

SCHEDULES

SCHEDULE 4

Section 12(3)(b).

REFERENCES TO THE TRIBUNAL

References by the Commission

1.—(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 shall be a party to proceedings before the Tribunal on the reference.

(4) The following shall be 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.

References by Attorney General

2.—(1) A question which involves either—

- (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 shall be a party to proceedings before the Tribunal on the reference.

(3) The following shall be 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.

Powers of Commission in relation to matters referred to Tribunal

3.—(1) This paragraph applies where a question which involves the application of charity law to a particular state of affairs has been referred to the Tribunal under paragraph 1 or 2.

(2) The Commission shall 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) heads (a) and (b) of sub-paragraph (2) are satisfied, and
- (b) the question has been decided in proceedings on the reference,

the Commission shall give effect to that decision when dealing with the particular state of affairs to which the reference related.

Suspension of time limits while reference in progress

4.—(1) Sub-paragraph (2) applies if—

- (a) paragraph 3(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 a statutory provision (“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

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(b) ends with the date on which heads (a) and (b) of paragraph 3(2) are satisfied.

(3) Nothing in this paragraph or section 124 prevents the specified period being suspended concurrently by virtue of sub-paragraph (2) and that section.

Agreement for Commission to act while reference in progress

5.—(1) Paragraph 3(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 paragraph 4(2) of any period during which it would otherwise be permitted or required to take them.

(3) Paragraph 3(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 paragraph.

Appeals and applications in respect of matters determined on references

6.—(1) No appeal or application may be made to the Tribunal by a person to whom sub-paragraph (2) applies in respect of an order or decision made, or direction given, by the Commission in accordance with paragraph 3(3).

(2) This sub-paragraph 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) Rules under section 13(1) may include provision as to who is to be treated for the purposes of sub-paragraph (2) as being (or not being) a party to the proceedings.

(4) Any statutory provision (including one contained in this Act) which provides for an appeal or application to be made to the Tribunal has effect subject to sub-paragraph (1).

Interpretation

7. In this Schedule “charity law” means—

- (a) any statutory provision contained in, or made under, this Act,

- (b) any other statutory provision specified in regulations made by the Department, and
- (c) any rule of law which relates to charities.