



# Charities Act 1993

## 1993 CHAPTER 10

### PART IX

#### MISCELLANEOUS

##### *Small charities*

#### **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.
- (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

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*Status: This is the original version (as it was originally enacted).*

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- (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.