

Charities Act 2022—what do we know so far?

Private Client analysis: The Charities Bill received Royal Assent on 24 February 2022, bringing it into law as the Charities Act 2022 (CA 2022). Kirsteen Hook, senior associate at Blake Morgan LLP, examines the changes CA 2022 introduces and its implications for practitioners and further discusses the Charity Commission's statements to issue further guidance.

This analysis was first published on Lexis®PSL on 15 March 2022 and can be found [here](#) (subscription required).

What do we know so far about the implementation timetable?

Initially, only [CA 2022, s41](#) (extent, commencement and short title) was brought into effect, with all the other provisions requiring the Secretary of State to make regulations to bring them into force.

It is understood that [CA 2022](#) will be implemented on a staggered basis between now and autumn 2023. The Charity Commission has advised that it is working on a plan for an implementation timetable as a matter of priority, publication of which is expected soon.

Many of the changes will require changes to or the introduction of new Charity Commission procedures and guidance, and some will require secondary legislation to be brought into force. The Commission has indicated that it will require substantial effort and resources to implement most of the changes and update its current resources and online processes. In contrast, some changes do not require the Commission's input and therefore may be brought into force earlier and outside the Commission's timetable.

In its response to the Law Commission report of 14 September 2017, 'Technical Issues in Charity Law', the government wholly or partially accepted 38 of the Law Commission's 43 recommendations for reforming charity law. Have all of the accepted recommendations made their way into CA 2022 or are there any surprises?

The Act will implement the 'vast majority' of the recommendations from the 2017 Law Commission report, '[Technical Issues in Charity Law](#)'. The Government accepted most of the recommendations (some in part, and noted some were accepted by other bodies, eg the Charity Commission), refrained from answering one (recommendation ten as it was a recommendation for the Welsh Government) and rejected five of the recommendations (which included the recommendation that the Privy Council Office established a user group for the purpose of proposing and discussing improvements to the procedures; a recommendation to abolish the requirements in [section 121](#) of the Charities Act 2011 relating to advertising disposals of designated land; a review of the way decisions of the Charity Commission can be challenged; and 2 of the recommendations relating to the Charity Tribunal and the Courts).

The Act incorporates most of the expected recommendations and does not appear to throw in any unexpected 'surprises', albeit there are a few points that perhaps are not as clear as charity lawyers may have hoped for (eg the definition of 'permanent endowment'). In addition, there are a number of non-legislative recommendations made in the Law Commission's report (eg amending guidance and making changes to the details on the register of mergers) which the Charity Commission has agreed to take forward. (See News Analysis: [Government response to Law Commission report 'Technical Issues in Charity Law'](#).)

What key points should charity lawyers be aware of when advising clients in light of the forthcoming changes?

It is an interesting time for charity lawyers. The introduction of [CA 2022](#) means that charities will soon be able to take advantage of a number of flexibilities and benefits. Once the implementation timetable is published, we will have a clearer view of when charities can start to make use of the changes.

For the moment, it is important for lawyers and their charity clients to be aware of the impending changes, but on the understanding that they cannot use them quite yet. Lawyers should plan for how the changes may impact on clients and any current matters, so that trustees can factor this into their decision making where relevant.

It may be beneficial for some charities to pause current plans until relevant provisions of the new Act are implemented, but this will not be universal.

What are we expecting from the Charity Commission in terms of new and updated guidance in relation to the new legislation?

The Charity Commission is reviewing the relevant guidance and where applicable, its online digital services for charities, and these will be updated as and when the changes are implemented in accordance with their timetable.

The Commission has advised that it will produce at least 12 pieces of new and/or updated guidance for charity trustees as well as over 20 pieces of internal operational guidance.

The Commission has promised to let charities know as and when its guidance is updated and/or each of the relevant parts of [CA 2022](#) come into force. It is expected that updates will be published on the Commission's website and by email to those on their mailing list.

What key points should property lawyers be aware of when advising clients in light of the forthcoming changes?

The requirements on the disposal of charity property have been relaxed, giving trustees more flexibility. Previously, trustees have been required to engage a RICS-qualified surveyor to produce a detailed report on a property to be sold, (ie a 'Qualified Surveyor's Report'). Under the new Act, trustees will be able to take advice from a wider pool of surveyors, and where the charity has a trustee on its board who they consider to be suitably qualified, they need not engage external advice at all. This will not only save costs and administration but is also likely to reduce timelines.

In addition, the level of detail that must be included in the report will be proportionate to the size of the applicable transaction, and need only cover four aspects of the property: its market value; any work that would improve the price; the marketing recommended by the surveyor; and any other relevant recommendation.

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