



# Charities Act 2022

## 2022 CHAPTER 6

### PART 2

#### CHARITY LAND

##### *Dispositions and mortgages*

#### **17 Scope of Part 7 of the Charities Act 2011**

In section 117 of the Charities Act 2011 (restrictions on dispositions of land: general), after subsection (1) insert—

- “(1A) For the purposes of this Part, land is held by or in trust for a charity only if the whole of the land which forms the subject matter of the disposition is held—
- (a) by the charity solely for its own benefit (and, accordingly, is not being held as nominee or in trust for another person), or
  - (b) in trust solely for the charity.”

#### **18 Exceptions to restrictions on dispositions or mortgages of charity land**

(1) The Charities Act 2011 is amended as follows.

(2) In section 117(3) (exceptions to restrictions on dispositions of charity land)—

- (a) after paragraph (a) insert—
  - “(aa) any disposition by a liquidator, provisional liquidator, receiver, mortgagee or an administrator,”;
- (b) omit paragraph (b);
- (c) for paragraph (c) (but not the “or” following it) substitute—
  - “(c) any disposition of land held by or in trust for a charity which is made to another charity otherwise than as—
    - (i) a disposition made with a view to achieving the best price that can reasonably be obtained, or

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(ii) a disposition that is a social investment for the purposes of Part 14A (social investments),”.

(3) In section 124(9) (restrictions on mortgages)—

(a) after paragraph (a) (and the “or” following it) insert—

“(aa) granted by a liquidator, provisional liquidator, receiver, mortgagee or an administrator.”;

(b) omit paragraph (b).

## **19 Advertising and report requirements for disposition of charity land**

In section 119 of the Charities Act 2011 (requirements for dispositions other than certain leases)—

(a) omit subsection (1)(b) (but not the “and” following it);

(b) in subsection (4), omit—

(i) “contain such information, and”;

(ii) the “,” after “matters”.

## **20 Advice relating to the disposition of charity land**

In section 119 of the Charities Act 2011 (requirements for dispositions other than certain leases)—

(a) in subsection (1)(a), for “qualified surveyor” substitute “designated adviser”;

(b) in subsection (1)(c), for “surveyor’s” substitute “adviser’s”;

(c) in subsection (3), for “qualified surveyor” substitute “designated adviser”.

## **21 Advice etc from charity trustees, officers and employees**

(1) The Charities Act 2011 is amended as follows.

(2) After section 128 insert—

*“Advice etc from charity trustees, officers and employees*

### **128A Advice etc from charity trustees, officers and employees**

(1) Subsection (2) applies to—

(a) a report by a designated adviser for the purposes of section 119(1)(a),

(b) advice on a proposed disposition for the purposes of section 120(2) (a),

(c) proper advice in connection with a mortgage of land for the purposes of section 124(2), and

(d) proper advice in connection with a mortgage of land for the purposes of section 124(7).

(2) For the purposes of the provisions mentioned in subsection (1), it does not matter if the report or the advice (as the case may be) is provided—

(a) by a charity trustee or an officer or employee of the charity or of the charity trustees, or

- (b) in the course of a person’s employment as an officer or an employee of the charity or of the charity trustees.”
- (3) In section 124 (restrictions on mortgages), in subsection (8), omit from “and such advice” to the end.

## **22 Residential tenancies granted to employees**

In section 118 of the Charities Act 2011 (meaning of “connected person” in section 117(2)), after subsection (2) insert—

- “(2A) A person who is an employee of the charity does not fall within subsection (2)
- (d) if the disposition in question is the grant of a tenancy—
    - (a) for a fixed term of one year or less or which is a periodic tenancy and the period is one year or less, and
    - (b) which confers the right to occupy a dwelling as a home.”

## **23 Information to be included in certain instruments**

- (1) The Charities Act 2011 is amended as follows.
- (2) In section 122 (instruments concerning dispositions of land: required statements, etc)

- (a) for subsection (2) substitute—

“(2) An instrument to which this subsection applies must—

- (a) state that the land is held by or in trust for a charity,
- (b) state whether the charity is an exempt charity,
- (c) if the charity is not an exempt charity, state whether the disposition is one falling within section 117(3)(a), (aa), (c) or (d), and
- (d) if the charity is not an exempt charity and the disposition is not one falling within section 117(3)(a), (aa), (c) or (d), include the statement required by subsection (2A).

(2A) The statement is—

- (a) in a case where section 117(1) applies to the disposition to which the instrument relates, a statement that the disposition has been sanctioned by an order of the court or of the Charity Commission, or
- (b) in a case where section 117(2) applies to the disposition to which the instrument relates, a statement that there is power under the trusts of the charity to effect the disposition and that sections 117 to 121 have been complied with.”;
- (b) omit subsection (3);
- (c) for subsection (4) substitute—

“(4) Where subsection (2)(d) has been complied with in relation to a contract for the disposition of land it is conclusively presumed, for the purposes of enforcing the contract, that the statement is true.

(4A) Where subsection (2)(d) has been complied with in relation to an instrument effecting the disposition of land it is conclusively

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presumed, in favour of a person who (whether under the disposition or afterwards) acquires an interest in the land for money or money's worth, that the statement is true.”;

(d) for subsections (5) and (6) substitute—

“(5) Where subsection (2)(d) applies in relation to a contract for the disposition of land but the statement required by subsection (2A) has not been included in it, then in favour of a person who has entered into the contract in good faith the contract is enforceable as if—

- (a) the disposition to which the contract relates had been sanctioned by an order of the court or of the Charity Commission, or
- (b) there is power under the trusts of the charity to effect such a disposition and sections 117 to 121 have been complied with.

(5A) Where subsection (2)(d) applies in relation to an instrument effecting the disposition of land but the statement required by subsection (2A) has not been included in it, then in favour of a person who (whether under the disposition or afterwards) in good faith acquires an interest in the land for money or money's worth, the disposition is valid even if—

- (a) the disposition has not been sanctioned by an order of the court or of the Charity Commission, or
- (b) there is no power under the trusts of the charity to effect the disposition or sections 117 to 121 have not been complied with in relation to it (or both).”

(3) In section 125 (mortgages: required statements, etc)—

(a) for subsection (1) substitute—

“(1) Any mortgage of land held by or in trust for a charity must—

- (a) state that the land is held by or in trust for a charity,
- (b) state whether the charity is an exempt charity and whether the mortgage is one falling within section 124(9), and
- (c) if the charity is not an exempt charity and the mortgage is not one falling within section 124(9), include the statement required by subsection (1A).

(1A) The statement is—

- (a) in a case where section 124(1) applies, a statement that the mortgage has been sanctioned by an order of the court or of the Charity Commission, or
- (b) in a case where section 124(2) applies, a statement that there is power under the trusts of the charity to grant the mortgage and the requirements of section 124(2) have been complied with.”;

(b) omit subsection (2);

(c) in subsection (3)—

(i) for “subsection (2)” substitute “subsection (1)(c)”;

(ii) for the words from “facts” to the end substitute “statement is true”;

(d) for subsections (4) and (5) substitute—

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- “(5) Where subsection (1)(c) applies in relation to a mortgage of land but the statement required by subsection (1A) has not been included in it, then in favour of a person who (whether under the mortgage or afterwards) in good faith acquires an interest in the land for money or money’s worth, the mortgage is valid even if—
- (a) the mortgage has not been sanctioned by an order of the court or of the Charity Commission, or
  - (b) there is no power under the trusts of the charity to grant the mortgage or the requirements of section 124(2) have not been complied with in relation to it (or both).”