



# Charities Act 2011

## 2011 CHAPTER 25

### PART 13

#### [<sup>F1</sup>POWERS TO AMEND TRUSTS AND USE CAPITAL]

##### *Powers of<sup>F1</sup> ... charities to spend capital*

#### **281 Power of<sup>F1</sup> ... charities to spend capital: general**

- (1) This section applies to any available endowment fund of a charity<sup>F2</sup>....
- (2) But this section does not apply to a fund if sections 282 to 284 (power to spend larger fund<sup>F3</sup>...) apply to it.
- (3) If the condition in subsection (4) is met in relation to the charity, the charity trustees may resolve for the purposes of this section that the fund, or a portion of it, ought to be freed from the restrictions with respect to expenditure of capital that apply to it.
- (4) The condition is that the charity trustees are satisfied that the purposes set out in the trusts to which the fund is subject could be carried out more effectively if the capital of the fund, or the relevant portion of the capital, could be expended as well as income accruing to it, rather than just such income.
- (5) Once the charity trustees have passed a resolution under subsection (3), the fund or portion may by virtue of this section be expended in carrying out the purposes set out in the trusts to which the fund is subject without regard to the restrictions mentioned in that subsection.
- (6) The fund or portion may be so expended as from such date as is specified for this purpose in the resolution.

[<sup>F4</sup>(6A) If—

- (a) an amount falls to be repaid to or paid into the fund by the charity trustees because the charity trustees have borrowed an amount from the fund,

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**Changes to legislation:** Charities Act 2011, Section 281 is up to date with all changes known to be in force on or before 08 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

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- (b) the amount when repaid or paid would fall to be added to the fund and to be subject to the same restrictions as to expenditure as apply to the other capital in the fund, and
  - (c) the condition in subsection (6B) is met in relation to the charity,
- the charity trustees may resolve for the purposes of this section that the obligation to repay or pay the amount ought to cease to have effect either wholly or in part.
- (6B) The condition is that the charity trustees are satisfied that the purposes set out in the trusts to which the fund is subject could be carried out more effectively if the obligation ceased to have effect to that extent.
- (6C) Once the charity trustees have passed a resolution under subsection (6A), the obligation ceases to have effect to that extent.
- (6D) Where a resolution passed under subsection (6A) relates to all outstanding obligations to repay amounts to or pay amounts into the fund in respect of the amount borrowed from the fund, any other obligation which falls to be carried out by the charity trustees because the charity trustees have borrowed that amount from the fund also ceases to have effect once the resolution has been passed.]
- (7) In this section “available endowment fund”, in relation to a charity, means—
- (a) the whole of the charity's permanent endowment if it is all subject to the same trusts, or
  - (b) any part of its permanent endowment which is subject to any particular trusts that are different from those to which any other part is subject.

#### Textual Amendments

- F1** Word in s. 281 heading omitted (14.6.2023) by virtue of Charities Act 2022 (c. 6), s. 41(4), **Sch. 2 para. 16(1)(b)**; S.I. 2023/643, Sch. para. 20(b)
- F2** Words in s. 281(1) omitted (14.6.2023) by virtue of Charities Act 2022 (c. 6), **ss. 10(2)(a)**, 41(4); S.I. 2023/643, Sch. para. 2 (with reg. 4)
- F3** Words in s. 281(2) omitted (14.6.2023) by virtue of Charities Act 2022 (c. 6), s. 41(4), **Sch. 2 para. 16(1)(a)**; S.I. 2023/643, Sch. para. 20(b)
- F4** S. 281(6A)-(6D) inserted (14.6.2023) by Charities Act 2022 (c. 6), **ss. 10(2)(b)**, 41(4); S.I. 2023/643, Sch. para. 2 (with reg. 4)

**Changes to legislation:**

Charities Act 2011, Section 281 is up to date with all changes known to be in force on or before 08 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 106(1)-(1B) substituted for s. 106(1) by [2022 c. 6 s. 16\(a\)](#)
- s. 322(2)(ea) inserted by [2022 c. 6 Sch. 2 para. 26](#)
- s. 331A331B and cross-heading inserted by [2022 c. 6 s. 15](#)