



# Charities Act 2022

## 2022 CHAPTER 6

### PART 1

#### PURPOSES, POWERS AND GOVERNING DOCUMENTS

##### *Cy-près and schemes*

## 6 Cy-près powers

- (1) For sections 63 to 65 of the Charities Act 2011 (which deal with the application of property cy-près) substitute—

**“63A Failure of specific charitable purposes: application cy-près**

- (1) Property given for specific charitable purposes which fail is applicable cy-près as if given for charitable purposes generally, if—
- (a) the court or the Commission by order so direct, or
  - (b) the condition specified in subsection (3), (4) or (6) is met.
- (2) An order may be made under subsection (1)(a) if it appears to the court or the Commission—
- (a) that it would be unreasonable, having regard to the amounts likely to be returned to the donors, to incur expense with a view to returning the property, or
  - (b) that it would be unreasonable, having regard to the nature, circumstances and amounts of the gifts, and to the lapse of time since the gifts were made, for the donors to expect the property to be returned.
- (3) The condition in this subsection is met if—
- (a) the property is a single gift of £120 or less, and

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- (b) the charity trustees reasonably believe that during the financial year of the charity in which it is given the total amount given by the donor to the charity for the specific charitable purposes is £120 or less, unless at the time of giving the gift the donor states in writing that the gift must be returned if the specific charitable purposes fail.
- (4) The condition in this subsection is met if the property is given by a donor who, after the agreed actions are taken, is not identified or is not found.
- (5) The “agreed actions” are those agreed in writing between the charity trustees and the Commission as being reasonable in all the circumstances of the case to identify and find donors.
- (6) The condition in this subsection is met if the property consists of—
  - (a) the proceeds of cash collections made—
    - (i) by means of collecting boxes, or
    - (ii) by other means not adapted for distinguishing one gift from another, or
  - (b) the proceeds of any lottery, competition, entertainment, sale or similar money-raising activity, after allowing for property given to provide prizes or articles for sale or otherwise to enable the activity to be undertaken.
- (7) The Secretary of State may by regulations amend subsection (3)(a) or (b) by substituting a different sum for the time being specified there.”
- (2) The Charities (Failed Appeals) Regulations 2008 are revoked.
- (3) The amendments made by this section apply to property given for charitable purposes whenever given.

#### Commencement Information

- I1** S. 6 not in force at Royal Assent, see [s. 41\(4\)](#)
- I2** [S. 6](#) in force at 31.10.2022 by [S.I. 2022/1109](#), [Sch. para. 3](#) (with [reg. 5](#))

## 7 Proceeds of fund-raising: power of charity trustees to apply cy-près

After section 67 of the Charities Act 2011 insert—

### “67A Proceeds of fund-raising: power of charity trustees to apply cy-près

- (1) Subsection (2) applies if—
  - (a) money or other property is solicited to enable a charity to further specific charitable purposes,
  - (b) money or other property is given as a result of that solicitation, and
  - (c) some or all of that money or other property (or the property for the time being representing it or derived from it) is applicable cy-près by virtue of section 62(1)(a) or (b) or 63A.
- (2) The charity trustees of the charity may resolve that all the money or other property which is applicable cy-près by virtue of section 62(1)(a) or (b) or

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63A be applied for such charitable purposes specified in the resolution as they consider appropriate, having regard to—

- (a) the desirability of securing that the purposes are, so far as reasonably practicable, similar to the specific charitable purposes for which the money or other property was given;
- (b) the need for the purposes to be suitable and effective in the light of current social and economic circumstances.

(3) A resolution under this section must be passed by a majority of the charity trustees.

(4) If a resolution passed under this section concerns money or other property with a value exceeding £1,000—

- (a) the charity trustees must send a copy of the resolution to the Commission, together with a statement of their reasons for passing it, and
- (b) the resolution does not have effect until the date on which the Commission consents to it in writing.

(5) The Secretary of State may by regulations amend subsection (4) by substituting a different sum for the sum for the time being specified there.”

#### Commencement Information

**I3** S. 7 not in force at Royal Assent, see [s. 41\(4\)](#)

**I4** [S. 7](#) in force at 31.10.2022 by [S.I. 2022/1109](#), [Sch. para. 4](#)

## 8 Power of the court and the Commission to make schemes

Before the italic heading preceding section 75A of the Charities Act 2011 insert—

*“Power of the court and the Commission to make schemes*

### **75ZA Power of the court and the Commission to make schemes**

(1) Any power of the court or the Commission to make a scheme in relation to a charity that is a charitable trust is also exercisable in relation to any other institution which is a charity.

(2) Subsection (1)—

- (a) is subject to the provisions of this Act;
- (b) is to be treated as always having had effect.”

#### Commencement Information

**I5** S. 8 not in force at Royal Assent, see [s. 41\(4\)](#)

**I6** [S. 8](#) in force at 31.10.2022 by [S.I. 2022/1109](#), [Sch. para. 5](#)

**Changes to legislation:**

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