



# Charities Act 1960 (repealed)

1960 CHAPTER 58 8 and 9 Eliz 2

## PART III

APPLICATION OF PROPERTY CY-PRES, AND ASSISTANCE AND  
SUPERVISION OF CHARITIES BY COURT AND CENTRAL AUTHORITIES

### *Miscellaneous*

#### **28 Taking of legal proceedings.**

- (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. [<sup>F1</sup>(other than those conferred by section 26A of this Act).]
- (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 [<sup>F2</sup>, or to the taking of proceedings by the Commissioners in accordance with section 26A of this Act].

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- (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.
- (9) The <sup>M1</sup>Charities Procedure Act 1812 and so much of any local or private Act establishing or regulating a charity as relates to the persons by whom or the manner or form in which any charity proceedings may be brought shall cease to have effect.

#### Textual Amendments

- F1** Words in s. 28(3) added (1.9.1992) by [Charities Act 1992 \(c. 41\)](#), s. 47, [Sch. 3 para. 10\(a\)](#); S.I. 1992/1900, art. 2(1), [Sch.1](#)
- F2** Words in s. 28(6) added (1.9.1992) by [Charities Act 1992 \(c. 41\)](#), s. 47, [Sch. 3 para. 10\(b\)](#); S.I. 1992/1900, art. 2(1), [Sch.1](#)

#### Modifications etc. (not altering text)

- C1** [S. 28\(5\)](#) modified by [Reserve Forces Act 1980 \(c. 9, SIF 7:2\)](#), s. 147(5)

#### Marginal Citations

- M1** [1812 c. 101](#).

### [<sup>F3</sup>28A Report of s.6 inquiry to be evidence in certain proceedings.

- (1) A copy of the report of the person conducting an inquiry under section 6 of this Act 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.]

#### Textual Amendments

- F3** [S. 28A](#) inserted (1.9.1992) by [Charities Act 1992 \(c. 41\)](#), s.11; S.I. 1992/1900, art. 2(1), [Sch.1](#)

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## 29 Restrictions on dealing with charity property.

- (1) Subject to the exceptions provided for by this section, no property forming part of the permanent endowment of a charity shall, without an order of the court or of the Commissioners, be mortgaged or charged by way of security for the repayment of money borrowed, nor, in the case of land in England or Wales, be sold, leased or otherwise disposed of.
- (2) Subsection (1) above shall apply to any land which is held by or in trust for a charity and is or has at any time been occupied for the purposes of the charity, as it applies to land forming part of the permanent endowment of a charity; but a transaction for which the sanction of an order under subsection (1) above is required by virtue only of this subsection shall, notwithstanding that it is entered into without such an order, be valid in favour of a person who (then or afterwards) in good faith acquires an interest in or charge on the land for money or money's worth.
- (3) This section shall apply notwithstanding anything in the trusts of a charity, but shall not require the sanction of an order—
  - (a) for any transaction for which general or special authority is expressly given (without the authority being made subject to the sanction of an order) by any statutory provision contained in or having effect under an Act of Parliament or by any scheme legally established; or
  - (b) for the granting of a lease for a term ending not more than twenty-two years after it is granted, not being a lease granted wholly or partly in consideration of a fine; or
  - (c) for any disposition of an advowson.
- (4) This section shall not apply to an exempt charity, nor to any charity which is excepted by order or regulations.

### Modifications etc. (not altering text)

- C2** S. 29 excluded by [Sharing of Church Buildings Act 1969 \(c. 38\), s. 8\(3\)](#) and [Fire Precautions \(Loans\) Act 1973 \(c. 11\), s. 1\(7\)](#); amended by [Housing Act 1974 \(c. 44\), s. 2\(2\)\(3\)](#)
- C3** S. 29 excluded by [United Reformed Church Act 1981 \(c. xxiv\), s. 20, Sch. 3](#)

## [<sup>F4</sup>30 Charitable companies: Winding up.

Where a charity may be wound up by the High Court under the <sup>M2</sup> Insolvency Act 1986, a petition for it to be wound up under that Act by any court in England or Wales having jurisdiction may be presented by the Attorney General, as well as by any person authorised by that Act.]

### Textual Amendments

- F4** Ss. 30–30C substituted (4.2.1991) for s. 30 containing subsections (1) and (2) by [Companies Act 1989 \(c. 40, SIF 27\), ss. 111\(1\)](#)

### Marginal Citations

- M2** 1986 c.45 (66)

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### **30A Charitable companies: alteration of objects clause.**

- (1) Where a charity is a company or other body corporate having power to alter the instruments establishing or regulating it as a body corporate, no exercise of that power which has the effect of the body ceasing to be a charity shall be valid so as to affect the application of—
  - (a) any property acquired under any disposition or agreement previously made otherwise than for full consideration in money of money's worth, or any property representing property so acquired,
  - (b) any property representing income which has accrued before the alteration is made, or
  - (c) the income from any such property as aforesaid.
- (2) Where a charity is a company, any alteration by it of the objects clause in its memorandum of association is ineffective without the prior written consent of the Commissioners; and it shall deliver a copy of that consent to the registrar of companies under section 6(1)(a) or (b) of the <sup>M3</sup> Companies Act 1985 along with the printed copy of the memorandum as altered.
- (3) Section 6(3) of that Act (offences) applies in relation to a default in complying with subsection (2) as regards the delivery of a copy of the Commissioner's consent.

#### **Marginal Citations**

**M3** 1985 c.6 (27).

### **30B Charitable companies: invalidity of certain transactions.**

- (1) Sections 35 and 35A of the <sup>M4</sup> Companies Act 1985 (capacity of company not limited by its memorandum; power of directors to bind company) do not apply to the acts of a company which is a charity except in favour of a person who—
  - (a) gives full consideration in money or money's worth in relation to the act in question, and
  - (b) does not know that the act is not permitted by the company's memorandum or, as the case may be, is beyond the powers of the directors,
 or who does not know at the time the act is done that the company is a charity.
- (2) However, where such a company purports to transfer or grant an interest in property, the fact that the act was not permitted by the company's memorandum or, as the case may be, that the directors in connection with the act exceeded any limitation on their powers under the company's constitution, does not affect the title of a person who subsequently acquires the property or any interest in it for full consideration without actual notice of any such circumstances affecting the validity of the company's act.
- (3) In any proceedings arising out of subsection (1) the burden of proving—
  - (a) that a person knew that an act was not permitted by the company's memorandum or was beyond the powers of the directors, or
  - (b) that a person knew that the company was a charity,
 lies on the person making that allegation.
- (4) Where a company is a charity, the ratification of an act under section 35(3) of the Companies Act 1985, or the ratification of a transaction to which section 322A of that Act applies (invalidity of certain transactions to which

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directors or their associates are parties), is ineffective without the prior written consent of the Commissioners.

#### Modifications etc. (not altering text)

C4 S. 30B excluded by S.I. 1990/2569, art. 7(4)

#### Marginal Citations

M4 1985 c.6 (27).

VALID FROM 01/01/1993

#### [<sup>F5</sup>30BA Charitable companies: requirement of consent of Commissioners to certain acts.

- (1) Where a company is a charity—
- (a) any approval given by the company for the purposes of any of the provisions of the Companies Act 1985 specified in subsection (2) below, and
  - (b) any affirmation by it for the purposes of section 322(2)(c) of that Act (affirmation of voidable arrangements under which assets are acquired by or from a director or person connected with him),
- is ineffective without the prior written consent of the Commissioners.
- (2) The provisions of the Companies Act 1985 referred to in subsection (1)(a) above are—
- (a) section 312 (payment to director in respect of loss of office or retirement);
  - (b) section 313(1) (payment to director in respect of loss of office or retirement made in connection with transfer of undertaking or property of company);
  - (c) section 319(3) (incorporation in director's service contract of term whereby his employment will or may continue for a period of more than 5 years);
  - (d) section 320(1) (arrangement whereby assets are acquired by or from director or person connected with him);
  - (e) section 337(3)(a) (provision of funds to meet certain expenses incurred by director).]

#### Textual Amendments

F5 S. 30BA inserted (1.1.1993) by Charities Act 1992 (c. 41), s.41; S.I. 1992/1900, art. 4(1), Sch. 3

VALID FROM 01/01/1993

#### [<sup>F6</sup>30BB Charitable companies: name to appear on correspondence etc.

Section 30(7) of the Companies Act 1985 (exemption from requirements relating to publication of name etc.) shall not, in its application to any company which

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is a charity, have the effect of exempting the company from the requirements of section 349(1) of that Act (company’s name to appear in its correspondence etc.).]

**Textual Amendments**

**F6** S. 30BB inserted (1.1.1993) by Charities Act 1992 (c. 41), s.42; S.I. 1992/1900, art. 4(1), Sch. 3

**30C.— Charitable companies: status to appear on correspondence, etc.**

- (1) Where a company is a charity and its name does not include the word “charity” or the word “charitable”, the fact that the company is a charity shall be stated in English in legible characters—
  - (a) in all business letters of the company,
  - (b) in all its notices and other official publications,
  - (c) in all bills of exchange, promissory notes, endorsements, cheques and orders for money or goods purporting to be signed <sup>F7</sup>. . . on behalf of the company,
  - (d) in all conveyances purporting to be executed by the company, and
  - (e) in all [<sup>F8</sup>bills rendered by it and in all its], invoices, receipts and letters of credit.
- (2) In subsection (1)(d) “conveyance” means any instrument creating, transferring, varying or extinguishing an interest in land.
- (3) Section 349(2) to (4) of the <sup>M5</sup> Companies Act 1985 (offences in connection with failure to include required particulars in business letters, &c.) apply in relation to a contravention of subsection (1) above.

**Textual Amendments**

**F7** Words in s. 30C(1)(c) repealed (1.9.1992) by Charities Act 1992 (c. 41), ss. 47, 78(2), Sch. 3 para. 11(a), Sch.7; S.I. 1992/1900, art. 2(1), Sch. 1

**F8** Words in s. 30C(1)(e) substituted (1.9.1992) by Charities Act 1992 (c. 41), s. 47, Sch. 3 para. 11(b); S.I. 1992/1900, art. 2(1), Sch. 1

**Marginal Citations**

**M5** 1985 c.6 (27).

<sup>F9</sup>31 .....

**Textual Amendments**

**F9** S. 31 repealed (1.9.1992) by Charities Act 1992 (c. 41), ss. 47, 78(2), Sch. 3 para. 12, Sch.7; S.I. 1992/1900, art. 2(1), Sch. 1

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