act 2011 is amended in accordance with paragraphs 2 to 11, 13 to 19 and 21 to 27.

Amendment relating to section 2 of this Act

- 2 In Schedule 6 (appeals and applications to Tribunal), for the entry relating to a decision of the Commission under section 227 to refuse to register an amendment to the constitution of a CIO substitute—

“Decision of the Commission to give, or withhold, consent under section 226 in relation to an amendment of the constitution of a CIO.	The persons are— (a) the CIO, (b) the charity trustees of the CIO, and (c) any other person who is or may be affected by the decision.	Power to quash the decision and (if appropriate) remit the matter to the Commission.”
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Amendments relating to section 3 of this Act

- 3 In section 285 (power to alter sums specified in Part 13), in subsection (2), omit—
(a) the entry relating to section 267(1);
(b) the entry relating to section 275(1).
- 4 In section 328 (suspension of time limits while reference is in progress), omit subsection (3).
- 5 In section 350 (connected person: child, spouse and civil partner)—
(a) in subsection (1), for “and 249(2)(a)” substitute “, 249(2)(a) and 280B(3)(a)”;
(b) in subsection (2), for “and 249(2)(b)” substitute “, 249(2)(b) and 280B(3)(b)”.
- 6 In section 351 (connected person: controlled institution), for “and 249(2)(d)” substitute “, 249(2)(d) and 280B(3)(d)”.
- 7 In section 352 (connected person: substantial interest in body corporate), in subsection (1), for “and 249(2)(e)” substitute “, 249(2)(e) and 280B(3)(e)”.
- 8 In Schedule 6 (appeals and applications to Tribunal)—

Status: This is the original version (as it was originally enacted).

- (a) omit the entry relating to a decision of the Commission to notify charity trustees under section 271(1);
- (b) omit the entry relating to a decision of the Commission to notify charity trustees under section 278(1);
- (c) after that entry insert—

<p>“Decision of the Commission to withhold consent under section 280A(7) in relation to an amendment of the trusts of an unincorporated charity.</p>	<p>The persons are— (a) the charity trustees of the charity, and (b) any other person who is or may be affected by the decision.</p>	<p>Power to quash the decision and (if appropriate) remit the matter to the Commission.”</p>
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- 9 In Schedule 9 (transitory modifications), in the table in paragraph 26(3), omit the entry relating to “section 69O”.
- 10 In Schedule 11 (index of defined expressions)—
 - (a) in the entry relating to “child”, for “and 249(2)(a)” substitute “, 249(2)(a) and 280B(3)(a)”;
 - (b) in the entry relating to “civil partner”, for “and 249(2)(b)” substitute “, 249(2)(b) and 280B(3)(b)”;
 - (c) in the entry relating to “control of institution”, for “and 249(2)(d)” substitute “, 249(2)(d) and 280B(3)(d)”;
 - (d) in the entry relating to “substantial interest in a body corporate”, for “and 249(2)(e)” substitute “, 249(2)(e) and 280B(3)(e)”;
 - (e) omit the entry relating to “transfer of property (in sections 268 to 274)”.

Amendments relating to section 5 of this Act

- 11 In section 349 (orders subject to affirmative procedure), in subsection (1), omit paragraph (b).
- 12 In section 5 of the Coal Industry Act 1987 (coal industry trusts), in subsection (8), for “73(1) to (6)” substitute “73(1), (2) and (5)”.

Amendments relating to section 6 of this Act

- 13 In section 66 (unknown and disclaiming donors: supplementary)—
 - (a) for the heading, substitute “Section 63A: supplementary”;
 - (b) in subsection (1), for “sections 63 and 65” substitute “section 63A”;
 - (c) after subsection (1) insert—
 - “(1A) Where property is applied cy-près by virtue of section 63A, all the donor’s interest in it is treated as having been relinquished when the gift was made.”;
 - (d) in subsection (2), for “sections 63 to 65” substitute “section 63A”;
 - (e) omit subsections (4) to (6).

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

- 14 In Schedule 8 (transitionals and savings), in paragraph 17 (application of sections 63, 64 and 67 to property given for charitable purposes), for “Sections 63, 64 and 67 apply” substitute “Section 67 applies”.
- 15 In Schedule 11 (index of defined expressions)—
- (a) in the entry relating to “charitable purposes, failure of”, in column 1, for “sections 63 and 65” substitute “section 63A”;
 - (b) in the entry relating to “donor”, in column 1, for “63 to 66” substitute “63A and 66”;
 - (c) omit the entry relating to “prescribed (in sections 63 and 65)”.

Amendments relating to sections 10 and 11 of this Act

- 16 (1) In section 281 (power of unincorporated charities to spend capital: general)—
- (a) in subsection (2), omit “given for particular purpose”;
 - (b) in the heading, omit “unincorporated”.
- (2) In the italic heading preceding that section, omit “unincorporated”.
- 17 (1) Section 284 (taking effect of resolution under section 282) is amended as follows.
- (2) In subsection (1), after “282(2)” insert “or (3A)”.
- (3) In subsection (1)(a)—
- (a) after “evidence” insert “made”;
 - (b) for “the donor or donors mentioned in section 282(1)(a)” substitute “any donor or donors to the available endowment fund”.
- (4) In subsection (1), for paragraph (b) substitute—
- “(b) any changes in circumstances relating to the available endowment fund since it was established (including, in particular, the financial position of the fund, the needs of those who can benefit from the fund, and the social, economic and legal environment).”
- (5) In subsection (2)(a), for “the gift or gifts mentioned in section 282(1)(a)” substitute “any gift or gifts to the available endowment fund”.
- (6) In subsection (5)(b), for “period of 3 months mentioned in subsection (3)” substitute “relevant period”.
- 18 (1) Section 285 (power to alter sums specified in certain provisions) is amended as follows.
- (2) In subsection (1), omit paragraph (b) and the “or” preceding it.
- (3) In subsection (2), in the words in brackets after “section 282(1)”—
- (a) for “income level” substitute “adjusted market value”;
 - (b) omit “given for particular purpose”.
- 19 For the heading of Part 13 substitute “Powers to amend trusts and use capital”.

Amendment relating to sections 10 and 12 of this Act

- 20 In section 24 of the Cathedrals Measure 2021 (No. 2) (investment powers, etc), after subsection (7) insert—

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

“(7A) The members of the Chapter of a cathedral may not pass a resolution under—

- (a) section 282 of the Charities Act 2011 (resolution to spend larger fund), or
- (b) section 284A of that Act (power to borrow from permanent endowment),

unless the Chapter has obtained the consent of the Church Commissioners.”

Amendments relating to section 12 of this Act

- 21 In the heading of section 285 (power to alter sums specified in Part 13), after “sums” insert “etc”.
- 22 In Schedule 11 (index of defined expressions), in the entry relating to available endowment fund, for “section 281(7)” substitute “sections 281(7) and 284A(9)”.

Amendment relating to section 13 of this Act

- 23 In section 292B (general power to make social investments), in subsection (2), after “question” insert “(but see section 104AA, which confers on charity trustees a power to use permanent endowment to make social investments in certain circumstances)”.

Amendments relating to section 14 of this Act

- 24 In Schedule 6 (appeals and applications to Tribunal), omit the entry relating to a decision of the Commission not to concur under section 291 with a resolution of charity trustees under section 289(2).
- 25 In Schedule 11 (index of defined expressions)—
- (a) in the entry relating to “available endowment fund”—
 - (i) for “Parts 13 and 14” substitute “Part 13”;
 - (ii) for “sections 282(5) and 288(7)” substitute “section 282(5)”;
 - (b) omit the entry relating to “the relevant charity, in relation to power to spend capital subject to special trust (in Part 14)”;
 - (c) in the entry relating to “special trust”, for “section 287” substitute “section 353(4)”.

Amendments relating to section 16 of this Act

- 26 In section 322(2) (reviewable decisions of the Commission), after paragraph (e) insert—
- “(ea) not to make an order under section 106 (power to authorise ex gratia payments etc) in relation to a charity;”.
- 27 In Schedule 6 (appeals and applications to Tribunal), after the entry relating to a decision by the Commission not to make an order under section 105 insert—

“Decision by the Commission not to make an order under section 106 in relation to a charity.	The persons are—	Power to quash the decision and (if appropriate) remit the matter to the Commission.”
	(a) the charity trustees of the charity, and	
	(b) (if a body corporate) the charity itself.	

PART 2

AMENDMENTS RELATING TO PART 2

Amendment relating to section 22 of this Act

- 28 In section 118 of the Charities Act 2011 (meaning of “connected person” in section 117(2)), in subsection (2), in the words before paragraph (a), for “The” substitute “Subject to subsection (2A), the”.

Amendment relating to section 23 of this Act

- 29 In paragraph 4(2)(b) of Schedule 1 to the Trusts of Land and Appointment of Trustees Act 1996 (land held on charitable trusts etc), for the words from “if neither” to “conveyance” substitute “if section 122(2) or 125(1) of that Act applies to the conveyance but has not been complied with”.

PART 3

AMENDMENTS RELATING TO PART 3

- 30 The Charities Act 2011 is amended in accordance with paragraphs 31 to 37.

Amendments relating to section 25 of this Act

- 31 For the italic heading preceding section 42, substitute “Names and working names”.
- 32 In section 45 (change of name where charity is a company), in subsection (2), after “with respect to” insert “the name of”.
- 33 In section 208(2) (refusal of application for constitution and registration of CIO)—
- (a) in the words after paragraph (a)(ii), after “the name” insert “or a working name”;
 - (b) in paragraph (b), after “charity’s name” insert “or working name”.
- 34 In section 231(2) (refusal of application for conversion to CIO)—
- (a) in the words after paragraph (a)(ii), after “the name” insert “or a working name”;
 - (b) in paragraph (b), after “charity’s name” insert “or working name”.
- 35 In section 237(3) (refusal of application for amalgamation of CIOs)—
- (a) in the words after paragraph (a)(ii), after “the name” insert “or a working name”;
 - (b) in paragraph (b), after “charity’s name” insert “or working name”.
- 36 In Schedule 6 (appeals and applications to Tribunal), in the entry relating to a direction of the Commission under section 42 requiring the name of a charity to be changed, in column 1, for the words from “requiring” to the end substitute “requiring—
- (a) the name of a charity to be changed, or
 - (b) that a working name of a charity no longer be used as a working name.”

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

- 37 In Schedule 11 (index of defined expressions), after the entry relating to “vesting declaration” insert—

“working name	section 42(4)”.
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PART 4

AMENDMENTS RELATING TO PART 4

- 38 The Charities Act 2011 is amended in accordance with paragraphs 39, 40 and 42.

Amendments relating to section 30 of this Act

- 39 In section 187 (meaning of “benefit” etc)—
- (a) in the heading, omit “, “services””;
 - (b) omit the definition of “services”.
- 40 In Schedule 11 (index of defined expressions), omit the entry for “services”.
- 41 In section 7A of the Parochial Church Councils (Powers) Measure 1956 (No. 3) (modification of section 185 of the Charities Act 2011 in its application to a parochial church council)—
- (a) after “providing” insert “goods or”;
 - (b) for “(3)(a),” substitute “(3),”.

Amendment relating to section 31 of this Act

- 42 In section 187 (meaning of “benefit” etc), for “and 186” substitute “to 186A”.

PART 5

OTHER MINOR AMENDMENTS

- 43 In section 199 of the Charities Act 2011 (meaning of “benefit” in section 198(2)), for the words from “include” to the end substitute “include—
- (a) any remuneration whose receipt may be authorised under section 185, or
 - (b) the purchase of any insurance which may be authorised under section 189.”
- 44 In section 248 of the Charities Act 2011 (meaning of “benefit”), in subsection (2), for the words from “include” to the end substitute “include—
- (a) any remuneration whose receipt may be authorised under section 185, or
 - (b) the purchase of any insurance which may be authorised under section 189.”
- 45 In section 292B of the Charities Act 2011 (general power to make social investments), in subsection (4), for paragraph (b) substitute—
- “(b) charities established or regulated by Royal charter;”.

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

- 46 In section 77 of the Companies Act 2006 (change of name), in subsection (2), after paragraph (d) insert—
- “(e) by resolution of the directors acting under section 45(3) of the Charities Act 2011 (change of name to comply with direction of Charity Commission).”