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THE CHARITY LAW & PRACTICE REVIEW

C L & P R

Volume 9, Issue 3, 2007

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The Charity Law & Practice Review
is published by

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E- Mail address: ce.khpplc@btconnect.com

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Reference to this journal should indicate year of issue and volume, issue and page numbers. For example Vol 2, Issue 3, page 150, of 1999 should be referred to as: CL&PR 2/3 [1999] 150.

Printed in England by Dearne Valley Printers.

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EDITORIAL

After a somewhat protracted gestation period the Charities Bill finally gave birth to the Charities Act 2006 on 8th November 2006. The initial euphoria that greeted these generally welcome reforms was soon tempered by the realisation that it will be quite some time before the Act takes full effect in England and Wales. A particular consequence of the establishment of a new Charity Tribunal has been that measures that may be the subject of an appeal to the Tribunal cannot be brought into force until the appointment of Tribunal personnel is implemented; this is not currently expected to be finalised until early 2008. Moreover, the Charity Commission does not expect to be in a position to register those charities that are currently exempt or excepted from registration until 2008. Finally, additional work needs to be carried out on the new licensing regime for public charitable collections and therefore it is envisaged that this regime will not come into force before 2009. Meeting these targets may well depend on the Charity Commission securing sufficient funding from the Treasury, which is currently in doubt.

In Scotland, where registration of Scottish charities under the Charities and Trustee Investment (Scotland) Act 2005 is under way, the potential problems that can result from divergent definitions of charity within a country are beginning to emerge. The Office of the Scottish Charity Regulator has recently announced that English charities with a Scottish presence will need to amend their governing instruments to provide for the distribution of assets on dissolution to be applied to purposes that are charitable in both English and Scots law if the charity wants to be registered in Scotland.

As regards Northern Ireland, the Charities (NI) Order 2007 was laid before Parliament in January 2007 and it is currently expected that it will be passed within the next few months with a view to the establishment of the Charity Commission for Northern Ireland later in 2007.

In this issue we are pleased to feature an extensive review by David Dennis of the University of Liverpool Charity Law Unit of judicial control of the exercise of discretionary powers by trustees in general and charity trustees in particular.

There follows a topical analysis by Peter Smith of Radcliffe Chambers of the implications for religious charities in England and Wales of the removal by the Charities Act 2006 of the presumption of public benefit.

This issue concludes with a typically forthright contribution from Professor Charles Cain who questions the need for regulation of purely private philanthropy where relief from taxation is not an issue.

We hope that these articles will stimulate debate and discussion among our readers. All correspondence should be addressed to the Managing Editor:

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