



Charities Act 1993

1993 CHAPTER 10

PART IV

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

Legal proceedings relating to charities

32 Proceedings by Commissioners

- (1) Subject to subsection (2) below, the Commissioners may exercise the same powers with respect to—
 - (a) the taking of legal proceedings with reference to charities or the property or affairs of charities, or
 - (b) the compromise of claims with a view to avoiding or ending such proceedings, as are exercisable by the Attorney General acting ex officio.
- (2) Subsection (1) above does not apply to the power of the Attorney General under section 63(1) below to present a petition for the winding up of a charity.
- (3) The practice and procedure to be followed in relation to any proceedings taken by the Commissioners under subsection (1) above shall be the same in all respects (and in particular as regards costs) as if they were proceedings taken by the Attorney General acting ex officio.
- (4) No rule of law or practice shall be taken to require the Attorney General to be a party to any such proceedings.
- (5) The powers exercisable by the Commissioners by virtue of this section shall be exercisable by them of their own motion, but shall be exercisable only with the agreement of the Attorney General on each occasion.

33 Proceedings by other persons

- (1) Charity proceedings may be taken with reference to a charity either by the charity, or by any of the charity trustees, or by any person interested in the charity, or by any two or more inhabitants of the area of the charity if it is a local charity, but not by any other person.
- (2) Subject to the following provisions of this section, no charity proceedings relating to a charity (other than an exempt charity) shall be entertained or proceeded with in any court unless the taking of the proceedings is authorised by order of the Commissioners.
- (3) The Commissioners shall not, without special reasons, authorise the taking of charity proceedings where in their opinion the case can be dealt with by them under the powers of this Act other than those conferred by section 32 above.
- (4) This section shall not require any order for the taking of proceedings in a pending cause or matter or for the bringing of any appeal.
- (5) Where the foregoing provisions of this section require the taking of charity proceedings to be authorised by an order of the Commissioners, the proceedings may nevertheless be entertained or proceeded with if, after the order had been applied for and refused, leave to take the proceedings was obtained from one of the judges of the High Court attached to the Chancery Division.
- (6) Nothing in the foregoing subsections shall apply to the taking of proceedings by the Attorney General, with or without a relator, or to the taking of proceedings by the Commissioners in accordance with section 32 above.
- (7) Where it appears to the Commissioners, on an application for an order under this section or otherwise, that it is desirable for legal proceedings to be taken with reference to any charity (other than an exempt charity) or its property or affairs, and for the proceedings to be taken by the Attorney General, the Commissioners shall so inform the Attorney General, and send him such statements and particulars as they think necessary to explain the matter.
- (8) In this section “charity proceedings” means proceedings in any court in England or Wales brought under the court’s jurisdiction with respect to charities, or brought under the court’s jurisdiction with respect to trusts in relation to the administration of a trust for charitable purposes.

34 Report of s. 8 inquiry to be evidence in certain proceedings

- (1) A copy of the report of the person conducting an inquiry under section 8 above shall, if certified by the Commissioners to be a true copy, be admissible in any proceedings to which this section applies—
 - (a) as evidence of any fact stated in the report; and
 - (b) as evidence of the opinion of that person as to any matter referred to in it.
- (2) This section applies to—
 - (a) any legal proceedings instituted by the Commissioners under this Part of this Act; and
 - (b) any legal proceedings instituted by the Attorney General in respect of a charity.

- (3) A document purporting to be a certificate issued for the purposes of subsection (1) above shall be received in evidence and be deemed to be such a certificate, unless the contrary is proved.