



Charities Act 1993

1993 CHAPTER 10

PART IX

MISCELLANEOUS

Small charities

74 Power to transfer all property, modify objects etc

- (1) This section applies to a charity if—
 - (a) its gross income in its last financial year did not exceed £5,000, and
 - (b) it does not hold any land on trusts which stipulate that the land is to be used for the purposes, or any particular purposes, of the charity,and it is neither an exempt charity nor a charitable company.
- (2) Subject to the following provisions of this section, the charity trustees of a charity to which this section applies may resolve for the purposes of this section—
 - (a) that all the property of the charity should be transferred to such other charity as is specified in the resolution, being either a registered charity or a charity which is not required to be registered;
 - (b) that all the property of the charity should be divided, in such manner as is specified in the resolution, between such two or more other charities as are so specified, being in each case either a registered charity or a charity which is not required to be registered;
 - (c) that the trusts of the charity should be modified by replacing all or any of the purposes of the charity with such other purposes, being in law charitable, as are specified in the resolution;
 - (d) that any provision of the trusts of the charity—
 - (i) relating to any of the powers exercisable by the charity trustees in the administration of the charity, or
 - (ii) regulating the procedure to be followed in any respect in connection with its administration,

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should be modified in such manner as is specified in the resolution.

- (3) Any resolution passed under subsection (2) above must be passed by a majority of not less than two-thirds of such charity trustees as vote on the resolution.
- (4) The charity trustees of a charity to which this section applies (“the transferor charity”) shall not have power to pass a resolution under subsection (2)(a) or (b) above unless they are satisfied—
 - (a) that the existing purposes of the transferor charity have ceased to be conducive to a suitable and effective application of the charity’s resources; and
 - (b) that the purposes of the charity or charities specified in the resolution are as similar in character to the purposes of the transferor charity as is reasonably practicable;and before passing the resolution they must have received from the charity trustees of the charity, or (as the case may be) of each of the charities, specified in the resolution written confirmation that those trustees are willing to accept a transfer of property under this section.
- (5) The charity trustees of any such charity shall not have power to pass a resolution under subsection (2)(c) above unless they are satisfied—
 - (a) that the existing purposes of the charity (or, as the case may be, such of them as it is proposed to replace) have ceased to be conducive to a suitable and effective application of the charity’s resources; and
 - (b) that the purposes specified in the resolution are as similar in character to those existing purposes as is practical in the circumstances.
- (6) Where charity trustees have passed a resolution under subsection (2) above, they shall—
 - (a) give public notice of the resolution in such manner as they think reasonable in the circumstances; and
 - (b) send a copy of the resolution to the Commissioners, together with a statement of their reasons for passing it.
- (7) The Commissioners may, when considering the resolution, require the charity trustees to provide additional information or explanation—
 - (a) as to the circumstances in and by reference to which they have determined to act under this section, or
 - (b) relating to their compliance with this section in connection with the resolution;and the Commissioners shall take into account any representations made to them by persons appearing to them to be interested in the charity where those representations are made within the period of six weeks beginning with the date when the Commissioners receive a copy of the resolution by virtue of subsection (6)(b) above.
- (8) Where the Commissioners have so received a copy of a resolution from any charity trustees and it appears to them that the trustees have complied with this section in connection with the resolution, the Commissioners shall, within the period of three months beginning with the date when they receive the copy of the resolution, notify the trustees in writing either—
 - (a) that the Commissioners concur with the resolution; or
 - (b) that they do not concur with it.
- (9) Where the Commissioners so notify their concurrence with the resolution, then—

- (a) if the resolution was passed under subsection (2)(a) or (b) above, the charity trustees shall arrange for all the property of the transferor charity to be transferred in accordance with the resolution and on terms that any property so transferred—
 - (i) shall be held and applied by the charity to which it is transferred (“the transferee charity”) for the purposes of that charity, but
 - (ii) shall, as property of the transferee charity, nevertheless be subject to any restrictions on expenditure to which it is subject as property of the transferor charity,and those trustees shall arrange for it to be so transferred by such date as may be specified in the notification; and
 - (b) if the resolution was passed under subsection (2)(c) or (d) above, the trusts of the charity shall be deemed, as from such date as may be specified in the notification, to have been modified in accordance with the terms of the resolution.
- (10) For the purpose of enabling any property to be transferred to a charity under this section, the Commissioners shall have power, at the request of the charity trustees of that charity, to make orders vesting any property of the transferor charity—
- (a) in the charity trustees of the first-mentioned charity or in any trustee for that charity, or
 - (b) in any other person nominated by those charity trustees to hold the property in trust for that charity.
- (11) The Secretary of State may by order amend subsection (1) above by substituting a different sum for the sum for the time being specified there.
- (12) In this section—
- (a) “charitable company” means a charity which is a company or other body corporate; and
 - (b) references to the transfer of property to a charity are references to its transfer—
 - (i) to the charity trustees, or
 - (ii) to any trustee for the charity, or
 - (iii) to a person nominated by the charity trustees to hold it in trust for the charity,as the charity trustees may determine.

75 Power to spend capital

- (1) This section applies to a charity if—
- (a) it has a permanent endowment which does not consist of or comprise any land, and
 - (b) its gross income in its last financial year did not exceed £1,000, and it is neither an exempt charity nor a charitable company.
- (2) Where the charity trustees of a charity to which this section applies are of the opinion that the property of the charity is too small, in relation to its purposes, for any useful purpose to be achieved by the expenditure of income alone, they may resolve for the purposes of this section that the charity ought to be freed from the restrictions with respect to expenditure of capital to which its permanent endowment is subject.

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- (3) Any resolution passed under subsection (2) above must be passed by a majority of not less than two-thirds of such charity trustees as vote on the resolution.
- (4) Before passing such a resolution the charity trustees must consider whether any reasonable possibility exists of effecting a transfer or division of all the charity's property under section 74 above (disregarding any such transfer or division as would, in their opinion, impose on the charity an unacceptable burden of costs).
- (5) Where charity trustees have passed a resolution under subsection (2) above, they shall—
 - (a) give public notice of the resolution in such manner as they think reasonable in the circumstances; and
 - (b) send a copy of the resolution to the Commissioners, together with a statement of their reasons for passing it.
- (6) The Commissioners may, when considering the resolution, require the charity trustees to provide additional information or explanation—
 - (a) as to the circumstances in and by reference to which they have determined to act under this section, or
 - (b) relating to their compliance with this section in connection with the resolution; and the Commissioners shall take into account any representations made to them by persons appearing to them to be interested in the charity where those representations are made within the period of six weeks beginning with the date when the Commissioners receive a copy of the resolution by virtue of subsection (5)(b) above.
- (7) Where the Commissioners have so received a copy of a resolution from any charity trustees and it appears to them that the trustees have complied with this section in connection with the resolution, the Commissioners shall, within the period of three months beginning with the date when they receive the copy of the resolution, notify the trustees in writing either—
 - (a) that the Commissioners concur with the resolution; or
 - (b) that they do not concur with it.
- (8) Where the Commissioners so notify their concurrence with the resolution, the charity trustees shall have, as from such date as may be specified in the notification, power by virtue of this section to expend any property of the charity without regard to any such restrictions as are mentioned in subsection (2) above.
- (9) The Secretary of State may by order amend subsection (1) above by substituting a different sum for the sum for the time being specified there.
- (10) In this section “charitable company” means a charity which is a company or other body corporate.