

*Status: Point in time view as at 31/01/2009.*

*Changes to legislation: There are currently no known outstanding effects for the Charities Act 1993 (repealed), SCHEDULE 1D. (See end of Document for details)*

## SCHEDULES

### [<sup>F1</sup>SCHEDULE 1D

Section 2A(4)

#### REFERENCES TO CHARITY TRIBUNAL

##### Textual Amendments

- F1** Sch. 1C, Sch. 1D inserted (27.2.2007 for the insertion of Sch. 1C para. 6 for specified purposes, 18.3.2008 for the insertion of Sch. 1C paras. 1 (for specified purposes), 2-5, 6 (in so far as not already in force) and Sch. 1D, 31.1.2009 for the insertion of Sch. 1C para. 1 for specified purposes) by [Charities Act 2006 \(c. 50\)](#), s. 79(2), [Sch. 4](#); [S.I. 2007/309](#), art. 2, Sch.; [S.I. 2008/751](#), art. 2, Sch.; [S.I. 2008/3267](#), art. 2, Sch. (with arts. 3-27) (as amended: (29.9.2009) by [S.I. 2009/2648](#), art. 3; (26.7.2010) by [S.I. 2010/1942](#), art. 2; and (1.8.2011) by [S.I. 2011/1725](#), arts. 1(2), 3, Sch. para. 6)

##### *References by Commission*

- 1 (1) A question which—
- (a) has arisen in connection with the exercise by the Commission of any of its functions, and
  - (b) involves either the operation of charity law in any respect or its application to a particular state of affairs,
- may be referred to the Tribunal by the Commission if the Commission considers it desirable to refer the question to the Tribunal.
- (2) The Commission may make such a reference only with the consent of the Attorney General.
- (3) The Commission shall be a party to proceedings before the Tribunal on the reference.
- (4) The following shall be entitled to be parties to proceedings before the Tribunal on the reference—
- (a) the Attorney General, and
  - (b) with the Tribunal's permission—
    - (i) the charity trustees of any charity which is likely to be affected by the Tribunal's decision on the reference,
    - (ii) any such charity which is a body corporate, and
    - (iii) any other person who is likely to be so affected.

##### *References by Attorney General*

- 2 (1) A question which involves either—
- (a) the operation of charity law in any respect, or
  - (b) the application of charity law to a particular state of affairs,
- may be referred to the Tribunal by the Attorney General if the Attorney General considers it desirable to refer the question to the Tribunal.

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- (2) The Attorney General shall be a party to proceedings before the Tribunal on the reference.
- (3) The following shall be entitled to be parties to proceedings before the Tribunal on the reference—
- (a) the Commission, and
  - (b) with the Tribunal's permission—
    - (i) the charity trustees of any charity which is likely to be affected by the Tribunal's decision on the reference,
    - (ii) any such charity which is a body corporate, and
    - (iii) any other person who is likely to be so affected.

*Powers of Commission in relation to matters referred to Tribunal*

- 3 (1) This paragraph applies where a question which involves the application of charity law to a particular state of affairs has been referred to the Tribunal under paragraph 1 or 2 above.
- (2) The Commission shall not take any steps in reliance on any view as to the application of charity law to that state of affairs until—
- (a) proceedings on the reference (including any proceedings on appeal) have been concluded, and
  - (b) any period during which an appeal (or further appeal) may ordinarily be made has ended.
- (3) Where—
- (a) paragraphs (a) and (b) of sub-paragraph (2) above are satisfied, and
  - (b) the question has been decided in proceedings on the reference,
- the Commission shall give effect to that decision when dealing with the particular state of affairs to which the reference related.

*Suspension of time limits while reference in progress*

- 4 (1) Sub-paragraph (2) below applies if—
- (a) paragraph 3(2) above prevents the Commission from taking any steps which it would otherwise be permitted or required to take, and
  - (b) the steps in question may be taken only during a period specified in an enactment (“the specified period”).
- (2) The running of the specified period is suspended for the period which—
- (a) begins with the date on which the question is referred to the Tribunal, and
  - (b) ends with the date on which paragraphs (a) and (b) of paragraph 3(2) above are satisfied.
- (3) Nothing in this paragraph or section 74A of this Act prevents the specified period being suspended concurrently by virtue of sub-paragraph (2) above and that section.

*Agreement for Commission to act while reference in progress*

- 5 (1) Paragraph 3(2) above does not apply in relation to any steps taken by the Commission with the agreement of—

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- (a) the persons who are parties to the proceedings on the reference at the time when those steps are taken, and
  - (b) (if not within paragraph (a) above) the charity trustees of any charity which—
    - (i) is likely to be directly affected by the taking of those steps, and
    - (ii) is not a party to the proceedings at that time.
- (2) The Commission may take those steps despite the suspension in accordance with paragraph 4(2) above of any period during which it would otherwise be permitted or required to take them.
- (3) Paragraph 3(3) above does not require the Commission to give effect to a decision as to the application of charity law to a particular state of affairs to the extent that the decision is inconsistent with any steps already taken by the Commission in relation to that state of affairs in accordance with this paragraph.

*Appeals and applications in respect of matters determined on references*

- 6
- (1) No appeal or application may be made to the Tribunal by a person to whom sub-paragraph (2) below applies in respect of an order or decision made, or direction given, by the Commission in accordance with paragraph 3(3) above.
  - (2) This sub-paragraph applies to a person who was at any stage a party to the proceedings in which the question referred to the Tribunal was decided.
  - (3) Rules under section 2B(1) of this Act may include provision as to who is to be treated for the purposes of sub-paragraph (2) above as being (or not being) a party to the proceedings.
  - (4) Any enactment (including one contained in this Act) which provides for an appeal or application to be made to the Tribunal has effect subject to sub-paragraph (1) above.

*Interpretation*

- 7
- (1) In this Schedule—
    - “charity law” means—
      - (a) any enactment contained in, or made under, this Act or the Charities Act 2006,
      - (b) any other enactment specified in regulations made by the Minister, and
      - (c) any rule of law which relates to charities, and
    - “enactment” includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978), and includes an enactment whenever passed or made.
  - (2) The exclusions contained in section 96(2) of this Act (ecclesiastical corporations etc.) do not have effect for the purposes of this Schedule.]

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