STATUTORY INSTRUMENTS

2018 No. 47 (C. 8)

CHARITIES, ENGLAND AND WALES

The Charities (Protection and Social Investment) Act 2016 (Commencement No. 2 and Transitional Provision) Regulations 2018

Made - - - - 15th January 2018

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 17(4) and (5) of the Charities (Protection and Social Investment) Act 2016(**1**):

Citation and interpretation

1.—(1) These Regulations may be cited as the Charities (Protection and Social Investment) Act 2016 (Commencement No. 2 and Transitional Provision) Regulations 2018.

(2) In these Regulations—

"the 2011 Act" means the Charities Act 2011(**2**);

"the 2016 Act" means the Charities (Protection and Social Investment) Act 2016;

"the Commission" has the meaning given in section 13 of the 2011 Act.

Provisions of the 2016 Act coming into force on 1st February 2018

2. Section 9 of the 2016 Act (automatic disqualification from being a trustee) comes into force to the extent not already in force on 1st February 2018, but only for the purposes of—

(a) making an application to the Commission for a waiver under section 181(2) (waiver of disqualification) of the 2011 Act;

(b) permitting the Commission to consider such an application; and

(c) bringing an appeal in respect of a decision of the Commission relating to such an application.

Provisions of the 2016 Act coming into force on 1st August 2018

3. The following provisions of the 2016 Act come into force on 1st August 2018—

(**1**) 2016 c. 4. By virtue of article 10(1) and (2)(g) of S.I. 2016/997 the power to make these Regulations is exercisable by the Secretary of State.

(**2**) 2011 c. 25.

(a) section 9, for all remaining purposes;

(b) sections 11(1) to (4) (records of disqualification and removal); and

(c) section 12 (participation in corporate decisions while disqualified).

Transitional provision

4.—(1) The coming into force of section 9 of the 2016 Act for all remaining purposes is not to have the effect of disqualifying a person ("P") under section 178(1) of the 2011 Act (persons disqualified from being charity trustees of trustees of a charity) provided that—

(a) P made an application ("the application") to the Commission under section 181(2) of the 2011 Act (power to waive disqualification) during the period beginning with 1st February 2018 and ending with 31st July 2018 ("the relevant period"); and

(b) one of the conditions in paragraph (2) applies in respect of P.

(2) The conditions in this paragraph are—

(a) that the Commission has not by the end of the relevant period notified its decision in respect of the application ("the decision") to P;

(b) that—

(i) the Commission has, before the end of the relevant period, notified the decision to P; but

(ii) P has not, by the end of the appeal application period made an application to the Tribunal to appeal the decision;

(c) that—

(i) the Commission has, before the end of the relevant period, notified the decision to P;

(ii) P has, before the end of the relevant period, made an application to the Tribunal to appeal the decision; and

(iii) the appeal has not been finally determined by the end of the relevant period.

(3) Where P, but for paragraph (1), would have been disqualified under section 178(1) of the 2011 Act upon the coming into force of section 9 of the 2016 Act, P is to be disqualified upon the occurrence of an event described in paragraph (4).

(4) The events described in this paragraph are—

(a) where P has not made an application to the Tribunal within the appeal application period, the expiry of that period;

(b) where P has made an application to the Tribunal within the appeal application period, the final determination of any appeal the effect of which is to uphold the decision.

(5) Nothing in this regulation prevents P being disqualified from being a charity trustee or trustee for a charity by virtue of any other enactment.

(6) Where the appeal application period expires on or after 1st August 2018 the expiry of the relevant period coincides with the last day of the appeal application period;

(7) In this regulation—

(a) "the appeal application period" means the period during which P may make an application to the Tribunal in respect of a decision;

(b) "the Tribunal" has the meaning given in section 315 (the Tribunal) of the 2011 Act.