



2008 CHAPTER 12

PART 6

APPLICATION OF PROPERTY CY-PRÈS AND ASSISTANCE AND
SUPERVISION OF CHARITIES BY COURT AND COMMISSION

Property held on behalf of English, Welsh and Scottish charities

Powers in relation to certain English, Welsh and Scottish charities

56.—(1) Subsection (2) applies where the Charity Commission for England and Wales or the Scottish Charity Regulator informs the Commission that a relevant financial institution or other person in Northern Ireland holds moveable property on behalf of a body—

- (a) which is registered as a charity in England and Wales under section 3 of the Charities Act 1993 (c. 10), or which, by virtue of section 3A(2) of that Act, is not required to register as a charity under that section; or
- (b) which is registered in the Scottish Charity Register under section 3 of the Charities and Trustee Investment (Scotland) Act 2005 (asp 10).

(2) The Court may, on an application by the Charity Commission for England and Wales or the Scottish Charity Regulator, make an order requiring the relevant financial institution or other person not to part with the property without the Court's consent.

(3) An order under subsection (2) may be made subject to conditions and may be varied or revoked.

(4) Where the Court has made an order under subsection (2) and, on an application by the Commission, it is satisfied as to the matters set out

in subsection (5) it may transfer the property to a charity specified in the application—

- (a) which has purposes which are the same as or which resemble closely the purposes of the body whose property is transferred, and
- (b) which has intimated that it is prepared to receive the property.

(5) Those matters are—

- (a) that there has been misconduct in the administration of the body, and
- (b) that it is necessary or desirable to transfer the property for the purpose of protecting it or securing a proper application of it for the purposes of the body from which it is to be transferred.

(6) In proceedings before it under this section in relation to a charity, the Court may, instead of awarding costs against a charity, award costs against a charity trustee of the charity or against any two or more of its charity trustees jointly and severally.

(7) In this section “relevant financial institution” means—

- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 (c. 8) to accept deposits,
- (b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to accept deposits,

and this definition must be read with section 22 of and Schedule 2 to that Act and any relevant order under that section.