2008 CHAPTER 12

PART 12

POWERS OF UNINCORPORATED CHARITIES

Transfer of property

Transfer where charity has permanent endowment

125.—(1) This section provides for the operation of section 123 where a charity within section 123(1) has a permanent endowment (whether or not the charity's trusts contain provision for the termination of the charity).

(2) In such a case section 123 applies as follows—

(a) if the charity has both a permanent endowment and other property ("unrestricted property")—

(i) a resolution under section 123(2) must relate to both its permanent endowment and its unrestricted property, and

(ii) that section applies in relation to its unrestricted property in accordance with subsection (3) and in relation to its permanent endowment in accordance with subsections (4) to (11);

(b) if all of the property of the charity is comprised in its permanent endowment, that paragraph applies in relation to its permanent endowment in accordance with subsections (4) to (11).

(3) Section 123 applies in relation to unrestricted property of the charity as if references in that section to all or any of the property of the charity were references to all or any of its unrestricted property.

(4) Section 123 applies in relation to the permanent endowment of the charity with the following modifications.

(5) References in that section to all or any of the property of the charity are references to all or any of the property comprised in its permanent endowment.

(6) If the property comprised in its permanent endowment is to be transferred to a single charity, the charity trustees must (instead of being satisfied as mentioned in section 123(3)(b)) be satisfied that the proposed transferee charity has purposes which are substantially similar to all of the purposes of the transferor charity.

(7) If the property comprised in its permanent endowment is to be transferred to two or more charities, the charity trustees must (instead of being satisfied as mentioned in section 123(3)(b)) be satisfied—

(a) that the proposed transferee charities, taken together, have purposes which are substantially similar to all of the purposes of the transferor charity, and

(b) that each of the proposed transferee charities has purposes which are substantially similar to one or more of the purposes of the transferor charity.

(8) In the case of a transfer to which subsection (7) applies, the resolution under section 123(2) must provide for the property comprised in the permanent endowment of the charity to be divided between the transferee charities in such a way as to take account of such guidance as may be given by the Commission for the purposes of this section.

(9) The requirement in section 123(10) shall apply in the case of every such transfer, and in complying with that requirement the charity trustees of a transferee charity must secure that the application of property transferred to the charity takes account of any such guidance.

(10) Any guidance given by the Commission for the purposes of this section may take such form and be given in such manner as the Commission considers appropriate.

(11) For the purposes of sections 123 and 124, **[**[F1]the references in sections 123(7)(b) and 124(2) to any obligation imposed on the charity trustees by or under section 123 include**]** a reference to any obligation imposed on them by virtue of any of subsections (6) to (8) above.

(12) Section 123(13) applies for the purposes of this section as it applies for the purposes of section 123.

Textual Amendments

F1 Words in s. 125(11) substituted (19.1.2013) by Charities Act (Northern Ireland) 2013 (c. 3), s. 10(1), **Sch. 1 para. 22**

Commencement Information

I1 S. 125 in operation at 24.6.2013 by S.R. 2013/145, art. 2, **Sch.**

Changes to legislation:
There are currently no known outstanding effects for the Charities Act (Northern Ireland) 2008, Section 125.