



Charities Act 1993

1993 CHAPTER 10

PART IV

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

Property vested in official custodian

23 Divestment in the case of land subject to Reverter of Sites Act 1987

(1) Where—

- (a) any land is vested in the official custodian in trust for a charity, and
- (b) it appears to the Commissioners that section 1 of the Reverter of Sites Act 1987 (right of reverter replaced by trust for sale) will, or is likely to, operate in relation to the land at a particular time or in particular circumstances,

the jurisdiction which, under section 16 above, is exercisable by the Commissioners for the purpose of discharging a trustee for a charity may, at any time before section 1 of that Act (“the 1987 Act”) operates in relation to the land, be exercised by them of their own motion for the purpose of—

- (i) making an order discharging the official custodian from his trusteeship of the land, and
- (ii) making such vesting orders and giving such directions as appear to them to be necessary or expedient in consequence.

(2) Where—

- (a) section 1 of the 1987 Act has operated in relation to any land which, immediately before the time when that section so operated, was vested in the official custodian in trust for a charity, and
- (b) the land remains vested in him but on the trust arising under that section, the court or the Commissioners (of their own motion) may—
 - (i) make an order discharging the official custodian from his trusteeship of the land, and

Status: This is the original version (as it was originally enacted).

- (ii) (subject to the following provisions of this section) make such vesting orders and give such directions as appear to it or them to be necessary or expedient in consequence.
- (3) Where any order discharging the official custodian from his trusteeship of any land—
- (a) is made by the court under section 21(2) above, or by the Commissioners under section 16 above, on the grounds that section 1 of the 1987 Act will, or is likely to, operate in relation to the land, or
 - (b) is made by the court or the Commissioners under subsection (2) above,
- the persons in whom the land is to be vested on the discharge of the official custodian shall be the relevant charity trustees (as defined in subsection (4) below), unless the court or (as the case may be) the Commissioners is or are satisfied that it would be appropriate for it to be vested in some other persons.
- (4) In subsection (3) above “the relevant charity trustees” means—
- (a) in relation to an order made as mentioned in paragraph (a) of that subsection, the charity trustees of the charity in trust for which the land is vested in the official custodian immediately before the time when the order takes effect, or
 - (b) in relation to an order made under subsection (2) above, the charity trustees of the charity in trust for which the land was vested in the official custodian immediately before the time when section 1 of the 1987 Act operated in relation to the land.
- (5) Where—
- (a) section 1 of the 1987 Act has operated in relation to any such land as is mentioned in subsection (2)(a) above, and
 - (b) the land remains vested in the official custodian as mentioned in subsection (2) (b) above,
- then (subject to subsection (6) below), all the powers, duties and liabilities that would, apart from this section, be those of the official custodian as trustee for sale of the land shall instead be those of the charity trustees of the charity concerned; and those trustees shall have power in his name and on his behalf to execute and do all assurances and things which they could properly execute or do in their own name and on their own behalf if the land were vested in them.
- (6) Subsection (5) above shall not be taken to require or authorise those trustees to sell the land at a time when it remains vested in the official custodian.
- (7) Where—
- (a) the official custodian has been discharged from his trusteeship of any land by an order under subsection (2) above, and
 - (b) the land has, in accordance with subsection (3) above, been vested in the charity trustees concerned or (as the case may be) in any persons other than those trustees,
- the land shall be held by those trustees, or (as the case may be) by those persons, as trustees for sale on the terms of the trust arising under section 1 of the 1987 Act.
- (8) The official custodian shall not be liable to any person in respect of any loss or misapplication of any land vested in him in accordance with that section unless it is occasioned by or through any wilful neglect or default of his or of any person acting for him; but the Consolidated Fund shall be liable to make good to any person any sums for which the official custodian may be liable by reason of any such neglect or default.

- (9) In this section any reference to section 1 of the 1987 Act operating in relation to any land is a reference to a trust for sale arising in relation to the land under that section.