

SCHEDULES

SCHEDULE 5

CHARITABLE PROPERTY ON DISBANDING OF UNITS

PART II

SUCCESSION TO CHARITABLE PROPERTY: ENGLAND AND WALES

Effect of designation of successor to disbanded unit

- 3 (1) On and after the day on which a warrant comes into force, any charitable property which is held for the purposes of the disbanded unit in question shall (subject to the provisions of this Part of this Schedule) be held for the corresponding purposes, or most nearly corresponding purposes, of the successor unit designated by the warrant.
- (2) In this Part of this Schedule “charitable property” means any property belonging to a charity.
- (3) The same jurisdiction and powers shall be exercisable in relation to any charity owning property to which sub-paragraph (1) applies as would be exercisable if that sub-paragraph were not a provision of an Act of Parliament regulating that charity.

Exclusion of charitable property from paragraph 3

- 4 (1) If the Charity Commissioners consider that paragraph 3(1) should not apply to all or any of the charitable property held for the purposes of a disbanded unit, they may make an order providing that paragraph 3(1) shall not apply or shall cease to apply to that property or part.
- (2) An order under this paragraph may be made at any time within the period of 6 months beginning with the day on which the warrant is made.
- 5 (1) If a charity affected by a warrant or any trustee of, or person interested in, such a charity considers that paragraph 3(1) should not apply to all or any of the property held by the charity for the purposes of the disbanded unit in question, then the charity, trustee or person interested, as the case may be, may apply to the court for an order providing that paragraph 3(1) shall cease to apply to that property or part.
- (2) An application under this paragraph—
- (a) may be made at any time within the period of 6 months beginning with the day on which the warrant comes into force; and
 - (b) is subject to subsections (2) to (5) of section 33 of the Charities Act 1993 (proceedings not to be begun without the consent of the Charity Commissioners or leave of a judge of the High Court),
- and for the purposes of subsection (5) of that section an application for an order of the Commissioners authorising proceedings under this paragraph shall be deemed to

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be refused if it is not granted during the period of one month beginning with the day on which the application is received by the Commissioners.

(3) In this paragraph “the court” has the same meaning as in the Charities Act 1993.

Application of property otherwise than under paragraph 3

6 In any case where—

- (a) the Secretary of State requests the Charity Commissioners to make provision with respect to any charitable property which is held for the purposes of a unit of a reserve force that has been or is to be disbanded; or
- (b) an order is made under paragraph 4 or 5 excluding any charitable property so held from the operation of paragraph 3(1),

the Commissioners may, notwithstanding anything in subsection (4) of section 16 of the Charities Act 1993 (limit on jurisdiction to make schemes etc. for the protection of charities), exercise their jurisdiction under that section with respect to the property to which the request or order relates.

Validity of certain acts by trustees

7 Neither a warrant nor any order under paragraph 4 or 5 shall affect the validity of anything done or omitted with respect to any property affected by the warrant or order before a copy of the warrant or order is received by a trustee of the charity in question.

Saving for interests in property contingent on disbandment of unit

8 Nothing in this Part of this Schedule applies to any property held by a charity for the purposes of a unit that has been or is to be disbanded if, under the terms on which the property is so held—

- (a) any interest of the charity in the property is determined on the disbanding of that unit; and
- (b) any other person or charity has an interest in the property contingent upon the determination of the interest of the charity.