



Charities Act (Northern Ireland) 1964

1964 CHAPTER 33

PART I

POWERS OF MINISTRY OF FINANCE AS CHARITY AUTHORITY

PROVISIONS FACILITATING ADMINISTRATION OF CHARITIES

10 Incorporation schemes for charity trustees.

- (1) The trustees of a charity may apply to the Ministry for a scheme of incorporation under this section.
- (2) Where an application is made to it under subsection (1) the Ministry may make a scheme establishing, upon such terms and conditions as the Ministry may specify in the scheme, trustees of the property belonging to the charity as a body corporate and vesting that property in that body in accordance with section 11.
- (3) A scheme under this section may—
 - (a) contain provisions with respect to the choice and appointment of trustees of the body incorporated thereunder and provisions for the management by or on behalf of those trustees of the trusts which apply to the charity;
 - (b) contain provisions requiring or entitling any person to produce, execute or hand over any documents or to do any other act or thing necessary to secure the vesting of the property belonging to the charity pursuant to the scheme;
 - (c) contain such transitional, incidental and supplemental provisions as appear to the Ministry to be necessary for the purposes of the scheme; and
 - (d) be amended from time to time by a subsequent scheme made by the Ministry upon application made to it by or on behalf of the body corporate established by the scheme or by any interested person.
- (4) A scheme under this section shall, if it contains words applying section 19 of the Interpretation Act (Northern Ireland) 1954^{M1} to the body corporate established by the

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scheme, have the like effect by virtue of that section as if it were an Act passed after the commencement of that Act but, whether or not a scheme under this section contains such words, every body corporate established by the scheme shall have a corporate seal and power to sue in its corporate name as well as power to do every act or thing necessary for the administration of the trusts applying to the charity.

Marginal Citations

M1 1954 c. 33

11 Further provisions as to schemes under s. 10.

(1) A scheme under section 10—

- (a) shall operate, as from the date of the scheme and without further assurance, to vest, upon the trusts which apply to the charity in the body corporate established by the scheme, the property belonging to the charity together with all rights and liabilities enjoyed or incurred in connection therewith by all or any of the persons (in this section referred to as “the transferors”) who immediately before the making of the scheme held any of that property upon those trusts; and
- (b) shall be deemed for the purposes of the registration of the scheme in any registry to be a conveyance of the trust property by the transferors to the body corporate established by the scheme.

(2) Upon the making of a scheme under section 10—

- (a) all moneys, stocks, shares and securities vested by the scheme which on the date of making of the scheme are standing in the books of any corporation or company or are entered on any register kept in pursuance of any enactment shall on request made by or on behalf of the body corporate established by the scheme be transferred into the name of that body;
- (b) all debts and liabilities incurred by the transferors in connection with the trust property or the administration of the charitable trusts and owing immediately before the making of the scheme (whether then due or in future to become due certainly or contingently) shall become and be the debts and liabilities of the body corporate established by the scheme;
- (c) all contracts and agreements made by the transferors in connection with the trust property or the administration of the charitable trusts and not fully executed and completed before the making of the scheme shall continue in force but shall be construed and have effect with the substitution of the body corporate established by the scheme for the transferors; and
- (d) in every action, prosecution or other proceeding in respect of the trust property or arising on or in connection with its administration which is pending immediately before the making of the scheme and to which the transferors are a party, the body corporate established by the scheme shall become and be a party in the place of the transferors and the action, prosecution or other proceeding shall continue accordingly.

12 Appointment of new charity trustees.

- (1) Where it appears to the Ministry that the appointment of a new trustee or new trustees of a charity is necessary in the interests of the proper administration of the charity, and

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that the appointment cannot conveniently be made otherwise than by an order made under this section or of the Court then, subject to subsection (2), the Ministry—

- (a) on the application of the trustee or trustees of the charity;
- (b) if there are no trustees of the charity, or they refuse to act or cannot be found, on the application of any person having an interest; or
- (c) if an application is not made to it in pursuance of paragraph (a) or (b) within such a period as is reasonable (regard being had to all the circumstances), of its own motion;

may, with the consent of the Attorney-General, make an order appointing a new trustee or new trustees of the charity either in substitution for or in addition to any existing trustee or trustees, or although there is no existing trustee.

- (2) The Ministry shall not appoint a new trustee under subsection (1) in substitution for an existing trustee unless the existing trustee desires to be discharged from, or refuses to act in, the administration of the charity.

- (3) Where—

- (a) there are no trustees of a charity or they cannot be found; and
- (b) it appears to the Ministry that no suitable person is willing to be appointed as a new trustee of the charity under this section;

the Ministry may, with the consent of the Attorney-General, make an order under subsection (1) appointing itself as the sole trustee of the charity.

- (4) An order under subsection (1) may include provisions vesting the property of the charity for such estate as the Ministry may direct in the persons who on the appointment are the new trustees, and the provisions shall have the same effect as if the persons who before the appointment were the trustees, if any, had duly executed all proper conveyances of the property for such estate as the Ministry directs, or if there is no such person, or no such person of full capacity, then as if such person had existed and been of full capacity and had duly executed all proper conveyances of the property for such estate as the Ministry directs.
- (5) Every trustee of a charity appointed under this section, before as well as after the property of the charity becomes vested in him—
 - (a) shall have the same powers, authorities and discretions; and
 - (b) may in all respects act;as if he had been originally appointed by the instrument, if any, creating the trust.
- (6) The Ministry shall, not less than one month before the date on which the Ministry proposes to make an order under this section, give public notice of the proposed order in such manner as the Ministry considers most effectual for ensuring publicity for the proposal and for bringing it to the attention of persons interested.
- (7) The Ministry shall consider any suggestions received by it in relation to the proposed order, and may take such action thereon as it considers appropriate.
- (8) The Ministry shall, within fourteen days after making an order under this section, give public notice of the effect thereof in such manner as the Ministry considers most effectual for ensuring publicity for the order, and for bringing it to the attention of persons interested.
- (9) Any person having an interest may, within twenty-eight days after the date of the first publication, in pursuance of subsection (8), of notice of the effect of an order under this section, appeal to the Court against the order.

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- (10) Where a person appeals to the Court against an order made under this section, the Ministry shall, within seven days after the date on which it receives notice of the appeal, give notice to the Attorney-General that such an appeal is being made.
- (11) On an appeal under subsection (9)—
 - (a) the Court may make such order confirming, annulling or varying an order under this section, and such order as to costs, as it thinks fit;
 - (b) the Ministry and the trustees, if any, of the charity concerned shall be entitled to be represented and heard.
- (12) An order under this section—
 - (a) if an appeal is not brought against it, shall become operative on the expiration of the period of twenty-eight days mentioned in subsection (9);
 - (b) if an appeal is brought against it, shall become operative on the date of the final determination of the appeal, if and so far as it is confirmed by the Court, or, if the appeal is withdrawn, on the date of the withdrawal.
- (13) An order under this section shall not operate further or otherwise as a discharge to any former or continuing trustee than an appointment of new trustees under any power for that purpose contained in any instrument would have operated.
- (14) This section does not confer power to appoint an executor or administrator.
- (15) Where a body corporate is appointed under this section to be, or a body corporate appointed under this section becomes, sole trustee of a trust, the terms of which provide for or require the appointment of more than one trustee, then during such time as the body corporate holds the office of trustee of the trust—
 - (a) the terms of the trust shall be treated as providing for or requiring the appointment of one trustee only; and
 - (b) one trustee only shall be deemed to have been originally appointed under the terms of the trust.

Subs. (16) rep. by 1970 c. 18 (NI)

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