



Charities Act 1960

1960 CHAPTER 58

PART V

SUPPLEMENTARY

40 Miscellaneous provisions as to orders of Commissioners or Minister

- (1) Any order made by the Commissioners under this Act may include such incidental or supplementary provisions as the Commissioners think expedient for carrying into effect the objects of the order, and where the Commissioners exercise any jurisdiction to make such an order on an application or reference to them, they may insert any such provisions in the order notwithstanding that the application or reference does not propose their insertion.
- (2) Where the Commissioners make an order under this Act, men (without prejudice to the requirements of this Act where the order is subject to appeal) they may themselves give such public notice as they think fit of the making or contents of the order, or may require it to be given by any person on whose application the order is made or by any charity affected by the order.
- (3) The Commissioners at any time within twelve months after they have made an order under this Act, if they are satisfied that the order was made by mistake or on misrepresentation or otherwise than in conformity with this Act, may with or without any application or reference to them discharge the order in whole or in part, and subject or not to any savings or other transitional provisions.
- (4) Except for the purposes of subsection (3) above or of an appeal under this Act, an order made by the Commissioners under this Act shall be deemed to have been duly and formally made and not be called in question on the ground only of irregularity or informality, but (subject to any further order) have effect according to its tenor.
- (5) This section shall apply to orders made under any Act amended by this Act, if made by virtue of that amendment, as it applies to orders made under this Act.

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41 Enforcement of orders of Commissioners or Minister

A person guilty of disobedience—

- (a) to an order of the Commissioners under subsection (3) of section six or under section seven of this Act, or to a precept under that subsection; or
- (b) to an order of the Commissioners under section eighteen or twenty of this Act requiring a transfer of property or payment to be called for or made; or
- (c) to an order of the Commissioners requiring a default under this Act to be made good ;

may on the application of the Commissioners to the High Court be dealt with as for disobedience to an order of the High Court.

42 Appeals from Commissioners or Minister

- (1) Provision shall be made by rules of court for regulating appeals to the High Court under this Act against orders or decisions of the Commissioners.
- (2) On such an appeal the Attorney General shall be entitled to appear and be heard, and such other persons as the rules allow or as the court may direct.
- (3) Subsection (1) of section sixty-three of the Supreme Court of Judicature (Consolidation) Act, 1925, shall not apply to such an appeal in so far as it requires an appeal from any person to the High Court to be heard and determined by a divisional court.

43 Regulations

- (1) Save as otherwise provided by this Act, any power to make regulations which is conferred by this Act shall be exercisable both by the Secretary of State and by the Minister of Education.
- (2) Regulations may be made for prescribing anything which is required or authorised by this Act to be prescribed.
- (3) Any power of the Treasury, the Secretary of State or the Minister of Education to make regulations under this Act shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

44 Expenses

- (1) There shall be defrayed out of monies provided by Parliament—
 - (a) the remuneration and allowances payable under this Act to the Commissioners and to their officers and servants, and any increase attributable to a person's service as a Commissioner or as such an officer or servant in the sums payable out of monies so provided under the Superannuation Acts, 1834 to 1950 ; and
 - (b) any administrative expenses incurred for the purposes of this Act by the Secretary of State, the Minister of Education or the Commissioners.
- (2) Any fees received by the Minister of Education or by the Commissioners under this Act shall be paid into the Exchequer.
- (3) There shall also be defrayed out of monies provided by Parliament any increase in the sums payable out of monies so provided by way of rate-deficiency grant or exchequer equalisation grant under the enactments relating to local government in England and

Wales or in Scotland, being an increase attributable to the expenditure under this Act of any council or joint board—

- (a) in contributing to the expenses of inquiries instituted under this Act by the Commissioners or the Minister of Education in relation to charities; or
 - (b) in or in connection with the establishment or maintenance of an index of local charities; or
 - (c) in carrying out or co-operating in a review of local charities.
- (4) Nothing in this Act shall authorise the council of a borough which has been included in a rural district or of a rural parish to incur expenditure otherwise than in accordance with section one hundred and ninety-three of the Local Government Act, 1933, as amended.

45 Construction of references to a "charity" or to particular classes of charity

(1) In this Act, except in so far as the context otherwise requires.—

"charity" means any institution, corporate or not, which is established for charitable purposes and is subject to the control of the High Court in the exercise of the court's jurisdiction with respect to charities;

"ecclesiastical charity" has the same meaning as in the Local Government Act, 1894;

"exempt charity" means (subject to subsection (9) of section twenty-two of this Act) a charity comprised in the Second Schedule to this Act;

"local charity" means, in relation to any area, a charity established for purposes which are by their nature or by the trusts of the charity directed wholly or mainly to the benefit of that area or of part of it;

"parochial charity" means, in relation to any parish, a charity the benefits of which are, or the separate distribution of the benefits of which is, confined to inhabitants of the parish, or of a single ancient ecclesiastical parish which included that parish or part of it, or of an area consisting of that parish with not more than four neighbouring parishes.

(2) The expression "charity" is not in this Act applicable—

- (a) to any ecclesiastical corporation (that is to say, any corporation in the Church of England, whether sole or aggregate, which is established for spiritual purposes) in respect of the corporate property of the corporation, except to a corporation aggregate having some purposes which are not ecclesiastical in respect of its corporate property held for those purposes; or
- (b) to any trust of property for purposes for which the property has been consecrated.

(3) Subject to subsection (9) of section twenty-two of this Act, a charity shall be deemed for the purposes of this Act to have a permanent endowment unless all property held for the purposes of the charity may be expended for those purposes without distinction between capital and income, and in this Act "permanent endowment" means, in relation to any charity, property held subject to a restriction on its being so expended.

(4) References in this Act to a charity not having income from property to a specified amount shall be construed by reference to the gross revenues of the charity, but without bringing into account anything for the yearly value of land occupied by the charity apart from the pecuniary income (if any) received from that land; and any question

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as to the application of any such reference to a charity shall be determined by the Commissioners, whose decision shall be final.

- (5) The Commissioners may direct that for all or any of the purposes of this Act an institution established for any special purposes of or in connection with a charity (being charitable purposes) shall be treated as forming part of that charity or as forming a distinct charity.
- (6) Any reference in this Act to a charity which is excepted by order or regulations shall be construed as referring to a charity which is for the time being permanently or temporarily excepted by order of the Commissioners, or is of a description permanently or temporarily excepted by regulations, and which complies with any conditions of the exception; and any order or regulation made for this purpose may limit any exception so that a charity may be excepted in respect of some matters and not in respect of others.

46 Other definitions

In this Act, except in so far as the context otherwise requires.—

" Attorney General " means, in relation to proceedings in the court of chancery of the county palatine of Lancaster, the Attorney General of the Duchy of Lancaster and, in relation to proceedings in the court of chancery of the county palatine of Durham, the Attorney General of the county palatine of Durham ;

" charitable purposes " means purposes which are exclusively charitable according to the law of England and Wales;

" charity trustees " means the persons having the general control and management of the administration of a charity;

" the Commissioners " means the Charity Commissioners for England and Wales;

" the county of London " means the administrative county of London;

" the court " means the High Court and, within the limits of its jurisdiction, any other court in England or Wales having a jurisdiction in respect of charities concurrent (within any limit of area or amount) with that of the High Court, and includes any judge or officer of the court exercising the jurisdiction of the court;

" institution " includes any trust or undertaking;

" permanent endowment " shall, subject to subsection (9) of section twenty-two of this Act, be construed in accordance with subsection (3) of the last foregoing section ;

" trusts," in relation to a charity, means the provisions establishing it as a charity and regulating its purposes and administration, whether those provisions take effect by way of trust or not, and in relation to other institutions has a corresponding meaning.

47 Powers of Parliament of Northern Ireland

- (1) Subject to the following subsections, no limitation imposed by any enactment on the powers of the Parliament of Northern Ireland shall preclude that Parliament from enacting provisions for purposes similar to any provision of this Act.
- (2) If any Act of the Parliament of Northern Ireland provides for the registration of institutions established for charitable purposes and for the determination by the High

Court in Northern Ireland (on appeal or otherwise) of any question whether an institution ought to be or continue to be registered as an institution so established, the Act may provide for any purpose of the law of the United Kingdom or of any part of the United Kingdom that an institution so registered is to be treated as an institution established for charitable purposes ; but, subject to that, nothing in this section shall authorise the Parliament of Northern Ireland to amend the law as respects any reserved tax.

- (3) Nothing in this section shall authorise the provisions of any enactment to be altered by scheme made under an Act of the Parliament of Northern Ireland in any respect in which those provisions could not be altered by such an Act.

48 Consequential amendments, general repeal and transitional provisions

- (1) The enactments mentioned in the first column of the Sixth Schedule to this Act shall be amended as provided in the second column of that Schedule.
- (2) Subject to the following provisions of this section and to any other provision of this Act as to the effect of any repeal, the enactments mentioned in the Seventh Schedule to this Act are (in addition to the repeals in the Fifth Schedule) hereby repealed to the extent specified in the third column of the Schedule.
- (3) The Commissioners may take the like action under this Act in consequence of any application or enquiry under the Charitable Trusts Acts, 1853 to 1939, as if the application or enquiry had been made for the corresponding purpose under this Act; and subsections (3) to (5) of section twenty-five of this Act shall extend (with any necessary adaptations) to documents enrolled by the Commissioners or deposited with them under those Acts.
- (4) The repeal by this Act of the Charitable Trusts Acts, 1853 to 1939, shall not invalidate any scheme, order, certificate or other document issued under or for the purposes of those Acts, so far as the document is capable after the commencement of this Act of having effect either for its original purpose or for any corresponding purpose of this Act; but any such documents shall continue to have effect for any such purpose (except in so far as they are modified or superseded under the powers of this Act), and shall in the case of an order be appealable, enforceable and liable to be discharged as if this Act had not been passed; and any such document, and any document under the seal of the official trustees of charitable funds, may be proved as if this Act had not been passed.
- (5) The repeal by this Act of any enactment which authorises the taking of legal proceedings, or regulates any legal proceedings, shall not affect the operation of that enactment in relation to proceedings begun before the commencement of this Act, nor shall section twenty-eight of this Act apply to any proceeding so begun.
- (6) The official custodian for charities shall be treated as the successor for all purposes both functions of the said trustee or trustees had been functions of the official custodian, and as if any such trustee or trustees had been, and had discharged his or their functions as, holder of the office of the official custodian; and accordingly (but without prejudice to the generality of the foregoing provision, and subject to any express amendment or repeal made by this Act) as from the commencement of this Act—
- (a) all property vested in the said trustee or trustees shall vest in the official custodian, and shall be held by him as if vested in him under section sixteen of

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this Act for the purposes for which it was held by the said trustee or trustees;
and

- (b) any Act, scheme, deed or other document referring or relating to the said trustee or trustees shall, in so far as the context permits, have effect as if the official custodian had been mentioned instead.

- (7) The specific provisions of this Act as to the effect of any repeal shall not be taken to exclude the general provisions contained in section thirty-eight of the Interpretation Act, 1889, except in so far as those general provisions are inconsistent with the specific provisions in this Act.

49 Short title, extent and commencement

- (1) This Act may be cited as the Charities Act, 1960.
- (2) This Act shall extend—
 - (a) to Scotland and Northern Ireland in so far as it amends the House of Commons Disqualification Act, 1957, or extends the powers of the Parliament of Northern Ireland; and
 - (b) to Scotland in so far as Part II of the Seventh Schedule repeals any enactment having any application in Scotland; and
 - (c) to Northern Ireland in so far as it relates to the amendment of Royal Charters;but, subject to that, this Act shall not extend to Scotland or Northern Ireland.
- (3) The following provisions of this Act shall come into force on the date it is passed, that is to say, section one with the First Schedule, section thirty-eight with the repeals in Part II of the Seventh Schedule, and section forty-seven; but, save as aforesaid, this Act shall not come into force until the beginning of the year nineteen hundred and sixty-one.