



Charities Act 1985

1985 CHAPTER 20

An Act to make further provision with respect to charities in England and Wales. [23rd May 1985]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Submission of, and publicity for, charities' accounts.

- (1) The power of the Secretary of State to make regulations under section 43 of the Charities Act 1960 prescribing the information about a charity's affairs which is to be given in statements of account transmitted under section 8 of that Act shall include power, in the case of local charities for the relief of poverty—
 - (a) to prescribe the forms in which such statements are to be transmitted, and
 - (b) to require any such statements to include an itemised schedule (in the prescribed form) of all property currently held for the purposes of the charity, with an estimated value assigned to each item.
- (2) In the case of such a charity, statements of account prepared under section 32 of the Act of 1960 shall be sent annually by the charity trustees to the appropriate local authority; and subsection (3) of that section (parochial charities to send statements of account to parish council etc.) shall not apply.
- (3) Any statement of account sent to the appropriate local authority in pursuance of this section shall be kept by the authority for a period of at least 2 years ; and during that period—
 - (a) the statement shall be open to public inspection at all reasonable times, and
 - (b) the authority shall, on the request of any person, supply to him a copy of the statement, on payment by him of the reasonable cost of making the copy.
- (4) If so required by Secretary of State's regulations under the Act of 1960, a copy of the statement shall be sent by the authority to any other local authority specified in the regulations.

- (5) In the case of a local charity for the relief of poverty, the charity trustees shall—
- (a) give such public notice as they think reasonable and justified, having regard to the resources of the charity and the extent of its area of benefit, of a place at which the statement can be inspected by members of the public, and
 - (b) on the request of any person, supply to him a copy of the statement, on payment by him of the reasonable cost of making the copy. The obligation on the trustees under paragraph (b) of this subsection ceases in respect of any statement as from the time when subsection (2) is complied with in respect of it.
- (6) It shall be open to any person to make representations to the Commissioners, in respect of a local charity for the relief of poverty, that the charity trustees have made default for a period of at least 12 months in complying with the Act of 1960 or this section in respect of statements of account.
- (7) If such representations are made, the Commissioners may, if they think it a proper case for their intervention and after giving the trustees notice of the representations and inviting their comments, without any further or other application exercise in relation to the charity their jurisdiction under section 18 of the Act of 1960 or settle a scheme under section 19 of that Act (power to establish schemes, remove trustees, etc.).
- (8) This section does not apply to an exempt charity.

2 Resolution by trustees of old charity to alter objects.

- (1) This section applies, subject to subsection (11) below, to a local charity for the relief of poverty, where—
- (a) at least 50 years have elapsed since the date of the charity's foundation, or
 - (b) it is subject to a scheme (whether established by the court or by the Commissioners) for the joint administration of two or more charities, and in the case of each of the charities comprised in the scheme at least 50 years have elapsed since the date of its foundation.
- (2) If the charity trustees are of the opinion—
- (a) that the objects of the charity may fairly be considered obsolete or lacking in usefulness, or impossible of achievement, having regard to the period that has elapsed since the charity was founded, the social and economic changes that have taken place in that period and other circumstances (if any) relevant to the functioning and administration of the charity, and
 - (b) that an alteration of the charity's objects is required in order that the charity's resources may be applied to better effect, consistently with the spirit of the original gift, they may (subject to the following provisions) pass a resolution that the trusts of the charity be modified by replacing the objects of the charity by other objects, being in law charitable, specified in the resolution.
- (3) The objects so specified must be, in the trustees' opinion, not so far dissimilar in character to those of the original charitable gift that this modification of the charity's trusts would constitute an unjustifiable departure from the intentions of the founder of the charity, or violate the spirit of the gift.
- (4) The trustees must take such steps as are reasonably open to them to secure the approval to the proposed alteration of objects of any person identifiable as having been the founder of the charity.

- (5) The resolution of the trustees must be unanimous and be in the form set out in Schedule 1 to this Act, or as near to that form as circumstances may admit.
- (6) Having passed the resolution, the trustees shall—
 - (a) give such public notice that they have done so as they think reasonable and justified, having regard to the resources of the charity and the extent of its area of benefit, and
 - (b) send copies of the resolution to the Commissioners and to the appropriate local authority, accompanied in each case by a statement of their reasons for being of the opinions specified in subsections (2) and (3) above. The trustees need not comply with paragraph (a) of this subsection if they consider that, in all the circumstances, no useful purpose would be served by giving public notice of the resolution.
- (7) The Commissioners may, when considering the resolution, require the trustees to provide additional information or explanation as to the circumstances in and by reference to which they have determined to act under this section or as to their compliance with this section; and the Commissioners shall take into consideration any representations made to them by the appropriate local authority and others appearing to them to be interested.
- (8) The Commissioners shall, not less than six weeks or more than 3 months from the time when they receive a copy of the resolution from the trustees—
 - (a) if it appears to them that the requirements of this section are satisfied in respect of the resolution, and that the proposed alteration of objects is justified in all the circumstances (treating the trustees' opinion under subsections (2) and (3) as prima facie well-founded and not to be set aside in the absence of contrary considerations), give to the trustees notice of their concurrence with the resolution, or
 - (b) give them notice that they require further time in which to consider the case (but so that not more than an additional 6 months shall be taken for that purpose), or
 - (c) give them notice that they do not concur with the resolution. Any notice given by the Commissioners under this subsection (including any notice of concurrence, or non-concurrence, given after they have taken further time for consideration) shall be in writing, and they shall send a copy of it to the appropriate local authority.
- (9) If the Commissioners give notice of their concurrence with the resolution then, with effect from the date specified in the notice, the trusts of the charity shall, by virtue of this section, be deemed modified in accordance with the terms of the resolution, and the trust instrument shall have effect accordingly.
- (10) References in this section to a charity's trust instrument include any document which for the time being lays down or regulates the manner in which the charity's property may or must be applied.
- (11) This section does not apply to an exempt charity or a charity which is a company or other body corporate.
- (12) Section 4(6)(b) of the Act of 1960 (duty to give notice etc. to the Commissioners) does not apply where the trusts of a charity are modified by virtue of this section.

3 Power for certain charity trustees to transfer whole property to another charity.

- (1) Subject to and in accordance with this section, the trustees of a registered charity, or a charity which is not required to be registered, may pass a resolution that the whole property of the charity be transferred to another charity, being a registered charity or a charity that is not required to be registered, to be held and applied by, and as property of, that other charity.
- (2) Such a resolution shall not have effect unless in the case of the charity first-mentioned (" the transferor charity ") its gross income in the preceding accounting period was £200 or less; and the trustees must, before passing such a resolution—
 - (a) obtain from the trustees of the other charity (" the transferee charity ") written confirmation that they are willing to accept a transfer of property under this section, and
 - (b) have formed the opinion that the objects of the transferee charity are not so far dissimilar in character to those of the original charitable gift that the proposed transfer would constitute an unjustifiable departure from the intentions of the founder of the transferor charity or violate the spirit of the gift.
- (3) The trustees must also take such steps as are reasonably open to them to secure the approval to the proposed transfer of any person identifiable as having been the founder of the charity.
- (4) The resolution of the trustees must be unanimous, and must be in the form set out in Schedule 2 to this Act, or as near to that form as circumstances may admit.
- (5) Having passed the resolution, the trustees shall—
 - (a) give such public notice that they have done so as they think reasonable and justified, having regard to the resources of the charity and the extent of its area of benefit, and
 - (b) send copies of the resolution to the Commissioners and, if it is a local charity for the relief of poverty, to the appropriate local authority, accompanied in each case by a statement of their reasons for wishing to effect a transfer of property under this section. The trustees need not comply with paragraph (a) of this subsection if they consider that, in all the circumstances, no useful purpose would be served by giving public notice of the resolution.
- (6) The Commissioners may, when considering the resolution, require the trustees to provide additional information or explanation as to the circumstances in and by reference to which they have determined to act under this section or as to their compliance with this section; and the Commissioners shall take into consideration any representations made to them by the appropriate local authority and others appearing to them to be interested.
- (7) The Commissioners shall, not less than six weeks or more than 3 months from the time when they receive a copy of the resolution from the trustees—
 - (a) if it appears to them that the requirements of this section are satisfied in respect of the resolution and that it is a proper case (treating the trustees' opinion under subsection (2)(b) as prima facie well-founded and not to be set aside in the absence of contrary considerations), give to the trustees notice of their concurrence with the resolution, or
 - (b) give them notice that they require further time in which to consider the case (but so that not more than an additional 6 months shall be taken for that purpose), or

- (c) give them notice that they do not concur with the resolution. Any notice given by the Commissioners under this subsection (including any notice of concurrence, or non-concurrence, given after they have taken further time for consideration) shall be in writing, and if a copy of the resolution has been sent to the appropriate local authority under subsection (5)(b), they shall send a copy of any such notice to that authority.
- (8) If the Commissioners give notice of their concurrence with the resolution, the trustees of the transferor charity shall on receipt of the notice make arrangements for the transfer of the whole property of the charity to the trustees of the transferee charity, to be acquired by that charity on the terms of this section.
- (9) Those terms are as follows—
 - (a) all property acquired from the transferor charity which was expendable as income in the hands of that charity is to be treated as expendable in the hands of the transferee charity;
 - (b) any property of the transferor charity which was not expendable as income, having formed part of that charity's permanent endowment, is to remain subject to the same restrictions on expenditure as applied before the transfer;
 - (c) the whole property acquired by the transferee charity is to be held and applied for the objects of that charity.
- (10) For the purpose of enabling any property to be transferred under this section, the Commissioners shall have power, at the request of the trustees of the transferor charity to make orders vesting any property of that charity in the trustees of the transferee charity.
- (11) This section does not apply to a charity falling within paragraph (g) of Schedule 2 to the Act of 1960 or a charity which is a company or other body corporate.

4 Power for very small charities to spend capital.

- (1) Where, in the case of a charity having a permanent endowment—
 - (a) the value of the endowment is £25 or less and the endowment does not consist of or comprise any land or interest in land, and
 - (b) the charity's gross income in the preceding accounting period was £5 or less, and
 - (c) the charity trustees are of the opinion that the property of the charity is too small, in relation to its objects, for any useful purpose to be achieved by the expenditure of income alone, the trustees may pass a resolution that the charity ought to be freed from any restrictions imposed by law with respect to expenditure of capital.
- (2) Before passing such a resolution, the trustees must consider whether any reasonable possibility exists of effecting a transfer of the charity's property to another charity under section 3 of this Act (disregarding any such transfer as would, in the trustees' opinion, impose on their charity an unacceptable burden of costs).
- (3) The resolution of the trustees must be unanimous, and be in the form set out in Schedule 3 to this Act, or as near to that form as circumstances may admit.
- (4) Having passed the resolution, the trustees shall send a copy of it to the Commissioners and shall then have power by virtue of this section to expend any property of the charity

without regard to any restriction imposed by law and applying to the expenditure of capital but not to the expenditure of income.

- (5) This section does not apply to a charity falling within paragraph (g) of Schedule 2 to the Act of 1960.

5 Financial limits.

- (1) The Secretary of State may, if he thinks it expedient with a view to increasing the number of charities which may take advantage of the provisions of the Charities Acts specially applicable to small charities, by order in a statutory instrument, alter the money sums specified in—
- (a) section 18(5) of the Act of 1960 (persons who may, in the case of small charities, apply to the Commissioners for exercise of their jurisdiction under that section), and
 - (b) section 3(2) of this Act, or either of those sums.
- (2) The Secretary of State may, if he thinks it expedient in consequence of changes in the value of money, by order in a statutory instrument, alter the money sums specified in paragraphs (a) and (b) of section 4(1) of this Act.
- (3) A statutory instrument under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

6 Interpretation.

- (1) References in this Act to a local charity for the relief of poverty are to a registered charity, not being an ecclesiastical charity, having the following characteristics—
- (a) the sole or primary object of the charity is the relief of poverty (within any meaning given to that expression under the law of charitable trusts, as applied for the time being), and
 - (b) it is established for purposes which are by their nature or by the trusts of the charity directed wholly or mainly to the benefit of a particular area in England and Wales (in this section referred to as "the area of benefit"), and—
 - (i) the area of benefit is, or falls wholly within, the area of not more than five adjoining parishes or of one county or of Greater London, or
 - (ii) the area that would have been the area of benefit when the charity was originally established was, or fell wholly within, the area of one or more parishes specified in the trusts.
- (2) In this Act "appropriate local authority", in relation to a local charity for the relief of poverty, means any local authority for an area which is the area of benefit or within which the whole or any part of the area of benefit falls, being the council of a non-metropolitan county, metropolitan district or London borough or the Common Council of the City of London.
- (3) In this Act—
- (a) "accounting period" means a period of not more than 15 months or less than 12 months ;
 - (b) "the Act of 1960" means the Charities Act 1960 ;
 - (c) "parish" includes ecclesiastical and local government parish and, in Wales, a community under the Local Government Act 1972;

(d) " registered " means registered in the register of charities maintained by the Commissioners under Part II of the Act of 1960 ;

(e) any reference to the trustees of a charity is to the persons having the general control and management of its administration;

and (subject as above) sections 45 and 46 of the Act of 1960 (interpretation) have effect for the purposes of this Act as they have effect for the purposes of that Act.

7 Citation, etc.

(1) This Act may be cited as the Charities Act 1985; and the Act of 1960 and this Act may be cited together as the Charities Acts 1960 and 1985.

(2) This Act shall come into force on a day appointed by the Secretary of State by order in a statutory instrument and different days may be appointed for different provisions and for different purposes.

(3) This Act shall not extend to Scotland or Northern Ireland.

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

SCHEDULE 1

FORM OF RESOLUTION BY CHARITY TRUSTEES UNDER SECTION 2

WHEREAS we are the trustees of the _____ Charity, being a charity to which section 2 of the Charities Act 1985 applies:

AND WHEREAS we are of the opinion—

1(a) that the objects of the charity may fairly be considered obsolete or lacking in usefulness, or impossible of achievement, having regard to the period that has elapsed since the charity was founded, the social and economic changes that have taken place in that period and other circumstances relative to the functioning and administration of the charity, as follows

(relevant circumstances, if any to be specified) and

(b) that an alteration of the charity's objects, as set out in

(here specify the applicable trust instrument) is required in order that the charity's resources may be applied to better effect, consistently with the spirit of the original gift:

AND WHEREAS alternative objects, being in law charitable, are specified in the schedule to this resolution and are in our opinion not so far dissimilar in character to those of the original charitable gift that this modification of the Charity's trust would constitute an unjustifiable departure from the intentions of the founder of the charity, or violate the spirit of the gift:

AND WHEREAS we have complied with section 2(4) of the said Act of 1985:

NOW THEREFORE we, the trustees of the said charity, under and in pursuance of section 2 of the Charities Act 1985, hereby resolve that the trusts of the charity be modified by replacing the objects set out in the trust instrument by the alternative objects specified in the schedule. Signed: _____

 TRUSTEES OF
 THE _____ CHARITY 1 Delete any words or phrases not applicable.

Schedule to this Resolution

ALTERNATIVE OBJECTS PROPOSED TO REPLACE THOSE SET OUT IN THE TRUST INSTRUMENT

SCHEDULE 2

FORM OF RESOLUTION BY CHARITY TRUSTEES UNDER SECTION 3

WHEREAS we are the trustees of the _____ Charity, of which the gross income in the preceding accounting period was £ _____:

AND WHEREAS we think it expedient that the whole property of the charity be transferred to another charity, to be held and applied for, and as property of, that other charity:

AND WHEREAS we have obtained from the trustees of the _____ (here name proposed transferee charity), written confirmation that they are willing to accept a transfer of property under section 3 of the Charities Act 1985:

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

AND WHEREAS we have formed the opinion that the objects of the _____ Charity are not so far dissimilar in character to those of the original charitable gift that the proposed transfer would constitute an unjustifiable departure from the intentions of the founder of the _____ Charity, or violate the spirit of the gift:

AND WHEREAS we have complied with section 3(3) of the said Act of 1985:

NOW THEREFORE we, the trustees of the _____ Charity, under and in pursuance of section 3 of the Charities Act 1985, hereby resolve that the whole property of the charity, including its permanent endowment, be transferred to the _____ Charity. Signed:

TRUSTEES OF
THE _____ CHARITY

SCHEDULE 3

FORM OF RESOLUTION BY CHARITY TRUSTEES UNDER SECTION 4

WHEREAS we are the trustees of the _____ Charity:

AND WHEREAS the value of the charity's permanent endowment is £ _____ or thereabouts), and the endowment does not consist of or comprise land or any interest in land, and its gross income in the last preceding accounting period was £ _____:

AND WHEREAS we are of the opinion that the property of the charity is too small, in relation to its objects, for any useful purpose to be achieved by the expenditure of income alone:

AND WHEREAS we have complied with section 4(2) of the Charities Act 1985:

NOW THEREFORE we, the trustees of the said charity, under and in pursuance of section 4 of the Charities Act 1985, hereby resolve that the charity ought to be freed from any restrictions imposed by law with respect to expenditure of capital. Signed: _____

TRUSTEES OF THE _____ CHARITY