



Charities Act 1993

1993 CHAPTER 10

PART IV

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

Powers of Commissioners to make schemes and act for protection of charities etc.

16 Concurrent jurisdiction with High Court for certain purposes

- (1) Subject to the provisions of this Act, the Commissioners may by order exercise the same jurisdiction and powers as are exercisable by the High Court in charity proceedings for the following purposes—
 - (a) establishing a scheme for the administration of a charity;
 - (b) appointing, discharging or removing a charity trustee or trustee for a charity, or removing an officer or employee;
 - (c) vesting or transferring property, or requiring or entitling any person to call for or make any transfer of property or any payment.
- (2) Where the court directs a scheme for the administration of a charity to be established, the court may by order refer the matter to the Commissioners for them to prepare or settle a scheme in accordance with such directions (if any) as the court sees fit to give, and any such order may provide for the scheme to be put into effect by order of the Commissioners as if prepared under subsection (1) above and without any further order of the court.
- (3) The Commissioners shall not have jurisdiction under this section to try or determine the title at law or in equity to any property as between a charity or trustee for a charity and a person holding or claiming the property or an interest in it adversely to the charity, or to try or determine any question as to the existence or extent of any charge or trust.
- (4) Subject to the following subsections, the Commissioners shall not exercise their jurisdiction under this section as respects any charity, except—

- (a) on the application of the charity; or
 - (b) on an order of the court under subsection (2) above; or
 - (c) in the case of a charity other than an exempt charity, on the application of the Attorney General.
- (5) In the case of a charity which is not an exempt charity and whose income from all sources does not in aggregate exceed £500 a year, the Commissioners may exercise their jurisdiction under this section on the application—
- (a) of any one or more of the charity trustees; or
 - (b) of any person interested in the charity; or
 - (c) of any two or more inhabitants of the area of the charity if it is a local charity.
- (6) Where in the case of a charity, other than an exempt charity, the Commissioners are satisfied that the charity trustees ought in the interests of the charity to apply for a scheme, but have unreasonably refused or neglected to do so and the Commissioners have given the charity trustees an opportunity to make representations to them, the Commissioners may proceed as if an application for a scheme had been made by the charity but the Commissioners shall not have power in a case where they act by virtue of this subsection to alter the purposes of a charity, unless forty years have elapsed from the date of its foundation.
- (7) Where—
- (a) a charity cannot apply to the Commissioners for a scheme by reason of any vacancy among the charity trustees or the absence or incapacity of any of them, but
 - (b) such an application is made by such number of the charity trustees as the Commissioners consider appropriate in the circumstances of the case,
- the Commissioners may nevertheless proceed as if the application were an application made by the charity.
- (8) The Commissioners may on the application of any charity trustee or trustee for a charity exercise their jurisdiction under this section for the purpose of discharging him from his trusteeship.
- (9) Before exercising any jurisdiction under this section otherwise than on an order of the court, the Commissioners shall give notice of their intention to do so to each of the charity trustees, except any that cannot be found or has no known address in the United Kingdom or who is party or privy to an application for the exercise of the jurisdiction; and any such notice may be given by post, and, if given by post, may be addressed to the recipient's last known address in the United Kingdom.
- (10) The Commissioners shall not exercise their jurisdiction under this section in any case (not referred to them by order of the court) which, by reason of its contentious character, or of any special question of law or of fact which it may involve, or for other reasons, the Commissioners may consider more fit to be adjudicated on by the court.
- (11) An appeal against any order of the Commissioners under this section may be brought in the High Court by the Attorney General.
- (12) An appeal against any order of the Commissioners under this section may also, at any time within the three months beginning with the day following that on which the order is published, be brought in the High Court by the charity or any of the charity trustees, or by any person removed from any office or employment by the order (unless he

is removed with the concurrence of the charity trustees or with the approval of the special visitor, if any, of the charity).

- (13) No appeal shall be brought under subsection (12) above except with a certificate of the Commissioners that it is a proper case for an appeal or with the leave of one of the judges of the High Court attached to the Chancery Division.
- (14) Where an order of the Commissioners under this section establishes a scheme for the administration of a charity, any person interested in the charity shall have the like right of appeal under subsection (12) above as a charity trustee, and so also, in the case of a charity which is a local charity in any area, shall any two or more inhabitants of the area and the council of any parish or (in Wales) any community comprising the area or any part of it.
- (15) If the Secretary of State thinks it expedient to do so—
- (a) in consequence of changes in the value of money, or
 - (b) with a view to increasing the number of charities in respect of which the Commissioners may exercise their jurisdiction under this section in accordance with subsection (5) above,

he may by order amend that subsection by substituting a different sum for the sum for the time being specified there.