



2008 CHAPTER 12

PART 6

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

Extended powers of Court and variation of charters

Occasions for applying property cy-près

26.—(1) Subject to subsection (3), the circumstances in which the original purposes of a charitable gift can be altered to allow the property given or part of it to be applied cy-près shall be as follows—

- (a) where the original purposes, in whole or in part—
 - (i) have been as far as may be fulfilled; or
 - (ii) cannot be carried out, or not according to the directions given and to the spirit of the gift; or
- (b) where the original purposes provide a use for part only of the property available by virtue of the gift; or
- (c) where the property available by virtue of the gift and other property applicable for similar purposes can be more effectively used in conjunction, and to that end can suitably, regard being had to the appropriate considerations, be made applicable to common purposes; or
- (d) where the original purposes were laid down by reference to an area which then was but has since ceased to be a unit for some other purpose, or by reference to a class of persons or to an area which has for any reason since

Changes to legislation: There are currently no known outstanding effects for the Charities Act (Northern Ireland) 2008, Section 26. (See end of Document for details)

ceased to be suitable, regard being had to the appropriate considerations, or to be practical in administering the gift; or

(e) where the original purposes, in whole or in part, have, since they were laid down,—

(i) been adequately provided for by other means; or

(ii) ceased, as being useless or harmful to the community or for other reasons, to be in law charitable; or

(iii) ceased in any other way to provide a suitable and effective method of using the property available by virtue of the gift, regard being had to the appropriate considerations.

(2) In subsection (1) “the appropriate considerations” means—

(a) (on the one hand) the spirit of the gift concerned, and

(b) (on the other) the social and economic circumstances prevailing at the time of the proposed alteration of the original purposes.

(3) Subsection (1) shall not affect the conditions which must be satisfied in order that property given for charitable purposes may be applied *cy-près* except in so far as those conditions require a failure of the original purposes.

(4) In authorising property comprised in a charitable gift to be applied *cy-près*, the Court or the Commission shall have power to alter—

(a) the purposes for which the property given may be applied; and

(b) the provisions and conditions governing the application of the property for those purposes;

so as to secure that the property is applied as beneficially as is possible, consistently with the spirit of the gift.

(5) In ascertaining the spirit of a gift for the purpose of subsection (1)(a)(ii) or (4) the Court or the Commission may take into account the conduct, and any habits or actions, of the donor and any written or oral declarations made by the donor at any time in relation to the gift.

(6) References in the foregoing subsections to the original purposes of a gift shall be construed, where the application of the property given has been altered or regulated by a scheme or otherwise, as referring to the purposes for which the property is for the time being applicable.

(7) It is hereby declared that a trust for charitable purposes places a trustee under a duty, where the case permits and requires the property or some part of it to be applied *cy-près*, to secure its effective use for charity by taking steps to enable it to be so applied.

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Commencement Information

II S. 26 in operation at 24.6.2013 by S.R. 2013/145, art. 2, Sch.

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