



Charities Act 1960 (repealed)

1960 CHAPTER 58 8 and 9 Eliz 2

PART III **E+W+N.I.**

APPLICATION OF PROPERTY CY-PRES, AND ASSISTANCE AND
SUPERVISION OF CHARITIES BY COURT AND CENTRAL AUTHORITIES

Miscellaneous powers of Commissioners and Minister

23 **Power to authorise dealings with charity property, etc. **E+W+N.I.****

- (1) Subject to the provisions of this section, where it appears to the Commissioners that any action proposed or contemplated in the administration of a charity is expedient in the interests of the charity, they may by order sanction that action, whether or not it would otherwise be within the powers exercisable by the charity trustees in the administration of the charity; and anything done under the authority of such an order shall be deemed to be properly done in the exercise of those powers.
- (2) An order under this section may be made so as to authorise a particular transaction, compromise or the like, or a particular application of property, or so as to give a more general authority, and (without prejudice to the generality of subsection (1) above) may authorise a charity to use common premises, or employ a common staff, or otherwise combine for any purpose of administration, with any other charity.
- (3) An order under this section may give directions as to the manner in which any expenditure is to be borne and as to other matters connected with or arising out of the action thereby authorised; and where anything is done in pursuance of an authority given by any such order, any directions given in connection therewith shall be binding on the charity trustees for the time being as if contained in the trusts of the charity: Provided that any such directions may on the application of the charity be modified or superseded by a further order.
- (4) Without prejudice to the generality of subsection (3) above, the directions which may be given by an order under this section shall in particular include directions for meeting any expenditure out of a specified fund, for charging any expenditure to capital or to income, for requiring expenditure charged to capital to be recouped out of income

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within a specified period, for restricting the costs to be incurred at the expense of the charity, or for the investment of moneys arising from any transaction.

- (5) An order under this section may authorise any act, notwithstanding that it is prohibited by any of the disabling Acts mentioned in subsection (6) below, or that the trusts of the charity provide for the act to be done by or under the authority of the court; but no such order shall authorise the doing of any act expressly prohibited by Act of Parliament other than the disabling Acts or by the trusts of the charity, or confer any authority in relation to a disused church as defined in that subsection, or shall extend or alter the purposes of the charity.
- (6) The Acts referred to in subsection (5) above as the disabling Acts are the ^{M1}Ecclesiastical Leases Act 1571, the ^{M2}Ecclesiastical Leases Act 1572, the ^{M3}Ecclesiastical Leases Act 1575 and the ^{M4}Ecclesiastical Leases Act 1836; and in that subsection “disused church” means a building which has been consecrated and of which the use or disposal is regulated, and can be further regulated, by a scheme having effect under the Union of Benefices Measures 1923 to 1952 or the Reorganisation Areas Measures 1944 and 1954 and extends to any land which under such a scheme is to be used or disposed of with a disused church, and for this purpose “building” includes part of a building.

Marginal Citations

- M1** 1571 c. 10.
M2 1572 c. 11.
M3 1575 c. 11.
M4 1836 c. 20.

VALID FROM 01/09/1992

[^{F1}23A Power to authorise certain ex gratia payments etc. **E+W+N.I.**

- (1) Subject to subsection (3) below, the Commissioners may by order exercise the same power as is exercisable by the Attorney General to authorise the charity trustees of a charity—
- (a) to make any application of property of the charity, or
 - (b) to waive to any extent, on behalf of the charity, its entitlement to receive any property,
- in a case where the charity trustees—
- (i) (apart from this section) have no power to do so, but
 - (ii) in all the circumstances regard themselves as being under a moral obligation to do so.
- (2) The power conferred on the Commissioners by subsection (1) above shall be exercisable by them under the supervision of, and in accordance with such directions as may be given by, the Attorney General; and any such directions may in particular require the Commissioners, in such circumstances as are specified in the directions—
- (a) to refrain from exercising that power; or
 - (b) to consult the Attorney General before exercising it.
- (3) Where—

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- (a) an application is made to the Commissioners for them to exercise that power in a case where they are not precluded from doing so by any such directions, but
- (b) they consider that it would nevertheless be desirable for the application to be entertained by the Attorney General rather than by them,
- they shall refer the application to the Attorney General.
- (4) It is hereby declared that where, in the case of any application made to them as mentioned in subsection (3)(a) above, the Commissioners determine the application by refusing to authorise charity trustees to take any action falling within subsection (1)(a) or (b) above, that refusal shall not preclude the Attorney General, on an application subsequently made to him by the trustees, from authorising the trustees to take that action.]

Textual Amendments

F1 S. 23A inserted (1.9.1992) by Charities Act 1992 (c. 41), s.17; S.I. 1992/1900, art. 2(1), Sch.1

24 Power to advise charity trustees. **E+W+N.I.**

- (1) The Commissioners may on the written application of any charity trustee give him their opinion or advice on any matter affecting the performance of his duties as such.
- (2) A charity trustee or trustee for a charity acting in accordance with the opinion or advice of the Commissioners given under this section with respect to the charity shall be deemed, as regards his responsibility for so acting, to have acted in accordance with his trust, unless, when he does so, either—
- (a) he knows or has reasonable cause to suspect that the opinion or advice was given in ignorance of material facts; or
- (b) the decision of the court has been obtained on the matter or proceedings are pending to obtain one.

25 Powers for preservation of charity documents. **E+W+N.I.**

- (1) The Commissioners may provide books in which any deed, will or other document relating to a charity may be enrolled.
- (2) The Commissioners may accept for safe keeping any document of or relating to a charity, and the charity trustees or other persons having the custody of documents of or relating to a charity (including a charity which has ceased to exist) may with the consent of the Commissioners deposit them with the Commissioners for safe keeping, except in the case of documents required by some other enactment to be kept elsewhere.
- (3) Where a document is enrolled by the Commissioners or is for the time being deposited with them under this section, evidence of its contents may be given by means of a copy certified by any officer of the Commissioners generally or specially authorised by them to act for this purpose; and a document purporting to be such a copy shall be received in evidence without proof of the official position, authority or handwriting of the person certifying it or of the original document being enrolled or deposited as aforesaid.

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- (4) Regulations may make provision for such documents deposited with the Commissioners under this section as may be prescribed to be destroyed or otherwise disposed of after such period or in such circumstances as may be prescribed.
- (5) Subsections (3) and (4) above shall apply to any document transmitted to the Commissioners under section seven of this Act and kept by them under subsection (3) of that section, as if the document had been deposited with them for safe keeping under this section.

26 Power to order taxation of solicitor's bill. **E+W+N.I.**

- (1) The Commissioners may order that a solicitor's bill of costs for business done for a charity, or for charity trustees or trustees for a charity, shall be taxed, together with the costs of the taxation, by a taxing officer in such division of the High Court as may be specified in the order, or by the taxing officer of any other court having jurisdiction to order the taxation of the bill.
- (2) On any order under this section for the taxation of a solicitor's bill the taxation shall proceed, and the taxing officer shall have the same powers and duties, and the costs of the taxation shall be borne, as if the order had been made, on the application of the person chargeable with the bill, by the court in which the costs are taxed.
- (3) No order under this section for the taxation of a solicitor's bill shall be made after payment of the bill, unless the Commissioners are of opinion that it contains exorbitant charges; and no such order shall in any case be made where the solicitor's costs are not subject to taxation on an order of the High Court by reason either of an agreement as to his remuneration or of the lapse of time since payment of the bill.

VALID FROM 01/01/1993

[^{F2}26A Power of Commissioners to bring proceedings with respect to charities. **E+W+N.I.**

- (1) Subject to subsection (2) below, the Commissioners may exercise the same powers with respect to—
 - (a) the taking of legal proceedings with reference to charities or the property or affairs of charities, or
 - (b) the compromise of claims with a view to avoiding or ending such proceedings,
 as are exercisable by the Attorney General acting ex officio.
- (2) Subsection (1) above does not apply to the power of the Attorney General under section 30(1) of this Act to present a petition for the winding up of a charity.
- (3) The practice and procedure to be followed in relation to any proceedings taken by the Commissioners under subsection (1) above shall be the same in all respects (and in particular as regards costs) as if they were proceedings taken by the Attorney General acting ex officio.
- (4) No rule of law or practice shall be taken to require the Attorney General to be a party to any such proceedings.

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- (5) The powers exercisable by the Commissioners by virtue of this section shall be exercisable by them of their own motion, but shall be exercisable only with the agreement of the Attorney General on each occasion.]

Textual Amendments

F2 S. 26A inserted (1.1.1993) by Charities Act 1992 (c. 41), s.28; S.I. 1992/1900, art. 4(1), Sch. 3

27 Powers for recovery or redemption of charity rentcharges. **E+W+N.I.**

- (1) Where it appears to the Commissioners that a charity is entitled to receive a rentcharge issuing out of any land, or out of the rents, profits or other income of any land, they may take legal proceedings on behalf of the charity for recovering the rentcharge or compelling payment.
- (2) Where a charity is entitled to receive a rentcharge issuing out of any land, the Commissioners may give to the estate owner in respect of the fee simple in the land (or, if the rentcharge is payable in respect of an estate for a term of years, then to the estate owner in respect of that estate) a notice to treat with the charity trustees for the redemption of the rentcharge.
- (3) Where a notice to treat is given under subsection (2) above in respect of any land, and the rentcharge is still subsisting at the expiration of ten years from the date on which the notice is given, then (subject to the provisions of this section) the person who is then the estate owner in respect of the relevant estate in the land shall be liable to pay the redemption price to the charity or to the person entitled to receive it as trustee for the charity, and on payment or tender of the redemption price shall be entitled to a proper and effective release of the rentcharge (or, if he has so requested, a proper and effective transfer of it to a person nominated by him).
- (4) For the purposes of subsection (3) above the redemption price for a rentcharge shall be such as may be determined in accordance with regulations made by the Treasury.
- (5) Proceedings for the recovery of sums due under subsection (3) above may be taken by the Commissioners on behalf of the charity.
- (6) Where an estate owner of land liable to a rentcharge has by law or by contract any right of indemnity or contribution in respect of the rentcharge against any person or property, then on his redeeming the rentcharge in accordance with subsection (3) above he shall have the like right of indemnity or contribution in respect of the redemption price.
- (7) For the purposes of the [^{F3M5}Local Land Charges Act 1975] and of the [^{M6}Land Registration Act 1925], a notice to treat under this section shall be treated as a land charge affecting the estate of the estate owner to whom it is given, and those Acts shall apply to the notice to treat as they apply to an estate contract.
- (8) Where an estate owner of land liable to a rentcharge pays it through an agent, a notice to treat under this section, if given to the agent on behalf of the estate owner, shall for the purposes of this section be deemed to be given to the estate owner, notwithstanding that the agent's authority from the estate owner does not extend to accepting the notice on his behalf.

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(9) This section shall apply to any periodical payment other than rent incident to a reversion as it applies to a rentcharge.

Textual Amendments

F3 Words substituted by virtue of [Interpretation Act 1889 \(c. 63\)](#), s. **38(1)**

Marginal Citations

M5 1975 c. 76.

M6 1925 c. 21.

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