



2008 CHAPTER 12

PART 14

MISCELLANEOUS AND SUPPLEMENTARY

Other matters

Manner of giving notice of charity meetings, etc.

168.—(1) Without prejudice to section 24 of the Interpretation Act (Northern Ireland) 1954 (c. 33) (service of documents), all notices which are required or authorised by the trusts of a charity to be given to a person who is a charity trustee, member or subscriber may be sent by post, and, if sent by post, may be addressed to any address given as that person's address in the list of charity trustees, members or subscribers for the time being in use at the office or principal office of the charity.

(2) No notice required to be given as aforesaid of any meeting or election need be given to any person who is a charity trustee, member or subscriber, if in the list above mentioned that person has no address in the United Kingdom.

Manner of executing instruments

169.—(1) Charity trustees may, subject to the trusts of the charity, confer on any of their body (not being less than two in number) a general authority, or an authority limited in such manner as the trustees think fit, to execute in the names and on behalf of the trustees assurances or other deeds or instruments for giving effect to transactions to which the trustees are a party; and any deed or instrument executed in pursuance of an authority so given shall be of the same effect as if executed by the whole body.

(2) An authority under subsection (1)—

- (a) shall suffice for any deed or instrument if it is given in writing or by resolution of a meeting of the trustees, notwithstanding the want of any formality that would be required in giving an authority apart from that subsection;
- (b) may be given so as to make the powers conferred exercisable by any of the trustees, or may be restricted to named persons or in any other way;
- (c) subject to any such restriction, and until it is revoked, shall, notwithstanding any change in the charity trustees, have effect as a continuing authority given by the charity trustees from time to time of the charity and exercisable by such trustees.

(3) In any authority under this section to execute a deed or instrument in the names and on behalf of charity trustees there shall, unless the contrary intention appears, be implied authority also to execute it for them in the name and on behalf of the official custodian or of any other person, in any case in which the charity trustees could do so.

(4) Where a deed or instrument purports to be executed in pursuance of this section, then in favour of a person who (then or afterwards) in good faith acquires for money or money's worth an interest in or charge on property or the benefit of any covenant or agreement expressed to be entered into by the charity trustees, it shall be conclusively presumed to have been duly executed by virtue of this section.

(5) The powers conferred by this section shall be in addition to and not in derogation of any other powers.

Transfer and evidence of title to property vested in trustees

170.—(1) Where, under the trusts of a charity, trustees of property held for the purposes of the charity may be appointed or discharged by resolution of a meeting of the charity trustees, members or other persons, a memorandum declaring a trustee to have been so appointed or discharged shall be sufficient evidence of that fact if the memorandum is signed either at the meeting by the person presiding or in some other manner directed by the meeting and is attested by two persons present at the meeting.

(2) A memorandum evidencing the appointment or discharge of a trustee under subsection (1), if executed as a deed, shall have the like operation under section 39 of the Trustee Act (Northern Ireland) 1958 (c. 23) (which relates to vesting declarations as respects trust property in deeds appointing or discharging trustees) as if the appointment or discharge were effected by the deed.

(3) For the purposes of this section, where a document purports to have been signed and attested as mentioned in subsection (1), then on proof (whether by

evidence or as a matter of presumption) of the signature the document shall be presumed to have been so signed and attested, unless the contrary is shown.

(4) This section shall apply to a memorandum made at any time, except that subsection (2) shall apply only to those made after the commencement of section 1 of the Charities Act (Northern Ireland) 1964 (c. 33) (20th October 1964).

(5) This section shall apply in relation to any institution to which the Literary and Scientific Institutions Act 1854 (c. 112) applies as it applies in relation to a charity.

Supply by Commission of copies of documents open to public inspection

171. The Commission shall, at the request of any person, furnish that person with copies of, or extracts from, any document in the Commission's possession which is for the time being open to inspection under this Act.

Fees and other amounts payable to Commission

172.—(1) The Department may by regulations require the payment to the Commission of such fees as may be prescribed by the regulations in respect of—

- (a) the discharge by the Commission of such functions under the statutory provisions relating to charities as may be so prescribed;
- (b) the inspection of the register of charities or of other material kept by the Commission under those statutory provisions, or the furnishing of copies of or extracts from documents so kept.

(2) Regulations under this section may—

- (a) confer, or provide for the conferring of, exemptions from liability to pay a prescribed fee;
- (b) provide for the remission or refunding of a prescribed fee (in whole or in part) in circumstances prescribed by the regulations.

(3) Any regulations under this section which require the payment of a fee in respect of any matter for which no fee was previously payable shall not be made unless a draft of the regulations has been laid before and approved by a resolution of the Assembly.

(4) The Commission may impose charges of such amounts as it considers reasonable in respect of the supply of any publications produced by it.

(5) Any fees and other payments received by the Commission by virtue of this section shall be paid to the Department.

Enforcement of requirements by order of Commission

173.—(1) If a person fails to comply with any requirement imposed by or under this Act then (subject to subsection (2)) the Commission may by order give that person such directions as it considers appropriate for securing that the default is made good.

(2) Subsection (1) does not apply to any such requirement if—

- (a) a person who fails to comply with, or is persistently in default in relation to, the requirement is liable to any criminal penalty; or
- (b) the requirement is imposed—
 - (i) by an order of the Commission to which section 174 applies, or
 - (ii) by a direction of the Commission to which that section applies by virtue of section 176(2).

Enforcement of orders of Commission

174. A person guilty of disobedience—

- (a) to an order of the Commission under section 23(1), 36, 37, 66(2), 84, 87 or 90; or
- (b) to an order of the Commission under section 31 or 33 requiring a transfer of property or payment to be called for or made; or
- (c) to an order of the Commission requiring a default under this Act to be made good;

may on the application of the Commission to the High Court be dealt with as for disobedience to an order of the High Court.

Other provisions as to orders of Commission

175.—(1) Any order made by the Commission under this Act may include such incidental or supplementary provisions as the Commission thinks expedient for carrying into effect the objects of the order, and where the Commission exercises any jurisdiction to make such an order on an application or reference to it, it may insert any such provisions in the order notwithstanding that the application or reference does not propose their insertion.

(2) Where the Commission makes an order under this Act, then (without prejudice to the requirements of this Act where the order is subject to appeal) the Commission may itself give such public notice as it thinks fit of the making or contents of the order, or may require it to be given by any person on whose application the order is made or by any charity affected by the order.

(3) The Commission at any time within 12 months after it has made an order under any provision of this Act other than section 84, if it is satisfied that the order was made by mistake or on misrepresentation or otherwise than in

conformity with this Act, may with or without any application or reference to it discharge the order in whole or in part, and subject or not to any savings or other transitional provisions.

(4) Except for the purposes of subsection (3) or of an appeal under this Act, an order made by the Commission under this Act shall be deemed to have been duly and formally made and not be called in question on the ground only of irregularity or informality, but (subject to any further order) have effect according to its tenor.

(5) An order made by the Commission under any provision of this Act may be varied or revoked by a subsequent order so made.

Directions of the Commission

176.—(1) Any direction given by the Commission under any provision contained in this Act—

- (a) may be varied or revoked by a further direction given under that provision; and
- (b) shall be given in writing.

(2) Sections 174 and 175(1), (2) and (4) shall apply to any such directions as they apply to an order of the Commission.

(3) In subsection (1) the reference to the Commission includes, in relation to a direction under subsection (3) of section 22, a reference to any person conducting an inquiry under that section.

(4) Nothing in this section shall be read as applying to any directions contained in an order made by the Commission under section 173(1).

Miscellaneous provisions as to evidence

177.—(1) Where, in any proceedings to recover or compel payment of any rentcharge or other periodical payment claimed by or on behalf of a charity out of land or of the rents, profits or other income of land, otherwise than as rent incident to a reversion, it is shown that the rentcharge or other periodical payment has at any time been paid for 12 consecutive years to or for the benefit of the charity, that shall be prima facie evidence of the perpetual liability to it of the land or income, and no proof of its origin shall be necessary.

(2) Evidence of any order, certificate or other document issued by the Commission may be given by means of a copy which it retained, or which is taken from a copy so retained, and evidence of an entry in any register kept by it may be given by means of a copy of the entry, if (in each case) the copy is certified in accordance with subsection (3).

(3) The copy shall be certified to be a true copy by any member of the staff of the Commission generally or specially authorised by the Commission to act for that purpose.

(4) A document purporting to be such a copy shall be received in evidence without proof of the official position, authority or handwriting of the person certifying it.

Restriction on institution of proceedings for certain offences

178.—(1) No proceedings for an offence under this Act to which this section applies shall be instituted except by or with the consent of the Director of Public Prosecutions for Northern Ireland.

(2) This section applies to any offence under—

- (a) section 19;
- (b) section 25;
- (c) section 33(11);
- (d) section 71; or
- (e) section 87.