



# Charities Act 2011

## 2011 CHAPTER 25

### PART 17

#### THE TRIBUNAL

### CHAPTER 2

#### APPEALS AND APPLICATIONS TO TRIBUNAL

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

- C1** Pt. 17 Ch. 2 applied by 1969 c. 22, s. 4(8A) (as substituted (14.3.2012) by [Charities Act 2011 \(c. 25\)](#), s. 355, [Sch. 7 para. 17\(1\)](#) (with s. 20(2), [Sch. 8](#)))
- C2** Pt. 17 Ch. 2 applied by 1987 c. 3, s. 5(8B) (as substituted (14.3.2012) by [Charities Act 2011 \(c. 25\)](#), s. 355, [Sch. 7 para. 47\(2\)](#) (with s. 20(2), [Sch. 8](#)))
- C3** Pt. 17 Ch. 2 applied by 1987 c. 15, s. 4(2) (as substituted (14.3.2012) by [Charities Act 2011 \(c. 25\)](#), s. 355, [Sch. 7 para. 48](#) (with s. 20(2), [Sch. 8](#)))

### 319 Appeals: general

- (1) Except in the case of a reviewable matter (see section 322) an appeal may be brought to the Tribunal against any decision, direction or order mentioned in column 1 of Schedule 6.
- (2) Such an appeal may be brought by—
  - (a) the Attorney General, or
  - (b) any person specified in the corresponding entry in column 2 of Schedule 6.
- (3) The Commission is to be the respondent to such an appeal.
- (4) In determining such an appeal the Tribunal—
  - (a) must consider afresh the decision, direction or order appealed against, and

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(b) may take into account evidence which was not available to the Commission.

(5) The Tribunal may—

- (a) dismiss the appeal, or
- (b) if it allows the appeal, exercise any power specified in the corresponding entry in column 3 of Schedule 6.

### **320 Appeals: orders under s.52**

- (1) Section 319(4)(a) does not apply in relation to an appeal against an order made under section 52 (power to call for documents).
- (2) On such an appeal the Tribunal must consider whether the information or document in question—
  - (a) relates to a charity;
  - (b) is relevant to the discharge of the functions of the Commission or the official custodian.
- (3) The Tribunal may allow such an appeal only if it is satisfied that the information or document in question does not fall within subsection (2)(a) or (b).

### **321 Reviews**

- (1) An application may be made to the Tribunal for the review of a reviewable matter.
- (2) Such an application may be made by—
  - (a) the Attorney General, or
  - (b) any person mentioned in the entry in column 2 of Schedule 6 which corresponds to the entry in column 1 which relates to the reviewable matter.
- (3) The Commission is to be the respondent to such an application.
- (4) In determining such an application the Tribunal must apply the principles which would be applied by the High Court on an application for judicial review.
- (5) The Tribunal may—
  - (a) dismiss the application, or
  - (b) if it allows the application, exercise any power mentioned in the entry in column 3 of Schedule 6 which corresponds to the entry in column 1 which relates to the reviewable matter.

### **322 Reviewable matters**

- (1) In this Chapter references to reviewable matters are to—
  - (a) decisions to which subsection (2) applies, and
  - (b) orders to which subsection (3) applies.
- (2) This subsection applies to decisions of the Commission—
  - (a) to institute an inquiry under section 46 with regard to a particular institution;
  - (b) to institute an inquiry under section 46 with regard to a class of institutions;
  - (c) not to make a common investment scheme under section 96;
  - (d) not to make a common deposit scheme under section 100;

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- (e) not to make an order under section 105 (power to authorise dealings with charity property etc.) in relation to a charity;
  - (f) not to make an order under section 117 (restrictions on dispositions of land) in relation to land held by or in trust for a charity;
  - (g) not to make an order under section 124 (restrictions on mortgages) in relation to a mortgage of land held by or in trust for a charity.
- (3) This subsection applies to an order made by the Commission under section 147(2) (investigation and audit) in relation to a charitable company.

### **323 Remission of matters to Commission**

References in column 3 of Schedule 6 to the power to remit a matter to the Commission are to the power to remit the matter—

- (a) generally, or
- (b) for determination in accordance with a finding made or direction given by the Tribunal.

### **324 Power to amend provisions relating to appeals and applications to Tribunal**

- (1) The [<sup>F1</sup>Secretary of State] may by order—
- (a) amend or otherwise modify an entry in Schedule 6,
  - (b) add an entry to Schedule 6, or
  - (c) remove an entry from Schedule 6.
- (2) An order under subsection (1) may make such amendments, repeals or other modifications of—
- (a) sections 319 to 323, or
  - (b) an enactment which applies this Chapter and Schedule 6,
- as the [<sup>F1</sup>Secretary of State] considers appropriate in consequence of any change in Schedule 6 made by the order.
- (3) Subsections (1) and (2) apply (with the necessary modifications) in relation to section 57 of the Charities Act 2006 as if—
- (a) that section were contained in this Chapter, and
  - (b) the reference in subsection (2) to sections 319 to 323 included a reference to any other provision relating to appeals to the Tribunal which is contained in Chapter 1 of Part 3 of the Charities Act 2006.

#### **Textual Amendments**

**F1** Words in s. 324(1)(2) substituted (9.11.2016) by [The Transfer of Functions \(Elections, Referendums, Third Sector and Information\) Order 2016 \(S.I. 2016/997\)](#), art. 1(2), [Sch. 2 para. 25\(2\)\(jj\)](#) (with art. 12)

### **[<sup>F2</sup>324A Power to authorise costs to be incurred in relation to proceedings**

- (1) The Tribunal may make an authorised costs order on the application of a charity or charity trustees of a charity.
- (2) An authorised costs order is an order—

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- (a) made in respect of proceedings brought, or proposed to be brought, before the Tribunal or on appeal from it, and
  - (b) authorising payment out of the funds of the charity of costs falling within subsection (3).
- (3) Those costs are costs incurred, or to be incurred, in connection with the proceedings—
- (a) by the charity,
  - (b) by its charity trustees, or
  - (c) by any other person, so far as the charity or its charity trustees are ordered by the Tribunal or the court hearing the appeal to bear them.]

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**Textual Amendments**

**F2** S. 324A inserted (31.10.2022) by Charities Act 2022 (c. 6), ss. 36, 41(4); S.I. 2022/1109, Sch. para. 8

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 106(1)-(1B) substituted for s. 106(1) by [2022 c. 6 s. 16\(a\)](#)
- s. 322(2)(ea) inserted by [2022 c. 6 Sch. 2 para. 26](#)
- s. 331A331B and cross-heading inserted by [2022 c. 6 s. 15](#)