



# Charities Act 2011

## 2011 CHAPTER 25

### PART 18

#### MISCELLANEOUS AND SUPPLEMENTARY

#### *Enforcement powers of Commission etc.*

#### **335 Enforcement of requirements by order of Commission**

- (1) If a person fails to comply with any requirement imposed by or under this Act then (subject to subsection (2)) the Commission may by order give that person such directions as it considers appropriate for securing that the default is made good.
- (2) Subsection (1) does not apply to any such requirement if—
  - (a) a person who fails to comply with, or is persistently in default in relation to, the requirement is liable to any criminal penalty, or
  - (b) the requirement is imposed by—
    - (i) an order of the Commission to which section 336 applies, or
    - (ii) a direction of the Commission to which section 336 applies by virtue of section 338(2).

#### **336 Enforcement of orders of Commission**

- (1) A person guilty of disobedience to an order mentioned in subsection (2) may on the application of the Commission to the High Court be dealt with as for disobedience to an order of the High Court.
- (2) The orders are—
  - (a) an order of the Commission under—
    - section 52(1) (power to call for documents),
    - section 84 (power to direct specified action to be taken),
    - section 85 (power to direct application of charity property),
    - section 87 (supervision of certain Scottish charities),

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- section 155 (power to direct compliance with regulations giving auditors etc. access to information etc.),
- section 184 (civil consequences of acting while disqualified),
- section 186 (disqualification of charity trustee or trustee receiving remuneration under section 185),
- section 263 (dissolution of incorporated body),
- (b) an order of the Commission under—
  - section 69 (concurrent jurisdiction with High Court for certain purposes), or
  - any of sections 76 and 79 to 81 (powers to act for protection of charities etc.),
 requiring a transfer of property or payment to be called for or made, or
- (c) an order of the Commission requiring a default under this Act to be made good.

### **337 Other provisions as to orders of Commission**

- (1) Any order made by the Commission under this Act may include such incidental or supplementary provisions as the Commission thinks expedient for carrying into effect the objects of the order.
- (2) Where the Commission exercises any jurisdiction to make an order under this Act on an application or reference to it, it may insert any such provisions in the order even though the application or reference does not propose their insertion.
- (3) Where the Commission makes an order under this Act, the Commission—
  - (a) may itself give such public notice as it thinks fit of the making or contents of the order, or
  - (b) may require it to be given by—
    - (i) any person on whose application the order is made, or
    - (ii) any charity affected by the order.
- (4) The Commission may, with or without any application or reference to it, discharge an order in whole or in part, and subject or not to any savings or other transitional provisions, if—
  - (a) it made the order under any provision of this Act other than section 263 (dissolution of incorporated body), and
  - (b) at any time within 12 months after it made the order, it is satisfied that the order was made by mistake or on misrepresentation or otherwise than in conformity with this Act.
- (5) Except for the purposes of subsection (4) or an appeal under this Act, an order made by the Commission under this Act—
  - (a) is to be treated as having been duly and formally made, and
  - (b) is not to be called in question on the ground only of irregularity or informality, but (subject to any further order) has effect according to its tenor.
- (6) Any order made by the Commission under any provision of this Act may be varied or revoked by a subsequent order so made and may include transitional provisions or savings.

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

- C1 S. 337 applied by 1906 c. 25, s. 4(4) (as substituted (14.3.2012) by [Charities Act 2011 \(c. 25\)](#), s. 355, [Sch. 7 para. 8\(2\)](#) (with s. 20(2), [Sch. 8](#)))
- C2 S. 337 applied by 1943 gsm1 s. 14(4) (as substituted (14.3.2012) by [Charities Act 2011 \(c. 25\)](#), s. 355, [Sch. 7 para. 9\(2\)](#) (with s. 20(2), [Sch. 8](#)))
- C3 S. 337 applied by 1855 c. 81, s. 9(2) (as substituted (14.3.2012) by [Charities Act 2011 \(c. 25\)](#), s. 355, [Sch. 7 para. 5\(2\)](#) (with s. 20(2), [Sch. 8](#)))
- C4 S. 337 applied by 1987 c. 15, s. 4(4) (as substituted (14.3.2012) by [Charities Act 2011 \(c. 25\)](#), s. 355, [Sch. 7 para. 48](#) (with s. 20(2), [Sch. 8](#)))

**338 Directions of the Commission or person conducting inquiry**

- (1) Any direction given by the Commission under any provision of this Act—
  - (a) may be varied or revoked by a further direction given under that provision, and
  - (b) must be given in writing.
- (2) Sections 336 (enforcement of orders) and 337(1) to (3) and (5) (other provisions as to orders) apply to any such directions as they apply to an order of the Commission.
- (3) In subsection (1) the reference to the Commission includes, in relation to a direction under section 47(2) (obtaining evidence etc. for the purposes of an inquiry), a reference to any person conducting an inquiry under section 46.
- (4) Nothing in this section is to be read as applying to any directions contained in an order made by the Commission under section 335(1) (directions for securing that default is made good).

**339 Service of orders and directions**

- (1) This section applies to any order or direction made or given by the Commission under this Act.
- (2) Any such order or direction may be served on a person (other than a body corporate) by—
  - (a) delivering it to that person,
  - (b) leaving it at that person's last known address in the United Kingdom, or
  - (c) sending it by post to that person at that address.
- (3) Any such order or direction may be served on 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 order or direction may also be served on a person (including a body corporate) by sending it by post to that person at an address notified by that person to the Commission for the purposes of this subsection.

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- (5) In this section any reference to the Commission includes, in relation to a direction under section 47(2) (obtaining evidence etc. for the purposes of an inquiry), a reference to any person conducting an inquiry under section 46.

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

- C5** S. 339 applied by 1987 c. 15, s. 4(4) (as substituted (14.3.2012) by [Charities Act 2011 \(c. 25\)](#), s. 355, [Sch. 7 para. 48](#) (with s. 20(2), [Sch. 8](#)))

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