



Charities Act 1960 (repealed)

1960 CHAPTER 58 8 and 9 Eliz 2

PART III **E+W+N.I.**

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

Miscellaneous

28 **Taking of legal proceedings.** **E+W+N.I.**

- (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. [^{F1}(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 [^{F2}, 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 ^{M1}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](#).

[^{F3}28A Report of s.6 inquiry to be evidence in certain proceedings. **E+W+N.I.**

- (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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F⁴29 **E+W+N.I.**

Textual Amendments

F4 S. 29 repealed (1.1.1993) by Charities Act 1992 (c. 41), s. 78(2), **Sch.7**; S.I. 1992/1900, art. 4(1), **Sch. 3**

VALID FROM 01/08/1993

F⁵30 **E+W+N.I.**

Textual Amendments

F5 Act repealed (1.8.1993) except ss. 28(9), 35(6), 38(3)-(5), 39(2), 48, 49, Sch. 6 by 1993 c. 10, ss. 98(2), 99(1), **Sch.7**

[^{F6F7}30. Charitable companies: Winding up. **E+W+N.I.**

[(1)]

Where a charity may be wound up by the High Court under the ^{M2} 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.

[Where a charity may be so wound up by the High Court, such a petition may also be ^{F8}(2) presented by the Commissioners if, at any time after they have instituted an inquiry under section 6 of this Act with respect to the charity, they are satisfied as mentioned in section 20(1)(a) or (b) of this Act.

(3) Where a charitable company is dissolved, the Commissioners may make an application under section 651 of the Companies Act 1985 (power of court to declare dissolution of company void) for an order to be made under that section with respect to the company; and for this purpose subsection (1) of that section shall have effect in relation to a charitable company as if the reference to the liquidator of the company included a reference to the Commissioners.

(4) Where a charitable company's name has been struck off the register of companies under section 652 of the Companies Act 1985 (power of registrar to strike defunct company off register), the Commissioners may make an application under section 653(2) of that Act (objection to striking off by person aggrieved) for an order restoring the company's name to that register; and for this purpose section 653(2) shall have effect in relation to a charitable company as if the reference to any such person aggrieved as is there mentioned included a reference to the Commissioners.

(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.

(6) In this section “charitable company” means a company which is a charity.]]

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Textual Amendments

- F6** 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)**
- F7** S. 30 renumbered as s. 30(1) (1.11.1992) by [Charities Act 1992](#) (c. 41), **s. 10(2)**; S.I. 1992/1900, art. 3(1), **Sch. 2**
- F8** S. 30(1)-(6) added (1.11.1992) by [Charities Act 1992](#) (c. 41), **s. 10(1)**; S.I. 1992/1900, art. 3(1), **Sch. 2**

Marginal Citations

- M2** [1986 c.45](#) (66)

—0 Charitable companies: alteration of objects clause. **E+W+N.I.**

(30A) (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.

[^{F9}(2) Where a charity is a company, any alteration by it—

- (a) of the objects clause in its memorandum of association, or
- (b) of any other provision in its memorandum of association, or any provision in its articles of association, which is a provision directing or restricting the manner in which property of the company may be used or applied,

is ineffective without the prior written consent of the Commissioners.

(3) Where a company has made any such alteration in accordance with subsection (2) above and—

- (a) in connection with the alteration is required by virtue of—
 - (i) section 6(1) of the [Companies Act 1985](#) (delivery of documents following alteration of objects), or
 - (ii) that provision as applied by section 17(3) of that Act (alteration of condition in memorandum which could have been contained in articles),

to deliver to the registrar of companies a printed copy of its memorandum, as altered, or

- (b) is required by virtue of section 380(1) of that Act (registration etc. of resolutions and agreements) to forward to the registrar a printed or other copy of the special resolution effecting the alteration,

the copy so delivered or forwarded by the company shall be accompanied by a copy of the Commissioners’ consent.

(4) Section 6(3) of that Act (offences) shall apply to any default by a company in complying with subsection (3) above as it applies to any such default as is mentioned in that provision.]

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Textual Amendments

F9 S. 30A (2)-(4) substituted (1.1.1993) by Charities Act 1992 (c. 41), s.40; S.I.1992/1900, art. 4(1), Sch. 3

30B Charitable companies: invalidity of certain transactions. **E+W+N.I.**

- (1) Sections 35 and 35A of the ^{M3} 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 directors or their associates are parties), is ineffective without the prior written consent of the Commissioners.

Modifications etc. (not altering text)

C2 S. 30B excluded by S.I. 1990/2569, art. 7(4)

Marginal Citations

M3 1985 c.6 (27).

^{F10}30B Charitable companies: requirement of consent of Commissioners to certain acts. **E+W+N.I.**

- (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

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- (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

F10 S. 30BA inserted (1.1.1993) by [Charities Act 1992 \(c. 41\), s.41](#); S.I. 1992/1900, art. 4(1), [Sch. 3](#)

[^{F11}30BB Charitable companies: name to appear on correspondence etc. [E+W+N.I.](#)

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 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

F11 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. [E+W+N.I.](#)

- (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 ^{F12}. . . on behalf of the company,
 - (d) in all conveyances purporting to be executed by the company, and
 - (e) in all [^{F13}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 ^{M4} 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.

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Textual Amendments

F12 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**

F13 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

M4 1985 c.6 (27).

^{F14}**31** **E+W+N.I.**

Textual Amendments

F14 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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