

SCHEDULE 2

TRANSITIONAL AND TRANSITORY PROVISIONS AND SAVINGS

PART 2

JURISDICTION OF THE CHARITY COMMISSION AND COURT IN RELATION TO NEW EXEMPT AND FORMERLY EXEMPT CHARITIES

CHAPTER 1

NEW EXEMPT CHARITIES

Inquiries under section 8 of the 1993 Act relating to new exempt charities

6.—(1) The Charity Commission may for the purpose of any relevant inquiry continue to treat a new exempt charity as if it had not become an exempt charity.

(2) The Charity Commission must notify the principal regulator of the relevant exempt charity of any decision to continue any inquiry with regard to that charity.

(3) In this paragraph “relevant inquiry” means, in relation to a new exempt charity, an inquiry which was instituted under section 8 of the 1993 Act—

- (a) before the appointed day; and
- (b) with regard to that charity or a class of charities into which it falls.

Power to act for the protection of charities

7.—(1) The Charity Commission may take any action, on or after the appointed day, in relation to—

- (a) a new exempt charity which is or was the subject of a relevant inquiry; or
- (b) the charity trustees of such a charity,

that it could take under the 1993 Act in relation to a charity which is not an exempt charity or (as the case may be) the charity trustees of a charity that is not an exempt charity.

(2) The Charity Commission must notify the principal regulator of the relevant new exempt charity of any action taken in reliance on sub-paragraph (1) above.

(3) In this paragraph “relevant inquiry” has the meaning given by paragraph 6.

Need for an order under section 36 of the 1993 Act in relation to a new exempt charity

8.—(1) Section 36 of the 1993 Act continues to apply to a relevant disposition of land held by or in trust for a new exempt charity as it applies to a disposition of land held by or in trust for a charity which is not an exempt charity.

(2) A disposition of land held by or in trust for a new exempt charity is a “relevant disposition” if—

- (a) the charity trustees proposed that the land in question be disposed of (whether by conveyance, transfer, lease or otherwise) before the appointed day; but
- (b) the relevant disposition had not been effected before that day.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Need for an order under section 38 of the 1993 Act in relation to a new exempt charity

9.—(1) Section 38 of the 1993 Act continues to apply to a relevant mortgage of land held by or in trust for a new exempt charity as it applies to a mortgage of land held by or in trust for a charity which is not an exempt charity.

(2) A mortgage of land held by or in trust for a new exempt charity is a “relevant mortgage” if the charity trustees—

- (a) proposed that the mortgage be executed before the appointed day; but
 - (b) had not executed it before that day.
- (3) For the purposes of sub-paragraph (2) it does not matter whether the mortgage—
- (a) will only have effect to secure the repayment of sums paid by way of the proposed loan or grant or discharge of the proposed obligation; or
 - (b) will also have effect to secure the repayment of sums paid by way of loan or grant, or the discharge of other obligations undertaken, after the date of its execution.
- (4) In this paragraph “mortgage” has the meaning given by section 38 of the 1993 Act.

CHAPTER 2

FORMERLY EXEMPT CHARITIES

Inquiries under section 8 of the 1993 Act relating to formerly exempt charities

10.—(1) Subject to sub-paragraph (2), the Charity Commission must not instigate any inquiry under section 8 of the 1993 Act on or after the appointed day—

- (a) in relation to one or more formerly exempt charities and in respect of any period beginning before that day; or
- (b) which covers any period beginning before the appointed day and would extend to one or more formerly exempt charities.

(2) The Charity Commission may, if it considers it appropriate to do so, instigate an inquiry under section 8 of the 1993 Act on or after the appointed day into a formerly exempt charity in respect of a matter—

- (a) arising before the appointed day but during the current financial year of the charity; and
- (b) of which it becomes aware on or after the appointed day.

Costs of a formerly exempt charity in promoting a Bill before Parliament

11. Where immediately before the appointed day a formerly exempt charity was preparing or promoting a Bill in Parliament, section 17(7) of the 1993 Act continues to apply in respect of any expenditure incurred on or after that day in the preparation or promotion of that Bill as if the relevant charity remained an exempt charity.

Ongoing charity proceedings relating to a formerly exempt charity

- 12.**—(1) Any charity proceedings —
- (a) relating to a formerly exempt charity; and
 - (b) taken before the appointed day,

continue on or after that day as if they had been authorised by the Charity Commission.

(2) In this paragraph “charity proceedings” has the meaning given by section 33(8) of the 1993 Act.

Need for an order under section 36 of the 1993 Act in relation to a formerly exempt charity

13.—(1) Nothing in section 36 of the 1993 Act applies to a disposition of land held by or in trust for a formerly exempt charity to which sub-paragraph (2) applies.

(2) This sub-paragraph applies to a disposition of land held by or in trust for a formerly exempt charity if—

- (a) the charity trustees proposed that the relevant land be disposed of (whether by conveyance, transfer, lease or otherwise) before the appointed day; but
- (b) the relevant disposition had not been effected before that day.

Need for an order under section 38 of the 1993 Act in relation to a formerly exempt charity

14.—(1) Nothing in section 38 of the 1993 Act applies to a mortgage of land held by or in trust for a formerly exempt charity to which sub-paragraph (2) applies.

(2) This sub-paragraph applies to a mortgage of land held by or in trust for a formerly exempt charity if the charity trustees—

- (a) proposed that the mortgage be executed before the appointed day; but
 - (b) had not executed it before that day.
- (3) For the purposes of sub-paragraph (2) it does not matter whether the mortgage—
- (a) will only have effect to secure the repayment of sums paid by way of the proposed loan or grant or discharge of a proposed obligation; or
 - (b) will also have effect to secure the repayment of sums paid by way of loan or grant, or the discharge of other obligations undertaken, after the date of its execution.
- (4) In this paragraph “mortgage” has the meaning given by section 38 of the 1993 Act.

Persons acting as charity trustee of or trustee for a formerly exempt charity while disqualified

15.—(1) The Commission may not make any order under section 73(4) of the 1993 Act which would require a person (“P”) to—

- (a) repay to a formerly exempt charity the whole or part of any relevant sums received by P by way of remuneration or expenses; or
 - (b) pay to that charity the whole or part of the monetary value of any relevant benefit in kind received by P.
- (2) For the purposes of this paragraph—
- (a) a sum by way of remuneration or expenses or a benefit in kind received by P is a relevant sum or benefit in kind if it is received by P in connection with P’s acting as charity trustee of or trustee for the formerly exempt charity at any time—
 - (i) before the appointed day; and
 - (ii) when P was disqualified by section 72 of the 1993 Act for acting as such a trustee;
 - (b) it does not matter whether—
 - (i) the sums received by P by way of remuneration or expenses are; or
 - (ii) the benefit in kind received by P is,received by P before, on or after the appointed day.