



2008 CHAPTER 12

PART 7

CHARITY LAND

Supplementary provisions relating to mortgaging

- 61.**—(1) Any mortgage of land held by or in trust for a charity shall state—
- (a) that the land is held by or in trust for a charity,
 - (b) whether the mortgage is one falling within subsection (9) of section 60, and
 - (c) if the mortgage is not one falling within that subsection, that the mortgage is one to which the restrictions imposed by that section apply.
- (2) Where subsection (1) or (2) of section 60 applies to any mortgage of land held by or in trust for a charity, the charity trustees shall certify in the mortgage—
- (a) (where subsection (1) of that section applies) that the mortgage has been sanctioned by an order of the Court or of the Commission (as the case may be), or
 - (b) (where subsection (2) of that section applies) that the charity trustees have power under the trusts of the charity to grant the mortgage, and that they have obtained and considered such advice as is mentioned in that subsection.
- (3) Where subsection (2) has been complied within in relation to any mortgage, then in favour of a person who (whether under the mortgage or afterwards) acquires an interest in the land in question for money or money's worth, it shall be conclusively presumed that the facts were as stated in the certificate.
- (4) Where—

- (a) subsection (1) or (2) of section 60 applies to any mortgage of land held by or in trust for a charity, but
- (b) subsection (2) has not been complied with in relation to the mortgage, then in favour of a person who (whether under the mortgage or afterwards) in good faith acquires an interest in the land for money or money's worth, the mortgage shall be valid whether or not—
 - (i) the mortgage has been sanctioned by an order of the Court or of the Commission, or
 - (ii) the charity trustees have power under the trusts of the charity to grant the mortgage and have obtained and considered such advice as is mentioned in subsection (2) of that section.