



2008 CHAPTER 12

PART 14

MISCELLANEOUS AND SUPPLEMENTARY

*Merger of charities*

**Register of charity mergers**

**161.**—(1) The Commission shall establish and maintain a register of charity mergers.

(2) The register shall be kept by the Commission in such manner as it thinks fit.

(3) The register shall contain an entry in respect of every relevant charity merger which is notified to the Commission in accordance with subsections (6) to (9) and such procedures as it may determine.

(4) In this section “relevant charity merger” means—

- (a) a merger of two or more charities in connection with which one of them (“the transferee”) has transferred to it all the property of the other or others, each of which (a “transferor”) ceases to exist, or is to cease to exist, on or after the transfer of its property to the transferee, or
- (b) a merger of two or more charities (“transferors”) in connection with which both or all of them cease to exist, or are to cease to exist, on or after the transfer of all of their property to a new charity (“the transferee”).

(5) In the case of a merger involving the transfer of property of any charity which has both a permanent endowment and other property (“unrestricted

property”) and whose trusts do not contain provision for the termination of the charity, subsection (4)(a) or (b) applies in relation to any such charity as if—

- (a) the reference to all of its property were a reference to all of its unrestricted property, and
- (b) any reference to its ceasing to exist were omitted.

(6) A notification under subsection (3) may be given in respect of a relevant charity merger at any time after—

- (a) the transfer of property involved in the merger has taken place, or
- (b) (if more than one transfer of property is so involved) the last of those transfers has taken place.

(7) If a vesting declaration is made in connection with a relevant charity merger, a notification under subsection (3) must be given in respect of the merger once the transfer, or the last of the transfers, mentioned in subsection (6) has taken place.

(8) A notification under subsection (3) is to be given by the charity trustees of the transferee and must—

- (a) specify the transfer or transfers of property involved in the merger and the date or dates on which it or they took place;
- (b) include a statement that appropriate arrangements have been made with respect to the discharge of any liabilities of the transferor charity or charities; and
- (c) in the case of a notification required by subsection (7), set out the matters mentioned in subsection (9).

(9) The matters are—

- (a) the fact that the vesting declaration in question has been made;
- (b) the date when the declaration was made; and
- (c) the date on which the vesting of title under the declaration took place by virtue of section 163(2).

(10) In this section and section 162—

- (a) any reference to a transfer of property includes a transfer effected by a vesting declaration; and
- (b) “vesting declaration” means a declaration to which section 163(2) applies.

(11) Nothing in this section or section 163 or 164 applies in a case where section 116 (amalgamation of CIOs) or 118 (transfer of CIO’s undertaking) applies.

**Register of charity mergers: supplementary**

**162.**—(1) Subsection (2) applies to the entry to be made in the register in respect of a relevant charity merger, as required by section 161(3).

(2) The entry must—

- (a) specify the date when the transfer or transfers of property involved in the merger took place,
- (b) if a vesting declaration was made in connection with the merger, set out the matters mentioned in section 161(9), and
- (c) contain such other particulars of the merger as the Commission thinks fit.

(3) The register shall be open to public inspection at all reasonable times.

(4) Where any information contained in the register is not in documentary form, subsection (3) shall be construed as requiring the information to be available for public inspection in legible form at all reasonable times.

(5) In this section—

“the register” means the register of charity mergers;

“relevant charity merger” has the same meaning as in section 161.

**Pre-merger vesting declarations**

**163.**—(1) Subsection (2) applies to a declaration which—

- (a) is made by deed for the purposes of this section by the charity trustees of the transferor,
- (b) is made in connection with a relevant charity merger, and
- (c) is to the effect that (subject to subsections (3) and (4)) all of the transferor’s property is to vest in the transferee on such date as is specified in the declaration (“the specified date”).

(2) The declaration operates on the specified date to vest the legal title to all of the transferor’s property in the transferee, without the need for any further document transferring it.

This is subject to subsection (3).

(3) Subsection (2) does not apply to—

- (a) any land held by the transferor as security for money subject to the trusts of the transferor (other than land held on trust for securing debentures or debenture stock);
- (b) any land held by the transferor under a lease or agreement which contains any covenant (however described) against assignment of the transferor’s interest without the consent of some other person, unless that consent has been obtained before the specified date; or

- (c) any shares, stock, annuity or other property which is only transferable in books kept by a company or other body or in a manner directed by or under any statutory provision.
- (4) In this section “relevant charity merger” has the same meaning as in section 161.
- (5) In this section—
  - (a) any reference to the transferor, in relation to a relevant charity merger, is a reference to the transferor (or one of the transferors) within the meaning of section 161, and
  - (b) any reference to all of the transferor’s property, where the transferor is a charity within section 161(5), is a reference to all of the transferor’s unrestricted property (within the meaning of that provision).
- (6) In this section any reference to the transferee, in relation to a relevant charity merger, is a reference to—
  - (a) the transferee (within the meaning of section 161), if it is a company or other body corporate, and
  - (b) otherwise, to the charity trustees of the transferee (within the meaning of that section).

#### **Effect of registering charity merger on gifts to transferor**

**164.**—(1) This section applies where a relevant charity merger is registered in the register of charity mergers.

- (2) Any gift which—
  - (a) is expressed as a gift to the transferor, and
  - (b) takes effect on or after the date of registration of the merger,takes effect as a gift to the transferee, unless it is an excluded gift.
- (3) A gift is an “excluded gift” if—
  - (a) the transferor is a charity within section 161(5), and
  - (b) the gift is intended to be held subject to the trusts on which the whole or part of the charity’s permanent endowment is held.
- (4) In this section—
  - “relevant charity merger” has the same meaning as in section 161; and
  - “transferor” and “transferee” have the same meanings as in section 163.