



Charities Act 2006

2006 CHAPTER 50

PART 2

REGULATION OF CHARITIES

CHAPTER 4

APPLICATION OF PROPERTY CY-PRÈS

Cy-près occasions

15 Application cy-près by reference to current circumstances

- (1) Section 13 of the 1993 Act (occasions for applying property cy-près) is amended as follows.
- (2) In subsection (1)(c), (d) and (e)(iii), for “the spirit of the gift” substitute “the appropriate considerations”.
- (3) After subsection (1) insert—
 - “(1A) In subsection (1) above “the appropriate considerations” means—
 - (a) (on the one hand) the spirit of the gift concerned, and
 - (b) (on the other) the social and economic circumstances prevailing at the time of the proposed alteration of the original purposes.”

16 Application cy-près of gifts by donors unknown or disclaiming

- (1) Section 14 of the 1993 Act (application cy-près of gifts of donors unknown or disclaiming) is amended as follows.

Status: This is the original version (as it was originally enacted).

- (2) In subsection (4) (power of court to direct that property is to be treated as belonging to donors who cannot be identified) after “court”, in both places, insert “or the Commission”.

17 **Application cy-près of gifts made in response to certain solicitations**

After section 14 of the 1993 Act insert—

“14A Application cy-près of gifts made in response to certain solicitations

- (1) This section applies to property given—
- (a) for specific charitable purposes, and
 - (b) in response to a solicitation within subsection (2) below.
- (2) A solicitation is within this subsection if—
- (a) it is made for specific charitable purposes, and
 - (b) it is accompanied by a statement to the effect that property given in response to it will, in the event of those purposes failing, be applicable cy-près as if given for charitable purposes generally, unless the donor makes a relevant declaration at the time of making the gift.
- (3) A “relevant declaration” is a declaration in writing by the donor to the effect that, in the event of the specific charitable purposes failing, he wishes the trustees holding the property to give him the opportunity to request the return of the property in question (or a sum equal to its value at the time of the making of the gift).
- (4) Subsections (5) and (6) below apply if—
- (a) a person has given property as mentioned in subsection (1) above,
 - (b) the specific charitable purposes fail, and
 - (c) the donor has made a relevant declaration.
- (5) The trustees holding the property must take the prescribed steps for the purpose of—
- (a) informing the donor of the failure of the purposes,
 - (b) enquiring whether he wishes to request the return of the property (or a sum equal to its value), and
 - (c) if within the prescribed period he makes such a request, returning the property (or such a sum) to him.
- (6) If those trustees have taken all appropriate prescribed steps but—
- (a) they have failed to find the donor, or
 - (b) the donor does not within the prescribed period request the return of the property (or a sum equal to its value),
- section 14(1) above shall apply to the property as if it belonged to a donor within paragraph (b) of that subsection (application of property where donor has disclaimed right to return of property).
- (7) If—
- (a) a person has given property as mentioned in subsection (1) above,
 - (b) the specific charitable purposes fail, and

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- (c) the donor has not made a relevant declaration,
section 14(1) above shall similarly apply to the property as if it belonged to a donor within paragraph (b) of that subsection.
- (8) For the purposes of this section—
 - (a) “solicitation” means a solicitation made in any manner and however communicated to the persons to whom it is addressed,
 - (b) it is irrelevant whether any consideration is or is to be given in return for the property in question, and
 - (c) where any appeal consists of both solicitations that are accompanied by statements within subsection (2)(b) and solicitations that are not so accompanied, a person giving property as a result of the appeal is to be taken to have responded to the former solicitations and not the latter, unless he proves otherwise.
- (9) In this section “prescribed” means prescribed by regulations made by the Commission, and any such regulations shall be published by the Commission in such manner as it thinks fit.
- (10) Subsections (7) and (10) of section 14 shall apply for the purposes of this section as they apply for the purposes of section 14.”