



2008 CHAPTER 12

PART 12

POWERS OF UNINCORPORATED CHARITIES

Spending of capital

Power to spend capital subject to special trusts

130.—(1) This section applies to any available endowment fund of a special trust which, as the result of a direction under section 1(4), is to be treated as a separate charity (“the relevant charity”) for the purposes of this section.

(2) Where the condition in subsection (3) is met in relation to the relevant charity, the charity trustees may resolve for the purposes of this section that the fund, or a portion of it, ought to be freed from the restrictions with respect to expenditure of capital that apply to it.

(3) The condition in this subsection is that the charity trustees are satisfied that the purposes set out in the trusts to which the fund is subject could be carried out more effectively if the capital of the fund, or the relevant portion of the capital, could be expended as well as income accruing to it, rather than just such income.

(4) Where the market value of the fund exceeds £10,000 and the capital of the fund consists entirely of property given—

- (a) by a particular individual,
- (b) by a particular institution (by way of grant or otherwise), or
- (c) by two or more individuals or institutions in pursuit of a common purpose,

subsections (5) to (11) of section 129 apply in relation to the resolution and that gift or gifts as they apply in relation to a resolution under section 129(3) and the gift or gifts mentioned in section 129(1)(a).

(5) Where—

- (a) the charity trustees have passed a resolution under subsection (2), and
- (b) (in a case where section 129(5) to (11) apply in accordance with subsection (4) above) either—
 - (i) the charity trustees are notified by the Commission that it concurs with the resolution, or
 - (ii) the period of 3 months mentioned in section 129(10) has elapsed without the Commission notifying them that it does not concur with the resolution,

the fund or portion may, by virtue of this section, be expended in carrying out the purposes set out in the trusts to which the fund is subject without regard to the restrictions mentioned in subsection (2).

(6) The fund or portion may be so expended as from such date as is specified for this purpose in the resolution.

(7) The Department may by order amend subsection (4) by substituting a different sum for the sum specified there.

(8) In this section—

- (a) “available endowment fund” has the same meaning as in section 128,
- (b) “market value” has the same meaning as in section 129, and
- (c) the reference in subsection (4) to the giving of property by an individual includes giving it under a will.