



# Charities Act 2011

## 2011 CHAPTER 25

### PART 13

#### [<sup>F1</sup>POWERS TO AMEND TRUSTS AND USE CAPITAL]

##### *Powers of<sup>F1</sup> ... charities to spend capital*

#### **284 When and how s.282 resolution takes effect**

- (1) When considering whether to concur with the resolution under section 282(2) [<sup>F1</sup>or (3A)], the Commission must take into account—
  - (a) any evidence [<sup>F2</sup>made] available to it as to the wishes of [<sup>F3</sup>any donor or donors to the available endowment fund], and
  - [<sup>F4</sup>(b) any changes in circumstances relating to the available endowment fund since it was established (including, in particular, the financial position of the fund, the needs of those who can benefit from the fund, and the social, economic and legal environment).]
- (2) The Commission must not concur with the resolution unless it is satisfied—
  - (a) that its implementation would accord with the spirit of [<sup>F5</sup>any gift or gifts to the available endowment fund] (even though it would be inconsistent with the restrictions mentioned in section 282(2)), and
  - (b) that the charity trustees have complied with the obligations imposed on them by or under section 282 or 283 in connection with the resolution.
- (3) Before the end of the [<sup>F6</sup>relevant period], the Commission must notify the charity trustees in writing—
  - (a) that the Commission concurs with the resolution, or
  - (b) that it does not concur with it.
- [<sup>F7</sup>(4) The “relevant period” means—
  - (a) the period of 60 days beginning with the date on which the Commission receives the copy of the resolution in accordance with section 282(4), or

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(b) that period as modified by subsection (4A) or (4B).

(4A) If under section 283(1) the Commission directs the charity trustees to give public notice of a resolution, the running of the relevant period is suspended from the date on which the direction is given to the charity trustees until the end of the period of 42 days beginning with the date on which public notice of the resolution is given by the charity trustees.

(4B) If under section 283(2) the Commission directs the charity trustees to provide any information or explanations, the running of the relevant period is suspended from the date on which the direction is given to the charity trustees until the date on which the information or explanations is or are provided to the Commission.]

(5) Where—

- (a) the charity trustees are notified by the Commission that it concurs with the resolution, or
- (b) the [<sup>F8</sup>relevant period] has elapsed without the Commission notifying them that it does not concur with the resolution,

[<sup>F9</sup>(6) Where the resolution passed under section 282(3A) relates to all outstanding obligations to repay amounts to or pay amounts into the fund in respect of the amount borrowed from the fund, any other obligation which falls to be carried out by the charity trustees because the charity trustees have borrowed that amount from the fund ceases to have effect when the obligations to repay or pay amounts cease to have effect.]

the fund or portion may, by virtue of this section, be expended in carrying out the purposes set out in the trusts to which the fund is subject without regard to the restrictions mentioned in section 282(2) [<sup>F10</sup>or (as the case may be) the obligation to repay or pay the amount to the fund ceases to have effect, by virtue of this section, to the extent resolved by the trustees under section 282(3A)].

#### Textual Amendments

- F1** Words in s. 284(1) inserted (14.6.2023) by Charities Act 2022 (c. 6), s. 41(4), **Sch. 2 para. 17(2)**; S.I. 2023/643, Sch. para. 20(c) (with reg. 4)
- F2** Word in s. 284(1)(a) inserted (14.6.2023) by Charities Act 2022 (c. 6), s. 41(4), **Sch. 2 para. 17(3)(a)**; S.I. 2023/643, Sch. para. 20(c) (with reg. 4)
- F3** Words in s. 284(1)(a) substituted (14.6.2023) by Charities Act 2022 (c. 6), s. 41(4), **Sch. 2 para. 17(3)(b)**; S.I. 2023/643, Sch. para. 20(c) (with reg. 4)
- F4** S. 284(1)(b) substituted (14.6.2023) by Charities Act 2022 (c. 6), s. 41(4), **Sch. 2 para. 17(4)**; S.I. 2023/643, Sch. para. 20(c) (with reg. 4)
- F5** Words in s. 284(2)(a) substituted (14.6.2023) by Charities Act 2022 (c. 6), s. 41(4), **Sch. 2 para. 17(5)**; S.I. 2023/643, Sch. para. 20(c) (with reg. 4)
- F6** Words in s. 284(3) substituted (14.6.2023) by Charities Act 2022 (c. 6), **ss. 11(2)**, 41(4); S.I. 2023/643, Sch. para. 3 (with reg. 4)
- F7** S. 284(4)-(4B) substituted for s. 284(4) (14.6.2023) by Charities Act 2022 (c. 6), **ss. 11(3)**, 41(4); S.I. 2023/643, Sch. para. 3 (with reg. 4)
- F8** Words in s. 284(5)(b) substituted (14.6.2023) by Charities Act 2022 (c. 6), s. 41(4), **Sch. 2 para. 17(6)**; S.I. 2023/643, Sch. para. 20(c) (with reg. 4)
- F9** S. 284(6) inserted (14.6.2023) by Charities Act 2022 (c. 6), **ss. 10(4)(b)**, 41(4); S.I. 2023/643, Sch. para. 2 (with reg. 4)

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**F10** Words in s. 284 inserted (14.6.2023) by Charities Act 2022 (c. 6), **ss. 10(4)(a)**, 41(4); S.I. 2023/643, Sch. para. 2 (with reg. 4)

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 106(1)-(1B) substituted for s. 106(1) by [2022 c. 6 s. 16\(a\)](#)
- s. 322(2)(ea) inserted by [2022 c. 6 Sch. 2 para. 26](#)
- s. 331A331B and cross-heading inserted by [2022 c. 6 s. 15](#)