



# Charities Act 1992

## 1992 CHAPTER 41

### <sup>F1</sup>PART I

#### Textual Amendments

**F1** Pt. I (except ss. 1(1)(4), 29, 30, 36, 49, 50) repealed (1.8.1993) by 1993 c. 10, s. 98(2), **Sch.7**

#### *Preliminary*

### **1 Interpretation of Part I, etc.**

(1) In this Part—

“the 1960 Act” means the <sup>M1</sup>Charities Act 1960;

“financial year”—

(a) in relation to a charity which is a company, shall be construed in accordance with section 223 of the <sup>M2</sup>Companies Act 1985; and

(b) in relation to any other charity, shall be construed in accordance with regulations made by virtue of section 20(2);

“gross income”, in relation to a charity, means its gross recorded income from all sources, including special trusts;

“independent examiner”, in relation to a charity, means such a person as is mentioned in section 21(3)(a);

“the official custodian” means the official custodian for charities;

“the register” (unless the context otherwise requires) means the register of charities kept under section 4 of the 1960 Act, and “registered” shall be construed accordingly;

“special trust” means property which is held and administered by or on behalf of a charity for any special purposes of the charity, and is so held and administered on separate trusts relating only to that property.

<sup>F2</sup>(2) .....

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<sup>F2</sup>(3) .....

(4) No vesting or transfer of any property in pursuance of any provision of this Part, or of any provision of the 1960 Act as amended by this Part, shall operate as a breach of a covenant or condition against alienation or give rise to a forfeiture.

<b>Textual Amendments</b>
<b>F2</b> S. 1(2)(3) repealed (1.8.1993) by 1993 c. 10, s. 98(2), <b>Sch.7</b>
<b>Commencement Information</b>
<b>I1</b> S. 1 partly in force at 1.9.1992; (except the definitions of "financial year", "independant examiner" and "special trust" in s. 1(1) and (3)), see s. 79(2) and S.I. 1992/1900, art. 2(1), <b>Sch. 1</b> .
<b>Marginal Citations</b>
<b>M1</b> 1960 c.58.
<b>M2</b> 1985 c.6.

*Registration of charities*

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*Charity names*

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*Supervision and control by Commissioners*

.....

*Powers with respect to administration of charities*

.....

*Charity accounts*

.....

*Charity proceedings*

.....

*Charity property*

**29 Divestment of charity property held by official custodian for charities.**

- (1) The official custodian shall, in accordance with this section, divest himself of all property to which this subsection applies.
- (2) Subsection (1) applies to any property held by the official custodian in his capacity as such, with the exception of—
  - (a) any land; and

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- (b) any property (other than land) which is vested in him by virtue of an order of the Commissioners under section 20 of the 1960 Act [<sup>F3</sup>or section 18 of the Charities Act 1993] (power to act for protection of charities).
- (3) Where property to which subsection (1) applies is held by the official custodian in trust for particular charities, he shall (subject to subsection (7)) divest himself of that property in such manner as the Commissioners may direct.
- (4) Without prejudice to the generality of subsection (3), directions given by the Commissioners under that subsection may make different provision in relation to different property held by the official custodian or in relation to different classes or descriptions of property held by him, including (in particular)—
  - (a) provision designed to secure that the divestment required by subsection (1) is effected in stages or by means of transfers or other disposals taking place at different times;
  - (b) provision requiring the official custodian to transfer any specified investments, or any specified class or description of investments, held by him in trust for a charity—
    - (i) to the charity trustees or any trustee for the charity, or
    - (ii) to a person nominated by the charity trustees to hold any such investments in trust for the charity;
  - (c) provision requiring the official custodian to sell or call in any specified investments, or any specified class or description of investments, so held by him and to pay any proceeds of sale or other money accruing therefrom—
    - (i) to the charity trustees or any trustee for the charity, or
    - (ii) into any bank account kept in its name.
- (5) The charity trustees of a charity may, in the case of any property falling to be transferred by the official custodian in accordance with a direction under subsection (3), nominate a person to hold any such property in trust for the charity; but a person shall not be so nominated unless—
  - (a) if an individual, he resides in England and Wales; or
  - (b) if a body corporate, it has a place of business there.
- (6) Directions under subsection (3) shall, in the case of any property vested in the official custodian by virtue of section 22(6) of the 1960 Act (common investment funds), provide for any such property to be transferred—
  - (a) to the trustees appointed to manage the common investment fund concerned; or
  - (b) to any person nominated by those trustees who is authorised by or under the common investment scheme concerned to hold that fund or any part of it.
- (7) Where the official custodian—
  - (a) holds any relevant property in trust for a charity, but
  - (b) after making reasonable inquiries is unable to locate the charity or any of its trustees,he shall—
  - (i) unless the relevant property is money, sell the property and hold the proceeds of sale pending the giving by the Commissioners of a direction under subsection (8);
  - (ii) if the relevant property is money, hold it pending the giving of any such direction;

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- and for this purpose “relevant property” means any property to which subsection (1) applies or any proceeds of sale or other money accruing to the official custodian in consequence of a direction under subsection (3).
- (8) Where subsection (7) applies in relation to a charity (“the dormant charity”), the Commissioners may direct the official custodian—
- (a) to pay such amount as is held by him in accordance with that subsection to such other charity as is specified in the direction in accordance with subsection (9), or
  - (b) to pay to each of two or more other charities so specified in the direction such part of that amount as is there specified in relation to that charity.
- (9) The Commissioners may specify in a direction under subsection (8) such charity or charities as they consider appropriate, being in each case a charity whose purposes are, in the opinion of the Commissioners, as similar in character to those of the dormant charity as is reasonably practicable; but the Commissioners shall not so specify any charity unless they have received from the charity trustees written confirmation that they are willing to accept the amount proposed to be paid to the charity.
- (10) Any amount received by a charity by virtue of subsection (8) shall be received by the charity on terms that—
- (a) it shall be held and applied by the charity for the purposes of the charity, but
  - (b) it shall, as property of the charity, nevertheless be subject to any restrictions on expenditure to which it, or (as the case may be) the property which it represents, was subject as property of the dormant charity.
- (11) At such time as the Commissioners are satisfied that the official custodian has divested himself of all property held by him in trust for particular charities, all remaining funds held by him as official custodian shall be paid by him into the Consolidated Fund.
- (12) Nothing in subsection (11) applies in relation to any property held by the official custodian which falls within subsection (2)(a) or (b).
- (13) In this section “land” does not include any interest in land by way of mortgage or other security.

#### Textual Amendments

**F3** Words in s. 29(2)(b) inserted (1.8.1993) by 1993 c. 10, s. 98(1), **Sch. 6 para. 29(2)**

#### Commencement Information

**I20** S. 29 wholly in force at 1.9.1992 see s. 79(2) and S.I. 1992/1900, art. 2(1), **Sch. 1.**

### 30 Provisions supplementary to s. 29.

- (1) Any directions of the Commissioners under section 29 above shall have effect notwithstanding anything—
- (a) in the trusts of a charity, or
  - (b) in section 17(1) of the 1960 Act <sup>F4</sup>or section 22(1) of the Charities Act 1993] (supplementary provisions as to property vested in official custodian).
- (2) Subject to subsection (3), any provision—
- (a) of the trusts of a charity, or

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- (b) of any directions given by an order of the Commissioners made in connection with a transaction requiring the sanction of an order under section 29(1) of the 1960 Act (restrictions on dealing with charity property),

shall cease to have effect if and to the extent that it requires or authorises personal property of the charity to be transferred to or held by the official custodian; and for this purpose “personal property” extends to any mortgage or other real security, but does not include any interest in land other than such an interest by way of mortgage or other security.

- (3) Subsection (2) does not apply to—

- (a) any provision of an order made under section 20 of the 1960 Act [<sup>F5</sup>or section 18 of the Charities Act 1993](power to act for protection of charities); or
- (b) any provision of any other order, or of any scheme, of the Commissioners if the provision requires trustees of a charity to make payments into an account maintained by the official custodian with a view to the accumulation of a sum as capital of the charity (whether or not by way of recoupment of a sum expended out of the charity’s permanent endowment);

but any such provision as is mentioned in paragraph (b) shall have effect as if, instead of requiring the trustees to make such payments into an account maintained by the official custodian, it required the trustees to make such payments into an account maintained by them or by any other person (apart from the official custodian) who is either a trustee for the charity or a person nominated by them to hold such payments in trust for the charity.

- (4) The disposal of any property by the official custodian in accordance with section 29 above shall operate to discharge him from his trusteeship of that property.
- (5) Where any instrument issued by the official custodian in connection with any such disposal contains a printed reproduction of his official seal, that instrument shall have the same effect as if it were duly sealed with his official seal.

#### Textual Amendments

**F4** Words in s. 30(1)(b) inserted (1.8.1993) by 1993 c. 10, s. 98(1), **Sch. 6 para. 29(3)**

**F5** Words in s. 30(3)(a) inserted (1.8.1993) by 1993 c. 10, s. 98(1), **Sch. 6 para. 29(4)**

#### Commencement Information

**I21** S. 30 wholly in force at 1.9.1992 see s. 79(2) and S.I. 1992/1900, art. 2(1), **Sch. 1**.

## 36 Removal of requirements under statutory provisions for consent to dealings with charity land.

- (1) Any provision—

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(a) establishing or regulating a particular charity and contained in, or having effect under, any Act of Parliament, or

(b) contained in the trusts of a charity,

shall cease to have effect if and to the extent that it provides for dispositions of, or other dealings with, land held by or in trust for the charity to require the consent of the Commissioners (whether signified by order or otherwise).

(2) Any provision of an order or scheme under the <sup>M23</sup>Education Act 1944 or the <sup>M24</sup>Education Act 1973 relating to a charity shall cease to have effect if and to the extent that it requires, in relation to any sale, lease or other disposition of land held by or in trust for the charity, approval by the Commissioners or the Secretary of State of the amount for which the land is to be sold, leased or otherwise disposed of.

(3) In this section “land” means land in England or Wales.

#### Commencement Information

**I27** S. 36 wholly in force at 1.1.1993 see s. 79(2) and S.I. 1992/1900, art. 4(1), Sch. 3.

#### Marginal Citations

**M23** 1944 c.31.

**M24** 1973 c.16.

#### *Powers of investment*

#### *Charitable companies*

#### *Small charities*

#### *Disqualification for acting as charity trustee*

#### *Miscellaneous and supplementary*

### **49 Amendment of Redundant Churches and Other Religious Buildings Act 1969.**

The <sup>M43</sup>Redundant Churches and Other Religious Buildings Act <sup>M44</sup>1969 shall have effect subject to the amendments specified in Schedule 5 to this Act.

#### Commencement Information

**I40** S. 49 wholly in force at 1.9.1992 see s. 79(2) and S.I. 1992/1900, art. 2(1), Sch. 1.

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### Marginal Citations

**M43** 1969 c.22.

**M44** 1969 c.22.

## 50 Contributions towards maintenance etc. of almshouses.

(1) Any provision in the trusts of an almshouse charity which relates to the payment by persons resident in the charity's almshouses of contributions towards the cost of maintaining those almshouses and essential services in them shall cease to have effect if and to the extent that it provides for the amount, or the maximum amount, of such contributions to be a sum specified, approved or authorised by the Commissioners.

(2) In subsection (1)—

“almshouse” means any premises maintained as an almshouse, whether they are called an almshouse or not; and

“almshouse charity” means a charity which is authorised under its trusts to maintain almshouses.

### Commencement Information

**I41** S. 50 wholly in force at 1.9.1992 see s. 79(2) and S.I. 1992/1900, art. 2(1), Sch. 1.

## PART II

### CONTROL OF FUND-RAISING FOR CHARITABLE INSTITUTIONS

### Commencement Information

**I49** Pt. II (ss. 58-64) wholly in force at 1.3.1995; Pt. II not in force at Royal Assent see s. 79(2); Pt. II in force for certain purposes at 28.11.1994 and wholly in force at 1.3.1995 by S.I. 1994/3023, art. 2.

### *Preliminary*

## 58 Interpretation of Part II.

(1) In this Part—

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“charitable contributions”, in relation to any representation made by any commercial participator or other person, means—

- (a) the whole or part of—
  - (i) the consideration given for goods or services sold or supplied by him, or
  - (ii) any proceeds (other than such consideration) of a promotional venture undertaken by him, or
- (b) sums given by him by way of donation in connection with the sale or supply of any such goods or services (whether the amount of such sums is determined by reference to the value of any such goods or services or otherwise);

“charitable institution” means a charity or an institution (other than a charity) which is established for charitable, benevolent or philanthropic purposes;

“charity” means a charity within the meaning of [<sup>F6</sup>the Charities Act 1993];

“commercial participator”, in relation to any charitable institution, means any person [<sup>F7</sup>(apart from a company connected with the institution)]who—

- (a) carries on for gain a business other than a fund-raising business, but
- (b) in the course of that business, engages in any promotional venture in the course of which it is represented that charitable contributions are to be given to or applied for the benefit of the institution;

“company” has the meaning given by section [<sup>F6</sup>97 of the Charities Act 1993];

“the court” means the High Court or a county court;

“credit card” means a card which is a credit-token within the meaning of the <sup>M49</sup>Consumer Credit Act 1974;

“debit card” means a card the use of which by its holder to make a payment results in a current account of his at a bank, or at any other institution providing banking services, being debited with the payment;

“fund-raising business” means any business carried on for gain and wholly or primarily engaged in soliciting or otherwise procuring money or other property for charitable, benevolent or philanthropic purposes;

“institution” includes any trust or undertaking;

[<sup>F8</sup> “ the Minister ” means the Minister for the Cabinet Office; ]

“professional fund-raiser” means—

- (a) any person (apart from a charitable institution [<sup>F9</sup> or a company connected with such an institution]) who carries on a fund-raising business, or
- (b) any other person (apart from a person excluded by virtue of subsection (2) or (3)) who for reward solicits money or other property for the benefit of a charitable institution, if he does so otherwise than in the course of any fund-raising venture undertaken by a person falling within paragraph (a) above;

“promotional venture” means any advertising or sales campaign or any other venture undertaken for promotional purposes;

“radio or television programme” includes any item included in a programme service within the meaning of the <sup>M50</sup>Broadcasting Act 1990.

(2) In subsection (1), paragraph (b) of the definition of “professional fund-raiser” does not apply to any of the following, namely—

- (a) any charitable institution or any company connected with any such institution;



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- (b) any officer or employee of any such institution or company, or any trustee of any such institution, acting (in each case) in his capacity as such;
  - (c) any person acting as a collector in respect of a public charitable collection (apart from a person who is to be treated as a promoter of such a collection by virtue of section 65(3));
  - (d) any person who in the course of a relevant programme, that is to say a radio or television programme in the course of which a fund-raising venture is undertaken by—
    - (i) a charitable institution, or
    - (ii) a company connected with such an institution,makes any solicitation at the instance of that institution or company; or
  - (e) any commercial participator;
- and for this purpose “collector” and “public charitable collection” have the same meaning as in Part III of this Act.
- (3) In addition, paragraph (b) of the definition of “professional fund-raiser” does not apply to a person if he does not receive—
- (a) more than—
    - (i) £5 per day, or
    - (ii) £500 per year,by way of remuneration in connection with soliciting money or other property for the benefit of the charitable institution referred to in that paragraph; or
  - (b) more than £500 by way of remuneration in connection with any fund-raising venture in the course of which he solicits money or other property for the benefit of that institution.
- (4) In this Part any reference to charitable purposes, where occurring in the context of a reference to charitable, benevolent or philanthropic purposes, is a reference to charitable purposes whether or not the purposes are charitable within the meaning of any rule of law.
- (5) For the purposes of this Part a company is connected with a charitable institution if—
- (a) the institution, or
  - (b) the institution and one or more other charitable institutions, taken together,
- is or are entitled (whether directly or through one or more nominees) to exercise, or control the exercise of, the whole of the voting power at any general meeting of the company.
- (6) In this Part—
- (a) “represent” and “solicit” mean respectively represent and solicit in any manner whatever, whether expressly or impliedly and whether done—
    - (i) by speaking directly to the person or persons to whom the representation or solicitation is addressed (whether when in his or their presence or not), or
    - (ii) by means of a statement published in any newspaper, film or radio or television programme,or otherwise, and references to a representation or solicitation shall be construed accordingly; and
  - (b) any reference to soliciting or otherwise procuring money or other property is a reference to soliciting or otherwise procuring money or other property

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whether any consideration is, or is to be, given in return for the money or other property or not.

(7) Where—

- (a) any solicitation of money or other property for the benefit of a charitable institution is made in accordance with arrangements between any person and that institution, and
- (b) under those arrangements that person will be responsible for receiving on behalf of the institution money or other property given in response to the solicitation,

then (if he would not be so regarded apart from this subsection) that person shall be regarded for the purposes of this Part as soliciting money or other property for the benefit of the institution.

(8) Where any fund-raising venture is undertaken by a professional fund-raiser in the course of a radio or television programme, any solicitation which is made by a person in the course of the programme at the instance of the fund-raiser shall be regarded for the purposes of this Part as made by the fund-raiser and not by that person (and shall be so regarded whether or not the solicitation is made by that person for any reward).

(9) In this Part “services” includes facilities, and in particular—

- (a) access to any premises or event;
- (b) membership of any organisation;
- (c) the provision of advertising space; and
- (d) the provision of any financial facilities;

and references to the supply of services shall be construed accordingly.

(10) The [F10Minister] may by order amend subsection (3) by substituting a different sum for any sum for the time being specified there.

#### Textual Amendments

- F6** Words in s. 58(1) substituted (1.8.1993) by 1993 c. 10, s. 98(1), **Sch. 6 para. 29(5)**
- F7** Words in s. 58(1) inserted (3.11.1994) by 1994 c. 40, **ss. 25(2), 82(2)**
- F8** Words in s. 58(1) inserted (8.11.2006) by Charities Act 2006 (c. 50), s. 79(1)(g), **Sch. 8 para. 90(2)**
- F9** Words in s. 58(1) inserted (3.11.1994) by 1994 c. 40, **ss. 25(3), 82(2)**
- F10** Word in s. 58(10) substituted (13.12.2006) by Transfer of Functions (Third Sector, Communities and Equality) Order 2006 (S.I. 2006/2951), art. 1(2), **Sch. para. 3(a)**

#### Commencement Information

- I50** Pt. II (ss. 58-64) wholly in force at 1.3.1995; Pt. II not in force at Royal Assent see s. 79(2); Pt. II in force for certain purposes at 28.11.1994 and wholly in force at 1.3.1995 by S.I. 1999/3023, **art. 2**

#### Marginal Citations

- M49** 1974 c.39.
- M50** 1990 c.42.

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### *Control of fund-raising*

#### **59 Prohibition on professional fund-raiser etc. raising funds for charitable institution without an agreement in prescribed form.**

- (1) It shall be unlawful for a professional fund-raiser to solicit money or other property for the benefit of a charitable institution unless he does so in accordance with an agreement with the institution satisfying the prescribed requirements.
- (2) It shall be unlawful for a commercial participator to represent that charitable contributions are to be given to or applied for the benefit of a charitable institution unless he does so in accordance with an agreement with the institution satisfying the prescribed requirements.
- (3) Where on the application of a charitable institution the court is satisfied—
  - (a) that any person has contravened or is contravening subsection (1) or (2) in relation to the institution, and
  - (b) that, unless restrained, any such contravention is likely to continue or be repeated,the court may grant an injunction restraining the contravention; and compliance with subsection (1) or (2) shall not be enforceable otherwise than in accordance with this subsection.
- (4) Where—
  - (a) a charitable institution makes any agreement with a professional fund-raiser or a commercial participator by virtue of which—
    - (i) the professional fund-raiser is authorised to solicit money or other property for the benefit of the institution, or
    - (ii) the commercial participator is authorised to represent that charitable contributions are to be given to or applied for the benefit of the institution,as the case may be, but
  - (b) the agreement does not satisfy the prescribed requirements in any respect,the agreement shall not be enforceable against the institution except to such extent (if any) as may be provided by an order of the court.
- (5) A professional fund-raiser or commercial participator who is a party to such an agreement as is mentioned in subsection (4)(a) shall not be entitled to receive any amount by way of remuneration or expenses in respect of anything done by him in pursuance of the agreement unless—
  - (a) he is so entitled under any provision of the agreement, and
  - (b) either—
    - (i) the agreement satisfies the prescribed requirements, or
    - (ii) any such provision has effect by virtue of an order of the court under subsection (4).
- (6) In this section “the prescribed requirements” means such requirements as are prescribed by regulations made by virtue of section 64(2)(a).

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### Commencement Information

**I51** Pt. II (ss. 58-64) wholly in force at 1.3.1995; Pt. II not in force at Royal Assent see s. 79(2); Pt. II in force for certain purposes at 28.11.1994 and wholly in force at 1.3.1995 by S.I. 1999/3023, art. 2

## 60 Professional fund-raisers etc. required to indicate institutions benefiting and arrangements for remuneration.

- (1) Where a professional fund-raiser solicits money or other property for the benefit of one or more particular charitable institutions, the solicitation shall be accompanied by a statement clearly indicating—
  - (a) the name or names of the institution or institutions concerned;
  - (b) if there is more than one institution concerned, the proportions in which the institutions are respectively to benefit; and
  - (c) (in general terms) the method by which the fund-raiser's remuneration in connection with the appeal is to be determined.
- (2) Where a professional fund-raiser solicits money or other property for charitable, benevolent or philanthropic purposes of any description (rather than for the benefit of one or more particular charitable institutions), the solicitation shall be accompanied by a statement clearly indicating—
  - (a) the fact that he is soliciting money or other property for those purposes and not for the benefit of any particular charitable institution or institutions;
  - (b) the method by which it is to be determined how the proceeds of the appeal are to be distributed between different charitable institutions; and
  - (c) (in general terms) the method by which his remuneration in connection with the appeal is to be determined.
- (3) Where any representation is made by a commercial participator to the effect that charitable contributions are to be given to or applied for the benefit of one or more particular charitable institutions, the representation shall be accompanied by a statement clearly indicating—
  - (a) the name or names of the institution or institutions concerned;
  - (b) if there is more than one institution concerned, the proportions in which the institutions are respectively to benefit; and
  - (c) (in general terms) the method by which it is to be determined—
    - (i) what proportion of the consideration given for goods or services sold or supplied by him, or of any other proceeds of a promotional venture undertaken by him, is to be given to or applied for the benefit of the institution or institutions concerned, or
    - (ii) what sums by way of donations by him in connection with the sale or supply of any such goods or services are to be so given or applied, as the case may require.
- (4) If any such solicitation or representation as is mentioned in any of subsections (1) to (3) is made—
  - (a) in the course of a radio or television programme, and
  - (b) in association with an announcement to the effect that payment may be made, in response to the solicitation or representation, by means of a credit or debit card,

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**Status:** Point in time view as at 13/12/2006. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** Charities Act 1992 is up to date with all changes known to be in force on or before 25 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

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the statement required by virtue of subsection (1), (2) or (3) (as the case may be) shall include full details of the right to have refunded under section 61(1) any payment of £50 or more which is so made.

- (5) If any such solicitation or representation as is mentioned in any of subsections (1) to (3) is made orally but is not made—
- (a) by speaking directly to the particular person or persons to whom it is addressed and in his or their presence, or
  - (b) in the course of any radio or television programme,
- the professional fund-raiser or commercial participator concerned shall, within seven days of any payment of £50 or more being made to him in response to the solicitation or representation, give to the person making the payment a written statement—
- (i) of the matters specified in paragraphs (a) to (c) of that subsection; and
  - (ii) including full details of the right to cancel under section 61(2) an agreement made in response to the solicitation or representation, and the right to have refunded under section 61(2) or (3) any payment of £50 or more made in response thereto.
- (6) In subsection (5) above the reference to the making of a payment is a reference to the making of a payment of whatever nature and by whatever means, including a payment made by means of a credit card or a debit card; and for the purposes of that subsection—
- (a) where the person making any such payment makes it in person, it shall be regarded as made at the time when it is so made;
  - (b) where the person making any such payment sends it by post, it shall be regarded as made at the time when it is posted; and
  - (c) where the person making any such payment makes it by giving, by telephone or by means of any other [<sup>F11</sup>electronic communications apparatus], authority for an account to be debited with the payment, it shall be regarded as made at the time when any such authority is given.
- (7) Where any requirement of subsections (1) to (5) is not complied with in relation to any solicitation or representation, the professional fund-raiser or commercial participator concerned shall be guilty of an offence and liable on summary conviction to a fine not exceeding the fifth level on the standard scale.
- (8) It shall be a defence for a person charged with any such offence to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.
- (9) Where the commission by any person of an offence under subsection (7) is due to the act or default of some other person, that other person shall be guilty of the offence; and a person may be charged with and convicted of the offence by virtue of this subsection whether or not proceedings are taken against the first-mentioned person.
- (10) In this section—
- “the appeal”, in relation to any solicitation by a professional fund-raiser, means the campaign or other fund-raising venture in the course of which the solicitation is made;

F12  
...

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### Textual Amendments

- F11** Words in s. 60(6)(c) substituted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 17 para. 118](#) (with [Sch. 18](#)); [S.I. 2003/1900](#), arts. 1(2), 2(1), [Sch. 1](#) (with art. 3) (as amended by [S.I. 2003/3142](#), art. 1(3)); [S.I. 2003/3142](#), art. 3(2) (with art. 11)
- F12** Words in s. 60(10) repealed (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 19\(1\)](#) Note 1 (with [Sch. 18](#)); [S.I. 2003/1900](#), arts. 1(2), 2(1), [Sch. 1](#) (with art. 3) (as amended by [S.I. 2003/3142](#), art. 1(3)); [S.I. 2003/3142](#), art. 3(2) (with art. 11)

### Commencement Information

- I52** Pt. II (ss. 58-64) wholly in force at 1.3.1995; Pt. II not in force at Royal Assent see s. 79(2); Pt. II in force for certain purposes at 28.11.1994 and wholly in force at 1.3.1995 by [S.I. 1999/3023](#), [art. 2](#)

## 61 Cancellation of payments and agreements made in response to appeals.

### (1) Where—

- (a) a person (“the donor”), in response to any such solicitation or representation as is mentioned in any of subsections (1) to (3) of section 60 which is made in the course of a radio or television programme, makes any payment of £50 or more to the relevant fund-raiser by means of a credit card or a debit card, but
- (b) before the end of the period of seven days beginning with the date of the solicitation or representation, the donor serves on the relevant fund-raiser a notice in writing which, however expressed, indicates the donor’s intention to cancel the payment,

the donor shall (subject to subsection (4) below) be entitled to have the payment refunded to him forthwith by the relevant fund-raiser.

### (2) Where—

- (a) a person (“the donor”), in response to any solicitation or representation falling within subsection (5) of section 60, enters into an agreement with the relevant fund-raiser under which the donor is, or may be, liable to make any payment or payments to the relevant fund-raiser, and the amount or aggregate amount which the donor is, or may be, liable to pay to him under the agreement is £50 or more, but
- (b) before the end of the period of seven days beginning with the date when he is given any such written statement as is referred to in that subsection, the donor serves on the relevant fund-raiser a notice in writing which, however expressed, indicates the donor’s intention to cancel the agreement,

the notice shall operate, as from the time when it is so served, to cancel the agreement and any liability of any person other than the donor in connection with the making of any such payment or payments, and the donor shall (subject to subsection (4) below) be entitled to have any payment of £50 or more made by him under the agreement refunded to him forthwith by the relevant fund-raiser.

### (3) Where, in response to any solicitation or representation falling within subsection (5) of section 60, a person (“the donor”)—

- (a) makes any payment of £50 or more to the relevant fund-raiser, but
- (b) does not enter into any such agreement as is mentioned in subsection (2) above,

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then, if before the end of the period of seven days beginning with the date when the donor is given any such written statement as is referred to in subsection (5) of that section, the donor serves on the relevant fund-raiser a notice in writing which, however expressed, indicates the donor's intention to cancel the payment, the donor shall (subject to subsection (4) below) be entitled to have the payment refunded to him forthwith by the relevant fund-raiser.

- (4) The right of any person to have a payment refunded to him under any of subsections (1) to (3) above—
- (a) is a right to have refunded to him the amount of the payment less any administrative expenses reasonably incurred by the relevant fund-raiser in connection with—
    - (i) the making of the refund, or
    - (ii) (in the case of a refund under subsection (2)) dealing with the notice of cancellation served by that person; and
  - (b) shall, in the case of a payment for goods already received, be conditional upon restitution being made by him of the goods in question.
- (5) Nothing in subsections (1) to (3) above has effect in relation to any payment made or to be made in respect of services which have been supplied at the time when the relevant notice is served.
- (6) In this section any reference to the making of a payment is a reference to the making of a payment of whatever nature and (in the case of subsection (2) or (3)) a payment made by whatever means, including a payment made by means of a credit card or a debit card; and subsection (6) of section 60 shall have effect for determining when a payment is made for the purposes of this section as it has effect for determining when a payment is made for the purposes of subsection (5) of that section.
- (7) In this section “the relevant fund-raiser”, in relation to any solicitation or representation, means the professional fund-raiser or commercial participator by whom it is made.
- (8) The [F13Minister] may by order—
- (a) amend any provision of this section by substituting a different sum for the sum for the time being specified there; and
  - (b) make such consequential amendments in section 60 as he considers appropriate.

#### Textual Amendments

**F13** Word in s. 61(8) substituted (13.12.2006) by [Transfer of Functions \(Third Sector, Communities and Equality\) Order 2006 \(S.I. 2006/2951\)](#), art. 1(2), [Sch. para. 3\(b\)](#)

#### Commencement Information

**I53** Pt. II (ss. 58-64) wholly in force at 1.3.1995; Pt. II not in force at Royal Assent see s. 79(2); Pt. II in force for certain purposes at 28.11.1994 and wholly in force at 1.3.1995 by [S.I. 1999/3023](#), [art. 2](#)

## 62 Right of charitable institution to prevent unauthorised fund-raising.

- (1) Where on the application of any charitable institution—

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- (a) the court is satisfied that any person has done or is doing either of the following, namely—
  - (i) soliciting money or other property for the benefit of the institution, or
  - (ii) representing that charitable contributions are to be given to or applied for the benefit of the institution,
 and that, unless restrained, he is likely to do further acts of that nature, and
- (b) the court is also satisfied as to one or more of the matters specified in subsection (2),

then (subject to subsection (3)) the court may grant an injunction restraining the doing of any such acts.

(2) The matters referred to in subsection (1)(b) are—

- (a) that the person in question is using methods of fund-raising to which the institution objects;
- (b) that that person is not a fit and proper person to raise funds for the institution; and
- (c) where the conduct complained of is the making of such representations as are mentioned in subsection (1)(a)(ii), that the institution does not wish to be associated with the particular promotional or other fund-raising venture in which that person is engaged.

(3) The power to grant an injunction under subsection (1) shall not be exercisable on the application of a charitable institution unless the institution has, not less than 28 days before making the application, served on the person in question a notice in writing—

- (a) requesting him to cease forthwith—
  - (i) soliciting money or other property for the benefit of the institution, or
  - (ii) representing that charitable contributions are to be given to or applied for the benefit of the institution,
 as the case may be; and
- (b) stating that, if he does not comply with the notice, the institution will make an application under this section for an injunction.

(4) Where—

- (a) a charitable institution has served on any person a notice under subsection (3) (“the relevant notice”) and that person has complied with the notice, but
- (b) that person has subsequently begun to carry on activities which are the same, or substantially the same, as those in respect of which the relevant notice was served,

the institution shall not, in connection with an application made by it under this section in respect of the activities carried on by that person, be required by virtue of that subsection to serve a further notice on him, if the application is made not more than 12 months after the date of service of the relevant notice.

(5) This section shall not have the effect of authorising a charitable institution to make an application under this section in respect of anything done by a professional fundraiser or commercial participator in relation to the institution.



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#### Commencement Information

**I54** Pt. II (ss. 58-64) wholly in force at 1.3.1995; Pt. II not in force at Royal Assent see s. 79(2); Pt. II in force for certain purposes at 28.11.1994 and wholly in force at 1.3.1995 by S.I. 1999/3023, art. 2

### 63 False statements relating to institutions which are not registered charities.

(1) Where—

- (a) a person solicits money or other property for the benefit of an institution in association with a representation that the institution is a registered charity, and
- (b) the institution is not such a charity,

he shall be guilty of an offence and liable on summary conviction to a fine not exceeding the fifth level on the standard scale.

[<sup>F14</sup>(1A) In any proceedings for an offence under subsection (1), it shall be a defence for the accused to prove that he believed on reasonable grounds that the institution was a registered charity.]

(2) In [<sup>F15</sup>this section]“registered charity” means a charity which is for the time being registered in the register of charities kept under [<sup>F16</sup>section 3 of the Charities Act 1993].

#### Textual Amendments

**F14** S. 63(1)(A) inserted (3.11.1994) by 1994 c. 40, ss. 26(2), 82(2)

**F15** Words in s. 63(2) substituted (3.11.1994) by 1994 c. 40, ss. 26(3), 82(2)

**F16** Words in s. 63(2) substituted (1.8.1993) by 1993 c. 10, s. 98(1), Sch. 6 para. 29(6)

#### Commencement Information

**I55** Pt. II (ss. 58-64) wholly in force at 1.3.1995; Pt. II not in force at Royal Assent see s. 79(2); Pt. II in force for certain purposes at 28.11.1994 and wholly in force at 1.3.1995 by S.I. 1999/3023, art. 2

### Supplementary

### 64 Regulations about fund-raising.

(1) The [<sup>F17</sup>Minister] may make such regulations as appear to him to be necessary or desirable for any purposes connected with any of the preceding provisions of this Part.

(2) Without prejudice to the generality of subsection (1), any such regulations may—

- (a) prescribe the form and content of—
  - (i) agreements made for the purposes of section 59, and
  - (ii) notices served under section 62(3);
- (b) require professional fund-raisers or commercial participators who are parties to such agreements with charitable institutions to make available to the institutions books, documents or other records (however kept) which relate to the institutions;
- (c) specify the manner in which money or other property acquired by professional fund-raisers or commercial participators for the benefit of, or otherwise falling

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- to be given to or applied by such persons for the benefit of, charitable institutions is to be transmitted to such institutions;
- (d) provide for any provisions of section 60 or 61 having effect in relation to solicitations or representations made in the course of radio or television programmes to have effect, subject to any modifications specified in the regulations, in relation to solicitations or representations made in the course of such programmes—
- (i) by charitable institutions, or
- (ii) by companies connected with such institutions,
- and, in that connection, provide for any other provisions of this Part to have effect for the purposes of the regulations subject to any modifications so specified;
- (e) make other provision regulating the raising of funds for charitable, benevolent or philanthropic purposes (whether by professional fund-raisers or commercial participators or otherwise).
- (3) In subsection (2)(c) the reference to such money or other property as is there mentioned includes a reference to money or other property which, in the case of a professional fund-raiser or commercial participator—
- (a) has been acquired by him otherwise than in accordance with an agreement with a charitable institution, but
- (b) by reason of any solicitation or representation in consequence of which it has been acquired, is held by him on trust for such an institution.
- (4) Regulations under this section may provide that any failure to comply with a specified provision of the regulations shall be an offence punishable on summary conviction by a fine not exceeding the second level on the standard scale.

#### Textual Amendments

- F17** Word in s. 64(1) substituted (13.12.2006) by [Transfer of Functions \(Third Sector, Communities and Equality\) Order 2006 \(S.I. 2006/2951\)](#), art. 1(2), **Sch. para. 3(c)**

#### Commencement Information

- I56** Pt. II (ss. 58-64) wholly in force at 1.3.1995; Pt. II not in force at Royal Assent see s. 79(2); Pt. II in force for certain purposes at 28.11.1994 and wholly in force at 1.3.1995 by [S.I. 1999/3023](#), **art. 2**

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VALID FROM 27/02/2007

## PART III

### PUBLIC CHARITABLE COLLECTIONS

PROSPECTIVE

#### *F18 Preliminary*

##### **Textual Amendments**

**F18** Pt. III repealed (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), Sch. 8 para. 91, **Sch. 9**; S.I. 2007/309, art. 2, Sch.

#### **<sup>F18</sup>65 Interpretation of Part III.**

.....

PROSPECTIVE

#### *F18 Prohibition on conducting unauthorised collections*

#### **<sup>F18</sup>66 Prohibition on conducting public charitable collections without authorisation.**

.....

PROSPECTIVE

#### *F18 Permits*

#### **<sup>F18</sup>67 Applications for permits to conduct public charitable collections.**

.....

#### **<sup>F18</sup>68 Determination of applications and issue of permits.**

.....

#### **<sup>F18</sup>69 Refusal of permits.**

.....

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**<sup>F18</sup>70 Withdrawal etc. of permits.**

.....

**<sup>F18</sup>71 Appeals.**

.....

*Orders made by Charity Commissioners*

**72 Orders made by Charity Commissioners.**

(1) Where the Charity Commissioners are satisfied, on the application of any charity, that that charity proposes—

- (a) to promote public charitable collections—
  - (i) throughout England and Wales, or
  - (ii) throughout a substantial part of England and Wales,
 in connection with any charitable purposes pursued by the charity, or
- (b) to authorise other persons to promote public charitable collections as mentioned in paragraph (a),

the Commissioners may make an order under this subsection in respect of the charity.

(2) Such an order shall have the effect of authorising public charitable collections which—

- (a) are promoted by the charity in respect of which the order is made, or by persons authorised by the charity, and
- (b) are so promoted in connection with the charitable purposes mentioned in subsection (1),

to be conducted in such area or areas as may be specified in the order.

(3) An order under subsection (1) may—

- (a) include such conditions as the Commissioners think fit;
- (b) be expressed (without prejudice to paragraph (c)) to have effect without limit of time, or for a specified period only;
- (c) be revoked or varied by a further order of the Commissioners.

(4) Where the Commissioners, having made an order under subsection (1) in respect of a charity, make any further order revoking or varying that order, they shall serve on the charity written notice of their reasons for making the further order, unless it appears to them that the interests of the charity would not be prejudiced by the further order.

[<sup>F19</sup>(5) Section 89(1), (2) and (4) of the Charities Act 1993 (provisions as to orders made by the Commissioners) shall apply to an order made by them under this section as it applies to an order made by them under that Act.

(6) In this section “charity” and “charitable purposes” have the same meaning as in that Act.]

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### Textual Amendments

**F19** S. 72(5)(6) substituted for s. 72(5) (1.8.1993) by 1993 c. 10, s. 98(1), Sch. 6 para. 29(7)

## Supplementary

PROSPECTIVE

### **F18** 73 Regulations.

.....

### Textual Amendments

**F18** Pt. III repealed (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), Sch. 8 para. 91, Sch. 9; S.I. 2007/309, art. 2, Sch.

### 74 Offences.

- (1) A person shall be guilty of an offence if, in connection with any charitable appeal, he displays or uses—
  - (a) a prescribed badge or a prescribed certificate of authority which is not for the time being held by him for the purposes of the appeal pursuant to regulations under section 73, or
  - (b) any badge or article, or any certificate or other document, so nearly resembling a prescribed badge or (as the case may be) a prescribed certificate of authority as to be likely to deceive a member of the public.
- (2) A person guilty of an offence under subsection (1) shall be liable on summary conviction to a fine not exceeding the fourth level on the standard scale.
- (3) Any person who, for the purposes of an application made under section 67, knowingly or recklessly furnishes any information which is false in a material particular shall be guilty of an offence and liable on summary conviction to a fine not exceeding the fourth level on the standard scale.

[<sup>F20</sup>(3A) Any person who knowingly or recklessly provides the Commissioners with information which is false or misleading in a material particular shall be guilty of an offence if the information is provided in circumstances in which he intends, or could reasonably be expected to know, that it would be used by them for the purpose of discharging their functions under section 72.

- (3B) A person guilty of an offence under subsection (3A) shall be liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction or indictment, to imprisonment for a term not exceeding two years or to a fine, or both.]

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- (4) In subsection (1) “prescribed badge” and “prescribed certificate of authority” mean respectively a badge and a certificate of authority in such form as may be prescribed by regulations under section 73.

#### Textual Amendments

**F20** S. 74(3A)(3B) inserted (1.8.1993) by 1993 c. 10, s. 98(1), **Sch. 6 para. 29(8)**

#### Modifications etc. (not altering text)

**C5** S. 74 applied (coming into force in accordance with s. 1 of the applying Act) by **Greenham and Crookham Commons Act 2002 (c. i), s. 21(4)**

## PART IV

### GENERAL

#### 75 Offences by bodies corporate.

Where any offence—

- (a) under this Act or any regulations made under it,  
<sup>F21</sup>(b) .....

is committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

In relation to a body corporate whose affairs are managed by its members, “director” means a member of the body corporate.

#### Textual Amendments

**F21** S. 75(b) repealed (1.8.1993) by 1993 c. 10, s. 98(1), **Sch. 7**

#### Commencement Information

**I57** S. 75 wholly in force at 1.9.1992 see s. 79(2) and S.I. 1992/1900, art. 2(1), **Sch. 1**.

#### 76 Service of documents.

- (1) This section applies to—

- <sup>F22</sup>(a) .....  
(b) any notice or other document required or authorised to be given or served under Part II of this Act; and  
(c) any notice required to be served under Part III of this Act.

- (2) A document to which this section applies may be served on or given to a person (other than a body corporate)—

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- (a) by delivering it to that person;
  - (b) by leaving it at his last known address in the United Kingdom; or
  - (c) by sending it by post to him at that address.
- (3) A document to which this section applies may be served on or given to a body corporate by delivering it or sending it by post—
- (a) to the registered or principal office of the body in the United Kingdom, or
  - (b) if it has no such office in the United Kingdom, to any place in the United Kingdom where it carries on business or conducts its activities (as the case may be).
- (4) Any such document may also be served on or given to a person (including a body corporate) by sending it by post to that person at an address notified by that person for the purposes of this subsection to the person or persons by whom it is required or authorised to be served or given.

**Textual Amendments**

**F22** S. 76(1)(a) repealed (1.8.1993) by 1993 c. 10, s. 98(2), **Sch. 7**

**Commencement Information**

**I58** S. 76 wholly in force at 1.9.1992 see s. 79(2) and S.I. 1992/1900, art. 2(1), **Sch. 1**.

**77 Regulations and orders.**

- (1) Any regulations or order of the [<sup>F23</sup>Minister] under this Act—
- (a) shall be made by statutory instrument; and
  - (b) (subject to subsection (2)) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (2) Subsection (1)(b) does not apply—
- <sup>F24</sup>(a) .....
  - <sup>F24</sup>(b) .....
  - <sup>F24</sup>(c) .....
  - (d) to an order under section 79(2).
- (3) Any regulations or order of the [<sup>F23</sup>Minister] under this Act may make—
- (a) different provision for different cases; and
  - (b) such supplemental, incidental, consequential or transitional provision or savings as the [<sup>F23</sup>Minister] considers appropriate.
- (4) Before making any regulations under section <sup>F25</sup>. . . 64 or 73 the [<sup>F23</sup>Minister] shall consult such persons or bodies of persons as he considers appropriate.

**Subordinate Legislation Made**

**P1** S. 77(3) power partly exercised (27.11.1994): different dates appointed for specified provisions by S.I. 1994/3023, **art. 2**

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#### Textual Amendments

- F23** Word in s. 77 substituted (13.12.2006) by [Transfer of Functions \(Third Sector, Communities and Equality\) Order 2006 \(S.I. 2006/2951\)](#), art. 1(2), [Sch. para. 3\(e\)](#)
- F24** S. 77(2)(a)-(c) repealed (1.8.1993) by [1993 c. 10, s. 98\(2\)](#), [Sch.7](#)
- F25** In s. 77(4) the figures 20, 22, and 23 repealed (1.8.1993) by [1993 c. 10, s. 98\(2\)](#), [Sch. 7](#)

#### Commencement Information

- I59** S. 77 wholly in force at 1.9.1992 see s. 79(2) and [S.I. 1992/1900](#), art. 2(1), [Sch. 1](#).

### 78 Minor and consequential amendments and repeals.

- (1) The enactments mentioned in Schedule 6 to this Act shall have effect subject to the amendments there specified (which are either minor amendments or amendments consequential on the provisions of this Act).
- (2) The enactments mentioned in Schedule 7 to this Act (which include some that are already spent or are no longer of practical utility) are hereby repealed to the extent specified in the third column of that Schedule.

#### Commencement Information

- I60** [S. 78](#) wholly in force at 1.9.1992 see [s. 79\(2\)](#) and [S.I. 1992/1900](#), art. 2(1), [Sch. 1](#).

### 79 Short title, commencement and extent.

- (1) This Act may be cited as the Charities Act 1992.
- (2) This Act shall come into force on such day as the [<sup>F26</sup>Minister] may by order appoint; and different days may be so appointed for different provisions or for different purposes.
- (3) Subject to subsections (4) to (6) below, this Act extends only to England and Wales.
- <sup>F27</sup>(4) .....
- <sup>F27</sup>(5) .....
- (6) The amendments in Schedule 6, and (subject to subsection (7)) the repeals in Schedule 7, have the same extent as the enactments to which they refer, and section 78 extends accordingly.
- (7) The repeal in Schedule 7 of the <sup>M51</sup>Police, Factories, &c. (Miscellaneous Provisions) Act 1916 does not extend to Northern Ireland.

#### Subordinate Legislation Made

- P2** S. 79(2) power partly exercised (28.7.1992): different dates appointed for specified provisions see [S.I. 1992/1900](#) art. 2.
- S. 79(2) power partly exercised (27.11.1994): different dates appointed for specified provisions see [S.I. 1994/3023](#), art. 3



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**Status:** Point in time view as at 13/12/2006. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** Charities Act 1992 is up to date with all changes known to be in force on or before 25 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

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#### **Textual Amendments**

- F26** Word in s. 79(2) substituted (13.12.2006) by [Transfer of Functions \(Third Sector, Communities and Equality\) Order 2006 \(S.I. 2006/2951\)](#), art. 1(2), **Sch. para. 3(f)**
- F27** S. 79(4)(5) repealed (1.8.1993) by [1993 c. 10](#), s. 98(2), **Sch.7**
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#### **Commencement Information**

- I61** S. 79 in force at 1.9.1992 by S.I 1992/1900 art 2(1) Sch 1.
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#### **Marginal Citations**

- M51** [1916 c.31](#).

**Status:**

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