

## **CHARITIES ACT 2006**

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### **EXPLANATORY NOTES**

#### **THE ACT**

##### *Commentary on Sections*

##### *Section 24 – Power to give advice and guidance*

93. The Charity Commissioners have power under section 29 of the 1993 Act to give a charity trustee who applies in writing for it, their opinion or advice on any matter affecting the performance of his duties as such. If the trustee acts in accordance with the advice or opinion given by the Commissioners, he is deemed to have acted in accordance with the trusts of the charity. This protection is withdrawn, however, if the trustee knows or suspects that the Commissioners' opinion or advice was given without their knowing all the material facts of the matter. Protection is also withdrawn where the court or Tribunal has already given a decision on the same matter, and where proceedings are under way to obtain the court's or Tribunal's decision.
94. *Section 24* substitutes a new section 29 for the existing section 29. The overall effect of new section 29 is to preserve, with one minor extension, the existing power described above, and to add a more general power for the Commission to give advice.
95. *Subsections (1) to (3)* of the new section 29 reproduce in essence the existing power. Subsection (1)(b) makes the extension, which is to allow the Commission's opinion or advice to be sought on any matter relating to the proper administration of the charity not just, as at present, on any matter relating to the applicant's performance of his duties.
96. *Subsections (4) and (5)* give the Commission a more general power to give advice and guidance, as part of its new function (set out in new section 1C(2) of the 1993 Act, inserted by section 7 of the Act) of encouraging and facilitating the better administration of charities. The Commission may use this new power to give advice to individual charities, to classes of charity, or to all charities, and may do so in whatever form and manner – for example, through letters, through publications made generally available, through documents placed on its website - it considers appropriate.