



# Charities Act 2011

## 2011 CHAPTER 25

### PART 6

#### CY-PRÈS POWERS AND ASSISTANCE AND SUPERVISION OF CHARITIES BY COURT AND COMMISSION

##### *Property vested in official custodian*

#### **91 Supplementary provisions as to property vested in official custodian**

- (1) Subject to the provisions of this Act, where property is vested in the official custodian in trust for a charity, the official custodian—
  - (a) must not exercise any powers of management, but
  - (b) as trustee of any property—
    - (i) has all the same powers, duties and liabilities,
    - (ii) is entitled to the same rights and immunities, and
    - (iii) is subject to the control and orders of the court in the same way,as a corporation appointed custodian trustee under section 4 of the Public Trustee Act 1906.
- (2) Subsection (1) does not confer on the official custodian a power to charge fees.
- (3) Subject to subsection (4), where any land is vested in the official custodian in trust for a charity, the charity trustees may, in the name and on behalf of the official custodian, execute and do all assurances and things which they could properly execute or do in their own name and on their own behalf if the land were vested in them.
- (4) If any land is so vested in the official custodian by virtue of an order under section 76(3)(c), the power conferred on the charity trustees by subsection (3) is not exercisable by them in relation to any transaction affecting the land, unless the transaction is authorised by order of the court or of the Commission.
- (5) Where any land is vested in the official custodian in trust for a charity—

*Status: This is the original version (as it was originally enacted).*

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- (a) the charity trustees have the same power to make obligations entered into by them binding on the land as if it were vested in them, and
  - (b) any covenant, agreement or condition which is enforceable by or against the official custodian because the land is vested in the official custodian is enforceable by or against the charity trustees as if the land were vested in them.
- (6) In relation to a corporate charity, subsections (3) to (5) apply with the substitution of references to the charity for references to the charity trustees.
- (7) Subsections (3) to (5) do not authorise any charity trustees or charity to impose any personal liability on the official custodian.
- (8) Where the official custodian is entitled as trustee for a charity to the custody of securities or documents of title relating to the trust property, the official custodian may permit them to be in the possession or under the control of the charity trustees without incurring any liability by doing so.