



2008 CHAPTER 12

PART 6

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

Extended powers of Court and variation of charters

Application cy-près of gifts of donors unknown or disclaiming

27.—(1) Property given for specific charitable purposes which fail shall be applicable cy-près as if given for charitable purposes generally, where it belongs—

- (a) to a donor who after—
 - (i) the prescribed advertisements and inquiries have been published and made, and
 - (ii) the prescribed period beginning with the publication of those advertisements has expired,cannot be identified or cannot be found; or
- (b) to a donor who has executed a disclaimer in the prescribed form of the donor's right to have the property returned.

(2) Where the prescribed advertisements and inquiries have been published and made by or on behalf of trustees with respect to any such property, the trustees shall not be liable to any person in respect of the property if no claim by that person to be interested in it is received by them before the expiry of the period mentioned in subsection (1)(a)(ii).

(3) For the purposes of this section property shall be conclusively presumed (without any advertisement or inquiry) to belong to donors who cannot be identified, in so far as it consists—

- (a) of the proceeds of cash collections made by means of collecting boxes or by other means not adapted for distinguishing one gift from another; or
- (b) of the proceeds of any lottery, competition, entertainment, sale or similar money-raising activity, after allowing for property given to provide prizes or articles for sale or otherwise to enable the activity to be undertaken.

(4) The Court or the Commission may by order direct that property not falling within subsection (3) shall for the purposes of this section be treated (without any advertisement or inquiry) as belonging to donors who cannot be identified where it appears to the Court or the Commission either—

- (a) that it would be unreasonable, having regard to the amounts likely to be returned to the donors, to incur expense with a view to returning the property; or
- (b) that it would be unreasonable, having regard to the nature, circumstances and amounts of the gifts, and to the lapse of time since the gifts were made, for the donors to expect the property to be returned.

(5) Where property is applied cy-près by virtue of this section, the donor shall be deemed to have parted with all of the donor's interest at the time when the gift was made; but where property is so applied as belonging to donors who cannot be identified or cannot be found, and is not so applied by virtue of subsection (3) or (4)—

- (a) the scheme shall specify the total amount of that property; and
- (b) the donor of any part of that amount shall be entitled, if the donor makes a claim not later than 6 months after the date on which the scheme is made, to recover from the charity for which the property is applied a sum equal to that part, less any expenses properly incurred by the charity trustees after that date in connection with claims relating to the donor's gift; and
- (c) the scheme may include directions as to the provision to be made for meeting any such claim.

(6) Where—

- (a) any sum is, in accordance with any such directions, set aside for meeting any such claims, but
- (b) the aggregate amount of any such claims actually made exceeds the relevant amount,

then, if the Commission so directs, each of the donors in question shall be entitled only to such proportion of the relevant amount as the amount of that donor's claim bears to the aggregate amount referred to in paragraph (b); and for this purpose "the relevant amount" means the amount of the sum so set aside after

deduction of any expenses properly incurred by the charity trustees in connection with claims relating to the donors' gifts.

(7) For the purposes of this section, charitable purposes shall be deemed to “fail” where any difficulty in applying property to those purposes makes that property or the part not applicable *cy-près* available to be returned to the donors.

(8) In this section “prescribed” means prescribed by regulations made by the Commission; and such regulations may, as respects the advertisements which are to be published for the purposes of subsection (1)(a), make provision as to the form and content of such advertisements as well as the manner in which they are to be published.

(9) In this section references to a donor include persons claiming through or under the original donor, and references to property given include the property for the time being representing the property originally given or property derived from it.

(10) This section shall apply to property given for charitable purposes, notwithstanding that it was so given before the commencement of this section.