



# Charities Act (Northern Ireland) 1964

## 1964 CHAPTER 33

### PART I

#### POWERS OF MINISTRY OF FINANCE AS CHARITY AUTHORITY

##### PROVISIONS FACILITATING ADMINISTRATION OF CHARITIES

#### **12 Appointment of new charity trustees.**

- (1) Where it appears to the Ministry that the appointment of a new trustee or new trustees of a charity is necessary in the interests of the proper administration of the charity, and that the appointment cannot conveniently be made otherwise than by an order made under this section or of the Court then, subject to subsection (2), the Ministry—
- (a) on the application of the trustee or trustees of the charity;
  - (b) if there are no trustees of the charity, or they refuse to act or cannot be found, on the application of any person having an interest; or
  - (c) if an application is not made to it in pursuance of paragraph (a) or (b) within such a period as is reasonable (regard being had to all the circumstances), of its own motion;

may, with the consent of the Attorney-General, make an order appointing a new trustee or new trustees of the charity either in substitution for or in addition to any existing trustee or trustees, or although there is no existing trustee.

- (2) The Ministry shall not appoint a new trustee under subsection (1) in substitution for an existing trustee unless the existing trustee desires to be discharged from, or refuses to act in, the administration of the charity.
- (3) Where—
- (a) there are no trustees of a charity or they cannot be found; and
  - (b) it appears to the Ministry that no suitable person is willing to be appointed as a new trustee of the charity under this section;

the Ministry may, with the consent of the Attorney-General, make an order under subsection (1) appointing itself as the sole trustee of the charity.

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*Status: Point in time view as at 01/01/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Charities Act (Northern Ireland) 1964, Section 12. (See end of Document for details)*

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- (4) An order under subsection (1) may include provisions vesting the property of the charity for such estate as the Ministry may direct in the persons who on the appointment are the new trustees, and the provisions shall have the same effect as if the persons who before the appointment were the trustees, if any, had duly executed all proper conveyances of the property for such estate as the Ministry directs, or if there is no such person, or no such person of full capacity, then as if such person had existed and been of full capacity and had duly executed all proper conveyances of the property for such estate as the Ministry directs.
- (5) Every trustee of a charity appointed under this section, before as well as after the property of the charity becomes vested in him—
  - (a) shall have the same powers, authorities and discretions; and
  - (b) may in all respects act;as if he had been originally appointed by the instrument, if any, creating the trust.
- (6) The Ministry shall, not less than one month before the date on which the Ministry proposes to make an order under this section, give public notice of the proposed order in such manner as the Ministry considers most effectual for ensuring publicity for the proposal and for bringing it to the attention of persons interested.
- (7) The Ministry shall consider any suggestions received by it in relation to the proposed order, and may take such action thereon as it considers appropriate.
- (8) The Ministry shall, within fourteen days after making an order under this section, give public notice of the effect thereof in such manner as the Ministry considers most effectual for ensuring publicity for the order, and for bringing it to the attention of persons interested.
- (9) Any person having an interest may, within twenty-eight days after the date of the first publication, in pursuance of subsection (8), of notice of the effect of an order under this section, appeal to the Court against the order.
- (10) Where a person appeals to the Court against an order made under this section, the Ministry shall, within seven days after the date on which it receives notice of the appeal, give notice to the Attorney-General that such an appeal is being made.
- (11) On an appeal under subsection (9)—
  - (a) the Court may make such order confirming, annulling or varying an order under this section, and such order as to costs, as it thinks fit;
  - (b) the Ministry and the trustees, if any, of the charity concerned shall be entitled to be represented and heard.
- (12) An order under this section—
  - (a) if an appeal is not brought against it, shall become operative on the expiration of the period of twenty-eight days mentioned in subsection (9);
  - (b) if an appeal is brought against it, shall become operative on the date of the final determination of the appeal, if and so far as it is confirmed by the Court, or, if the appeal is withdrawn, on the date of the withdrawal.
- (13) An order under this section shall not operate further or otherwise as a discharge to any former or continuing trustee than an appointment of new trustees under any power for that purpose contained in any instrument would have operated.
- (14) This section does not confer power to appoint an executor or administrator.

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- (15) Where a body corporate is appointed under this section to be, or a body corporate appointed under this section becomes, sole trustee of a trust, the terms of which provide for or require the appointment of more than one trustee, then during such time as the body corporate holds the office of trustee of the trust—
- (a) the terms of the trust shall be treated as providing for or requiring the appointment of one trustee only; and
  - (b) one trustee only shall be deemed to have been originally appointed under the terms of the trust.

*Subs. (16) rep. by 1970 c. 18 (NI)*

**Status:**

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

**Changes to legislation:**

There are currently no known outstanding effects for the Charities Act (Northern Ireland) 1964, Section 12.