



Charities Act (Northern Ireland) 1964

1964 CHAPTER 33

PART I

POWERS OF MINISTRY OF FINANCE AS CHARITY AUTHORITY

GENERAL POWERS OF MINISTRY

1 Applications for opinion etc. of Ministry.

- (1) The Ministry of Finance (in this Act referred to as “the Ministry”) shall receive and consider any application made to it in writing by the trustees of any charity for the opinion or advice of the Ministry in relation to any matter or question concerning that charity.
- (2) Where an application is made to the Ministry under subsection (1), the Ministry may give, in writing under seal, such opinion or advice as it considers proper.
- (3) Where a trustee acts in accordance with any opinion or advice given by the Ministry under this section—
 - (a) he shall be deemed to have acted in accordance with the terms of his trust; and
 - (b) an order made subsequently by any court shall not affect the operation of paragraph (a).
- (4) Subsection (3)(a) shall not apply in relation to any trustee who acts in accordance with the opinion or advice of the Ministry if—
 - (a) he has been guilty of any fraud, wilful concealment or misrepresentation in making an application for that opinion or advice; or
 - (b) before he so acts the opinion of the Court has been obtained in relation to the matter or question in respect of which an application has been made under subsection (1) for the opinion or advice of the Ministry or proceedings to obtain the opinion of the Court in relation to that matter or question have been instituted.

Status: Point in time view as at 01/01/2006.

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2 Certification of cases to Attorney-General.

- (1) Where it appears to the Ministry that the institution of legal proceedings should be considered in relation to any charity, the Ministry may send a certificate to that effect, together with such particulars as the Ministry considers may be necessary to explain the matter, to the Attorney-General.
- (2) Where the Attorney-General receives a certificate from the Ministry under subsection (1) he may, if he thinks fit, institute such legal proceedings as he considers proper.

3 Power to call for documents and search records.

- (1) Where the Ministry has reasonable grounds to believe that any property belonging to a charity or given for charitable purposes may have been concealed, misapplied or withheld, it may, with the consent of the Attorney-General, by order require any person having in his possession or control any books, records, deeds or papers relating to the charity—
 - (a) to furnish the Ministry with copies of or extracts from any of those documents; or
 - (b) unless the document forms part of the records of other documents of a court or of a public or local authority, to transmit the document itself to the Ministry for inspection.
- (2) Any officer of the Ministry, if so authorised by the Ministry, shall be entitled without payment to inspect and take copies of or extracts from the records or other documents of any court, or of any public registry or office of records, for any purpose connected with the discharge of the functions of the Ministry under this Act.
- (3) The Ministry shall be entitled without payment to keep any copy or extract furnished to the Ministry under subsection (1); and where the document transmitted to the Ministry under that subsection for inspection by the Ministry—
 - (a) relates only to one or more charities; and
 - (b) is not held by any person entitled as trustee or otherwise to the custody of the document;the Ministry may keep the document or deliver it to the trustees of the charity or to any other person who may be so entitled.

4 Publication of charitable gifts in wills.

- (1) Where a will contains a charitable gift to be applied or paid in Northern Ireland, the Ministry may, if it thinks fit, require the person to whom probate of the will or letters of administration with the will annexed have been granted—
 - (a) to produce to the Ministry, within six months after the grant of probate or letters of administration or within two months after the date on which the Ministry makes the requirement, whichever period expires later, such evidence as the Ministry may require to show either—
 - (i) that the property comprised in the gift has been transferred to the charity specified in the will; or
 - (ii) that the trustees of the charity specified in the will are aware of the gift; or

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- (b) to publish, within six months after the grant of probate or letters of administration or within two months after the date on which the Ministry makes the requirement, whichever period expires later, such particulars of the gift as the Ministry may require and in such manner as the Ministry may specify.
- (2) If any person fails to comply with any requirement made under subsection (1) he shall be guilty of an offence and liable on summary conviction to a fine not exceeding^{F1} level 3 on the standard scale].

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5 Compromises of claims by or against charities.

- (1) Where it appears to the trustees of a charity that any claim by the charity against any person should be compromised, the trustees or, with their consent, that person may submit a proposal for the compromise of the claim to the Ministry.
- (2) Where it appears to the trustees of a charity that any claim by any person against the charity or the trustees should be compromised, the trustees or, with their consent, that person, may submit a proposal for the compromise of the claim to the Ministry.
- (3) Where it appears to the Ministry that a proposal under subsection (1) or (2) is, with or without any modification, for the benefit of the charity concerned, the Ministry may make such order in relation to the compromise specified in the proposal as it thinks fit.
- (4) The Ministry may compromise any claim by or against the Ministry in respect of any property belonging to a charity of which the Ministry is a trustee if the Ministry is satisfied that the compromise would be for the benefit of the charity concerned.
- (5) Where the terms and conditions of a compromise under this section are complied with, legal proceedings shall not be entertained in any court by or against the charity in relation to the claim in respect of which the compromise was made.

6 Transfer of certain administration actions to Ministry.

- (1) Where—
 - (a) a testator has by will bequeathed or devised any property for any charitable purpose; and
 - (b) an action has been instituted for the administration of the assets of, or for the purpose of carrying out the trusts established by, the testator;the Ministry, although not a party to the action, may apply on the ground of undue or improper delay to the court in which the action is pending to have the conduct of the action transferred to the Ministry.
- (2) Where, on an application under subsection (1), a court is satisfied that there has been undue or improper delay in proceeding with the action, the court may—
 - (a) transfer the conduct of the action to the Ministry; or
 - (b) impose on the person having the conduct of the action such terms as it may consider necessary for the purpose of bringing the action to a speedy termination;and may make such order on the application as it thinks fit.

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- (3) The Ministry shall, before making an application under subsection (1), give the Attorney-General notice of its intention to make the application.

7 Receipts given by Ministry.

- (1) Where—
- (a) a person is liable to pay any sum to or for any charitable purpose; and
 - (b) by reason of the death, absence or incapacity of a trustee or other person capable of giving a valid discharge, or of there being no such person, difficulty arises in paying the sum;
- the Ministry may, if it thinks fit, accept the sum which shall be applied by the Ministry in accordance with the trusts affecting the sum.
- (2) A receipt given by the Ministry in respect of any sum accepted by it under subsection (1) shall be a full discharge to the person who paid the sum to the Ministry.

8 Funds in court.

- (1) Where any fund standing to the credit of a charity or impressed with a charitable trust in any proceedings under the jurisdiction of a court, is not being applied for the benefit of the charity or in accordance with that trust, the Ministry may apply to the court for the transfer of the fund to the Ministry upon the trusts affecting the fund.
- (2) Where the Ministry applies to any court under subsection (1), the court may make such order as it thinks fit in respect of the transfer of the fund.
- (3) The Ministry shall, before making an application under subsection (1), give the Attorney-General notice of its intention to make the application.

9 Taxation of solicitor's bill.

- (1) The Ministry may order that a solicitor's bill of costs for business done for a charity, or the trustees of any charity, shall be taxed by the [^{F2} Master (Taxing Office)].
- (2) On any order under this section for the taxation of a solicitor's bill the taxation shall proceed, and the [^{F2} Master (Taxing Office)] 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.
- (3) An order shall not be made under this section for the taxation of any bill—
- (a) after the bill has been paid, unless the Ministry is of opinion that the bill contains exorbitant charges; or
 - (b) if the solicitor's costs are not subject to taxation on an order of the Court by reason of—
 - (i) an agreement as to his remuneration; or
 - (ii) the lapse of time since payment of the bill.

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