



2008 CHAPTER 12

PART 12

POWERS OF UNINCORPORATED CHARITIES

Modification of purposes, powers or procedure

Power to replace purposes of unincorporated charity

126.—(1) This section applies to a charity if—

- (a) its gross income in its last financial year did not exceed £10,000,
- (b) it does not hold any designated land, and
- (c) it is not a company or other body corporate.

“Designated land” means land held on trusts which stipulate that it is to be used for the purposes, or any particular purposes, of the charity.

(2) The charity trustees of such a charity may resolve for the purposes of this section that the trusts of the charity should be modified by replacing all or any of the purposes of the charity with other purposes specified in the resolution.

(3) The other purposes so specified must be charitable purposes.

(4) But the charity trustees of a charity do not have power to pass a resolution under subsection (2) unless they are satisfied—

- (a) that it is expedient in the interests of the charity for the purposes in question to be replaced, and
- (b) that, so far as is reasonably practicable, the new purposes consist of or include purposes that are similar in character to those that are to be replaced.

(5) Any resolution under subsection (2) must be passed by a majority of not less than two-thirds of the charity trustees who vote on the resolution.

(6) Where charity trustees have passed a resolution under subsection (2), they must send a copy of it to the Commission, together with a statement of their reasons for passing it.

(7) Having received the copy of the resolution, the Commission—

- (a) may direct the charity trustees to give public notice of the resolution in such manner as is specified in the direction, and
- (b) if it gives such a direction, must take into account any representations made to it by persons appearing to it to be interested in the charity, where those representations are made to it within the period of 28 days beginning with the date when public notice of the resolution is given by the charity trustees.

(8) The Commission may also direct the charity trustees to provide the Commission with additional information or explanations relating to—

- (a) the circumstances in and by reference to which they have decided to act under this section, or
- (b) their compliance with any obligation imposed on them by or under this section in connection with the resolution.

(9) Subject to the provisions of section 124 (as they apply in accordance with subsection (10) below), a resolution under subsection (2) takes effect at the end of the period of 60 days beginning with the date on which the copy of it was received by the Commission.

(10) Section 124 applies to a resolution under subsection (2) of this section as it applies to a resolution under subsection (2) of section 123, except that any reference to subsection (6), (7) or (8) is to be read as a reference to subsection (7), (8) or (9) above.

(11) As from the time when a resolution takes effect under subsection (9), the trusts of the charity concerned are to be taken to have been modified in accordance with the terms of the resolution.

(12) The Department may by order amend subsection (1) by substituting a different sum for the sum for the time being specified there.

Power to modify powers or procedures of unincorporated charity

127.—(1) This section applies to any charity which is not a company or other body corporate.

(2) The charity trustees of such a charity may resolve for the purposes of this section that any provision of the trusts of the charity—

- (a) relating to any of the powers exercisable by the charity trustees in the administration of the charity, or

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- (b) regulating the procedure to be followed in any respect in connection with its administration,

should be modified in such manner as is specified in the resolution.

(3) Subsection (4) applies if the charity is an unincorporated association with a body of members distinct from the charity trustees.

(4) Any resolution of the charity trustees under subsection (2) must be approved by a further resolution which is passed at a general meeting of the body either—

- (a) by a majority of not less than two-thirds of the members entitled to attend and vote at the meeting who vote on the resolution, or
- (b) by a decision taken without a vote and without any expression of dissent in response to the question put to the meeting.

(5) Where—

- (a) the charity trustees have passed a resolution under paragraph (2), and
- (b) (if subsection (4) applies) a further resolution has been passed under that subsection,

the trusts of the charity are to be taken to have been modified in accordance with the terms of the resolution.

(6) The trusts are to be taken to have been so modified as from such date as is specified for this purpose in the resolution under subsection (2), or (if later) the date when any such further resolution was passed under subsection (4).