



2008 CHAPTER 12

PART 6

APPLICATION OF PROPERTY CY-PRÈS AND ASSISTANCE AND
SUPERVISION OF CHARITIES BY COURT AND COMMISSION

Legal proceedings relating to charities

Proceedings by Commission

53.—(1) Subject to subsection (2), the Commission may exercise the same powers with respect to—

- (a) the taking of legal proceedings with reference to charities or the property or affairs of charities, or
- (b) the compromise of claims with a view to avoiding or ending such proceedings,

as are exercisable by the Attorney General acting *ex officio*.

(2) Subsection (1) does not apply to the power of the Attorney General under section 95(1) to present a petition for the winding up of a charity.

(3) The practice and procedure to be followed in relation to any proceedings taken by the Commission under subsection (1) shall be the same in all respects (and in particular as regards costs) as if they were proceedings taken by the Attorney General acting *ex officio*.

(4) No rule of law or practice shall be taken to require the Attorney General to be a party to any such proceedings.

(5) The powers exercisable by the Commission by virtue of this section shall be exercisable by the Commission of its own motion, but shall be exercisable only with the agreement of the Attorney General on each occasion.

Proceedings by other persons

54.—(1) Charity proceedings may be taken with reference to a charity either by the charity, or by any of the charity trustees, or by any person interested in the charity, but not by any other person.

(2) Subject to the following provisions of this section, no charity proceedings relating to a charity shall be entertained or proceeded with in any court unless the taking of the proceedings is authorised by order of the Commission.

(3) The Commission shall not, without special reasons, authorise the taking of charity proceedings where in its opinion the case can be dealt with by the Commission under the powers of this Act other than those conferred by section 53.

(4) This section shall not require any order for the taking of proceedings in a pending cause or matter or for the bringing of any appeal.

(5) Where the foregoing provisions of this section require the taking of charity proceedings to be authorised by an order of the Commission, the proceedings may nevertheless be entertained or proceeded with if, after the order had been applied for and refused, leave to take the proceedings was obtained from one of the judges of the High Court attached to the Chancery Division.

(6) Nothing in the foregoing subsections shall apply to the taking of proceedings by the Attorney General, with or without a relator, or to the taking of proceedings by the Commission in accordance with section 53.

(7) Where it appears to the Commission, on an application for an order under this section or otherwise, that it is desirable for legal proceedings to be taken with reference to any charity or its property or affairs, and for the proceedings to be taken by the Attorney General, the Commission shall so inform the Attorney General, and send the Attorney General such statements and particulars as the Commission thinks necessary to explain the matter.

(8) In this section “charity proceedings” means proceedings in any court in Northern Ireland brought under the court’s jurisdiction with respect to charities, or brought under the court’s jurisdiction with respect to trusts in relation to the administration of a trust for charitable purposes.

Report of section 22 inquiry to be evidence in certain proceedings

55.—(1) A copy of the report of the person conducting an inquiry under section 22 shall, if certified by the Commission to be a true copy, be admissible in any proceedings to which this section applies—

Status: This is the original version (as it was originally enacted).

- (a) as evidence of any fact stated in the report; and
 - (b) as evidence of the opinion of that person as to any matter referred to in it.
- (2) This section applies to—
- (a) any legal proceedings instituted by the Commission under this Part; and
 - (b) any legal proceedings instituted by the Attorney General in respect of a charity.
- (3) A document purporting to be a certificate issued for the purposes of subsection (1) shall be received in evidence and be deemed to be such a certificate, unless the contrary is proved.