



Charities Act 1993

1993 CHAPTER 10

PART IV

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

Powers of Commissioners to make schemes and act for protection of charities etc.

17 Further powers to make schemes or alter application of charitable property

- (1) Where it appears to the Commissioners that a scheme should be established for the administration of a charity, but also that it is necessary or desirable for the scheme to alter the provision made by an Act of Parliament establishing or regulating the charity or to make any other provision which goes or might go beyond the powers exercisable by them apart from this section, or that it is for any reason proper for the scheme to be subject to parliamentary review, then (subject to subsection (6) below) the Commissioners may settle a scheme accordingly with a view to its being given effect under this section.
- (2) A scheme settled by the Commissioners under this section may be given effect by order of the Secretary of State, and a draft of the order shall be laid before Parliament.
- (3) Without prejudice to the operation of section 6 of the Statutory Instruments Act 1946 in other cases, in the case of a scheme which goes beyond the powers exercisable apart from this section in altering a statutory provision contained in or having effect under any public general Act of Parliament, the order shall not be made unless the draft has been approved by resolution of each House of Parliament.
- (4) Subject to subsection (5) below, any provision of a scheme brought into effect under this section may be modified or superseded by the court or the Commissioners as if it were a scheme brought into effect by order of the Commissioners under section 16 above.
- (5) Where subsection (3) above applies to a scheme, the order giving effect to it may direct that the scheme shall not be modified or superseded by a scheme brought into effect

otherwise than under this section, and may also direct that that subsection shall apply to any scheme modifying or superseding the scheme to which the order gives effect.

- (6) The Commissioners shall not proceed under this section without the like application and the like notice to the charity trustees, as would be required if they were proceeding (without an order of the court) under section 16 above; but on any application for a scheme, or in a case where they act by virtue of subsection (6) or (7) of that section, the Commissioners may proceed under this section or that section as appears to them appropriate.
- (7) Notwithstanding anything in the trusts of a charity, no expenditure incurred in preparing or promoting a Bill in Parliament shall without the consent of the court or the Commissioners be defrayed out of any moneys applicable for the purposes of a charity but this subsection shall not apply in the case of an exempt charity.
- (8) Where the Commissioners are satisfied—
- (a) that the whole of the income of a charity cannot in existing circumstances be effectively applied for the purposes of the charity; and
 - (b) that, if those circumstances continue, a scheme might be made for applying the surplus cy-près; and
 - (c) that it is for any reason not yet desirable to make such a scheme;
- then the Commissioners may by order authorise the charity trustees at their discretion (but subject to any conditions imposed by the order) to apply any accrued or accruing income for any purposes for which it might be made applicable by such a scheme, and any application authorised by the order shall be deemed to be within the purposes of the charity.
- (9) An order under subsection (8) above shall not extend to more than £300 out of income accrued before the date of the order, nor to income accruing more than three years after that date, nor to more than £100 out of the income accruing in any of those three years.