



Charities Act 1960

1960 CHAPTER 58

PART III

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

Powers of Commissioners and Minister to make schemes, etc.

19 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 made by statutory instrument, and a draft of the statutory instrument shall be laid before Parliament.
- (3) Without prejudice to the operation of section six 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Subject to subsection (5) below, any provision of a scheme brought into effect under this section may be modified or superseded by the court or the Commissioners as if it were a scheme brought into effect by order of the Commissioners under section eighteen of this Act.

- (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(3) above applies to a scheme, the order giving effect to it may direct that the scheme shall not be modified or superseded by a scheme brought into effect otherwise than under this section, and may also direct that that subsection shall apply to any scheme modifying or superseding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 or the like reference from the Secretary of State, and the like notice to the charity trustees, as would be required if they were proceeding (without an order of the court) under section eighteen of this Act; but on any application or reference made with a view to a scheme, the Commissioners may proceed under this section or that 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:

Provided that 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:

Provided that the order shall not extend to more than three hundred pounds 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 one hundred pounds out of the income accruing in any of those three years.

- (9) In the application of this section to the Minister of Education, a reference to that Minister shall be substituted for the reference in subsection (2) to the Secretary of State.