



2008 CHAPTER 12

PART 6

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

Property vested in official custodian

Entrusting charity property to official custodian, and termination of trust

41.—(1) The Court may by order—

- (a) vest in the official custodian any land held by or in trust for a charity;
- (b) authorise or require the persons in whom any such land is vested to transfer it to the official custodian; or
- (c) appoint any person to transfer any such land to the official custodian;

but this subsection does not apply to any interest in land by way of mortgage or other security.

(2) Where property is vested in the official custodian in trust for a charity, the Court may make an order discharging the official custodian from the trusteeship as respects all or any of that property.

(3) Where the official custodian is discharged from trusteeship of any property, or the trusts on which the official custodian holds any property come to an end, the Court may make such vesting orders and give such directions as may seem to the Court to be necessary or expedient in consequence.

(4) No person shall be liable for any loss occasioned by acting in conformity with an order under this section or by giving effect to anything done in pursuance

of such an order, or be excused from so doing by reason of the order having been in any respect improperly obtained.

Supplementary provisions as to property vested in official custodian

42.—(1) Subject to the provisions of this Act, where property is vested in the official custodian in trust for a charity, the official custodian shall not exercise any powers of management, but shall as trustee of any property have all the same powers, duties and liabilities, and be entitled to the same rights and immunities, and be subject to the control and orders of the court, as the Department may by regulations prescribe.

(2) Subject to subsection (3), where any land is vested in the official custodian in trust for a charity, the charity trustees shall have power in the name of, and on behalf of, the official custodian to execute and do all assurances and things which they could properly execute or do in their own name and on their own behalf if the land were vested in them.

(3) If any land is so vested in the official custodian by virtue of an order under section 33, the power conferred on the charity trustees by subsection (2) shall not be exercisable by them in relation to any transaction affecting the land, unless the transaction is authorised by order of the Court or of the Commission.

(4) Where any land is vested in the official custodian in trust for a charity, the charity trustees shall have the like power to make obligations entered into by them binding on the land as if it were vested in them; and any covenant, agreement or condition which is enforceable by or against the official custodian by reason of the land being vested in the official custodian shall be enforceable by or against the charity trustees as if the land were vested in them.

(5) In relation to a corporate charity, subsections (2), (3) and (4) shall apply with the substitution of references to the charity for references to the charity trustees.

(6) Subsections (2), (3) and (4) shall not authorise any charity trustees or charity to impose any personal liability on the official custodian.

(7) Where the official custodian is entitled as trustee for a charity to the custody of securities or documents of title relating to the trust property, the official custodian may permit them to be in the possession or under the control of the charity trustees without thereby incurring any liability.