

CHARITIES ACT 2006

EXPLANATORY NOTES

THE ACT

Commentary on Sections

Sections 6 and 7 and Schedules 1 and 2: The Charity Commission

37. Currently the Charity Commission has no legal existence as a body: the functions that are usually described as "the Charity Commission's" functions are in fact functions held by the Charity Commissioners for England and Wales (the "Commissioners") personally. *Subsection (1)* of section 6 inserts a new section, 1A, into the 1993 Act. Section 1A(1) creates a new body corporate called the Charity Commission for England and Wales, with an equivalent name in Welsh. The Commission will be a non-Ministerial Government Department and *subsections (4) and (5)* ensure that it will have a significant degree of independence from Ministers and other Government Departments in the performance of its functions.
38. Other provisions in section 6 transfer the Commissioners' functions to the new Commission (*subsection (4)*), abolish the office of Charity Commissioner (*subsection (3)*), and ensure that references to the Commissioners in other enactments passed before the commencement of this section are, from its commencement, understood as references to the new Commission (*subsection (5)*).
39. *Subsection (7)* of section 6 gives effect to Schedule 2 of the Act, which contains provisions to deal with aspects of the transition between the Commissioners and the new Commission.
40. Provisions for the new Commission's membership, staffing, committees, procedures, and annual reporting are in Schedule 1A to the 1993 Act, inserted by Schedule 1 to the Act and given effect by section 6(2) of it.
41. *Section 7* inserts new four sections – sections 1B to 1E - into the 1993 Act. These provide the Commission with, respectively, five objectives, six general functions, six general duties, and incidental powers. The Commission's objectives describe what the Commission is to seek to achieve; its functions describe the activities it is to carry out in seeking to achieve its objectives; and its general duties describe ways in which, as far as it practicable, it must act, and matters to which it must have regard, in performing its functions and in managing its affairs. Other provisions in the Act require the Commission to report annually to the Minister for the Cabinet Office on the discharge of its functions, the extent to which it believes its objectives have been met, and the management of its affairs (see paragraph 11 of Schedule 1A to the 1993 Act, inserted by Schedule 1 to the Act). *Subsection (2)* of section 1E is to ensure that the Commission does not directly involve itself in the administration of any charity.