



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.

20 Power to act for protection of charities

- (1) Where the Commissioners are satisfied as the result of an inquiry instituted by them under section six of this Act—
- (a) that there has been in the administration of a charity any misconduct or mismanagement; and
 - (b) that it is necessary or desirable to act for the purpose of protecting the property of the charity or securing a proper application for the purposes of the charity of that property or of property coming to the charity;

then for that purpose the Commissioners may of their own motion do all or any of the following things:—

- (i) they may by order remove any trustee, charity trustee, officer, agent or servant of the charity who has been responsible for or privy to the misconduct or mismanagement or has by his conduct contributed to it or facilitated it;
- (ii) they may make any such order as is authorised by subsection (1) of section sixteen of this Act with respect to the vesting in or transfer to the official custodian for charities of property held by or in trust for the charity;
- (iii) they may order any bank or other person who holds money or securities on behalf of the charity or of any trustee for it not to part with the money or securities without the approval of the Commissioners;
- (iv) they may, notwithstanding anything in the trusts of the charity, by order restrict the transactions which may be entered into, or the nature or amount of the payments which may be made, in the administration of the charity without the approval of the Commissioners.

- (2) The references in subsection (1) above to misconduct or mismanagement shall (notwithstanding anything in the trusts of the charity) extend to the employment for the remuneration or reward of persons acting in the affairs of the charity, or for other administrative purposes, of sums which are excessive in relation to the property which is or is likely to be applied or applicable for the purposes of the charity.
- (3) The Commissioners may also remove a charity trustee by order made of their own motion—
 - (a) where the trustee has been convicted of felony, or is a bankrupt or a corporation in liquidation, or is incapable of acting by reason of mental disorder within the meaning of the Mental Health Act, 1959;
 - (b) where the trustee has not acted, and will not declare his willingness or unwillingness to act;
 - (c) where the trustee is outside England and Wales or cannot be found or does not act, and his absence or failure to act impedes the proper administration of the charity.
- (4) The Commissioners may by order made of their own motion appoint a person to be a charity trustee—
 - (a) in place of a charity trustee removed by them under this section or otherwise ;
 - (b) where there are no charity trustees, or where by reason of vacancies in their number or the absence or incapacity of any of their number the charity cannot apply for the appointment;
 - (c) where there is a single charity trustee, not being a corporation aggregate, and the Commissioners are of opinion that it is necessary to increase the number for the proper administration of the charity;
 - (d) where the Commissioners are of opinion that it is necessary for the proper administration of the charity to have an additional charity trustee, because one of the existing charity trustees who ought nevertheless to remain a charity trustee either cannot be found or does not act or is outside England and Wales.
- (5) The powers of the Commissioners under this section to remove or appoint charity trustees of their own motion shall include power to make any such order with respect to the vesting in or transfer to the charity trustees of any property as the Commissioners could make on the removal or appointment of a charity trustee by them under section eighteen of this Act.
- (6) Any order under this section for the removal or appointment of a charity trustee or trustee for a charity, or for the vesting or transfer of any property, shall be of the like effect as an order made under section eighteen of this Act.
- (7) Subsections (10) and (11) of section eighteen of this Act shall apply to orders under this section as they apply to orders under that, save that where the Commissioners have by order removed a trustee, charity trustee, officer, agent, or servant of a charity under the power conferred by subsection (1) of this section, an appeal against such an order may be brought by any person so removed without a certificate of the Commissioners and without the leave of one of the judges of the High Court attached to the Chancery Division.
- (8) The power of the Commissioners under subsection (1) above to remove a trustee, charity trustee, officer, agent or servant of a charity shall include power to suspend him from the exercise of his office or employment pending the consideration of his removal (but not for a period longer than three months), and to make provision as

respects the period of the suspension for matters arising out of it, and in particular for enabling any person to execute any instrument in his name or otherwise act for him and, in the case of a charity trustee, for adjusting any rules governing the proceedings of the charity trustees to take account of the reduction in the number capable of acting.

- (9) Before exercising any jurisdiction under this section, the Commissioners shall give notice of their intention to do so to each of the charity trustees, except any that cannot be found or has no known address in the United Kingdom; and any such notice may be given by post and, if given by post, may be addressed to the recipient's last known address in the United Kingdom.
- (10) If any person contravenes an order under paragraph (iii) of subsection (1) above, he shall be liable on summary conviction to a fine not exceeding one hundred pounds, or to imprisonment for a term not exceeding six months, or to both; but no proceedings for an offence punishable under this subsection shall be instituted except by or with the consent of the Commissioners.
- (11) Notwithstanding subsection (8) of section three of this Act, paragraph (ii) of subsection (1) above shall apply to the Minister of Education as well as to the Commissioners.
- (12) This section shall not apply to an exempt charity.