



# Charities Act 2011

## 2011 CHAPTER 25

### PART 6

#### CY-PRÈS POWERS AND ASSISTANCE AND SUPERVISION OF CHARITIES BY COURT AND COMMISSION

##### *Official custodian and Reverter of Sites Act 1987*

#### **92 Divestment of official custodian where 1987 Act due to operate**

- (1) Subsection (2) applies where—
  - (a) any land is vested in the official custodian in trust for a charity, and
  - (b) it appears to the Commission that section 1 of the 1987 Act (right of reverter replaced by trust) will, or is likely to, operate in relation to the land at a particular time or in particular circumstances.
- (2) The jurisdiction which, under section 69, is exercisable by the Commission for the purpose of discharging a trustee for a charity may, at any time before section 1 of the 1987 Act operates in relation to the land, be exercised by the Commission of its own motion for the purpose of—
  - (a) making an order discharging the official custodian from the trusteeship of the land, and
  - (b) making such vesting orders and giving such directions as appear to the Commission to be necessary or expedient in consequence.
- (3) In this section and sections 93 to 95—
  - (a) “the 1987 Act” means the Reverter of Sites Act 1987, and
  - (b) any reference to section 1 of the 1987 Act operating in relation to any land is a reference to a trust arising in relation to the land under that section.

#### **93 Divestment of official custodian where 1987 Act has operated**

- (1) Subsection (2) applies 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 the official custodian but on the trust arising under that section.
- (2) The court or the Commission (of its own motion) may—
- (a) make an order discharging the official custodian from the trusteeship of the land, and
  - (b) (subject to sections 94 and 95) make such vesting orders and give such directions as appear to it to be necessary or expedient in consequence.

#### **94 Vesting of land in relevant charity trustees following divestment**

- (1) Subsection (2) applies where an order discharging the official custodian from the trusteeship of any land—
- (a) is made by—
    - (i) the court under section 90(3), or
    - (ii) the Commission under section 69,
 on the ground 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 Commission under section 93.
- (2) The persons in whom the land is to be vested on the discharge of the official custodian are the relevant charity trustees, unless the court or (as the case may be) the Commission is satisfied that it would be appropriate for it to be vested in some other persons.
- (3) In subsection (2) “the relevant charity trustees” means—
- (a) in relation to an order made as mentioned in subsection (1)(a), 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 section 93, 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.

#### **95 Supplementary provisions in connection with 1987 Act**

- (1) Subsection (2) applies where—
- (a) section 1 of the 1987 Act has operated in relation to any such land as is mentioned in section 93(1)(a), and
  - (b) the land remains vested in the official custodian as mentioned in section 93(1)(b).
- (2) Subject to subsection (3)—
- (a) all the powers, duties and liabilities that would, apart from this section, be those of the official custodian as trustee of the land are instead to be those of the charity trustees of the charity concerned, and
  - (b) those trustees may, in the name and on behalf of the official custodian, 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.

- (3) Subsection (2) is not to be treated as requiring or authorising those trustees to sell the land at a time when it remains vested in the official custodian.
- (4) Where—
- (a) the official custodian has been discharged from the trusteeship of any land by an order under section 93, and
  - (b) the land has, in accordance with section 94, been vested in the charity trustees concerned or (as the case may be) in any persons other than those trustees,
- the land is to be held by those trustees, or (as the case may be) by those persons, as trustees on the terms of the trust arising under section 1 of the 1987 Act.
- (5) The official custodian is not liable to any person in respect of any loss or misapplication of any land vested in the official custodian in accordance with section 1 of the 1987 Act unless it is occasioned by or through any wilful neglect or default of—
- (a) the official custodian, or
  - (b) any person acting for the official custodian.
- (6) But the Consolidated Fund is liable to make good to any person any sums for which the official custodian may be liable because of any such neglect or default.