



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 made in response to certain solicitations**

**28.—**(1) This section applies to property given—

- (a) for specific charitable purposes, and
- (b) in response to a solicitation within subsection (2).

(2) A solicitation is within this subsection if—

- (a) it is made for specific charitable purposes, and
- (b) it is accompanied by a statement to the effect that property given in response to it will, in the event of those purposes failing, be applicable cy-près as if given for charitable purposes generally, unless the donor makes a relevant declaration at the time of making the gift.

(3) A “relevant declaration” is a declaration in writing by the donor to the effect that, in the event of the specific charitable purposes failing, the donor wishes the trustees holding the property to give the donor the opportunity to request the return of the property in question (or a sum equal to its value at the time of the making of the gift).

(4) Subsections (5) and (6) apply if—

- (a) a person has given property as mentioned in subsection (1),
- (b) the specific charitable purposes fail, and

(c) the donor has made a relevant declaration.

(5) The trustees holding the property must take the prescribed steps for the purpose of—

- (a) informing the donor of the failure of the purposes,
- (b) enquiring whether the donor wishes to request the return of the property (or a sum equal to its value), and
- (c) if within the prescribed period the donor makes such a request, returning the property (or such a sum).

(6) If those trustees have taken all appropriate prescribed steps but—

- (a) they have failed to find the donor, or
- (b) the donor does not within the prescribed period request the return of the property (or a sum equal to its value),

section 27(1) shall apply to the property as if it belonged to a donor within paragraph (b) of that subsection (application of property where donor has disclaimed right to return of property).

(7) If—

- (a) a person has given property as mentioned in subsection (1),
- (b) the specific charitable purposes fail, and
- (c) the donor has not made a relevant declaration,

section 27(1) shall similarly apply to the property as if it belonged to a donor within sub-paragraph (b) of that subsection.

(8) For the purposes of this section—

- (a) “solicitation” means a solicitation made in any manner and however communicated to the persons to whom it is addressed,
- (b) it is irrelevant whether any consideration is or is to be given in return for the property in question, and
- (c) where any appeal consists of both solicitations that are accompanied by statements within subsection (2)(b) and solicitations that are not so accompanied, a person giving property as a result of the appeal is to be taken to have responded to the former solicitations and not the latter, unless the person proves otherwise.

(9) In this section “prescribed” means prescribed by regulations made by the Commission.

(10) Subsections (7) and (9) of section 27 shall apply for the purposes of this section as they apply for the purposes of section 27.