



2008 CHAPTER 12

PART 6

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

Powers of Commission to make schemes and act for protection of charities, etc.

Concurrent jurisdiction with High Court for certain purposes

31.—(1) Subject to the provisions of this Act, the Commission may by order exercise the same jurisdiction and powers as are exercisable by the High Court in charity proceedings for the following purposes—

- (a) establishing a scheme for the administration of a charity;
- (b) appointing, discharging or removing a charity trustee or trustee for a charity, or removing an officer or employee;
- (c) vesting or transferring property, or requiring or entitling any person to call for or make any transfer of property or any payment.

(2) Where the Court directs a scheme for the administration of a charity to be established, the Court may by order refer the matter to the Commission for it to prepare or settle a scheme in accordance with such directions (if any) as the Court sees fit to give, and any such order may provide for the scheme to be put into effect by order of the Commission as if prepared under subsection (1) and without any further order of the Court.

(3) The Commission shall not have jurisdiction under this section to try or determine the title at law or in equity to any property as between a charity or trustee for a charity and a person holding or claiming the property or an interest in

it adversely to the charity, or to try or determine any question as to the existence or extent of any charge or trust.

(4) Subject to the following subsections, the Commission shall not exercise its jurisdiction under this section as respects any charity, except—

- (a) on the application of the charity; or
- (b) on an order of the Court under subsection (2); or
- (c) on the application of the Attorney General.

(5) In the case of a charity whose gross income does not in aggregate exceed £500 a year, the Commission may exercise its jurisdiction under this section on the application—

- (a) of any one or more of the charity trustees; or
- (b) of any person interested in the charity.

(6) Where, in the case of a charity, the Commission is satisfied that the charity trustees ought in the interests of the charity to apply for a scheme, but have unreasonably refused or neglected to do so and the Commission has given the charity trustees an opportunity to make representations to it, the Commission may proceed as if an application for a scheme had been made by the charity but the Commission shall not have power in a case where it acts by virtue of this subsection to alter the purposes of a charity, unless 40 years have elapsed from the date of its foundation.

(7) Where—

- (a) a charity cannot apply to the Commission for a scheme by reason of any vacancy among the charity trustees or the absence or incapacity of any of them, but
- (b) such an application is made by such number of the charity trustees as the Commission considers appropriate in the circumstances of the case,

the Commission may nevertheless proceed as if the application were an application made by the charity.

(8) The Commission may on the application of any charity trustee or trustee for a charity exercise its jurisdiction under this section for the purpose of discharging that person from trusteeship.

(9) Before exercising any jurisdiction under this section otherwise than on an order of the Court, the Commission shall give notice of its intention to do so to each of the charity trustees, except any that cannot be found or has no known address or who is party or privy to an application for the exercise of the jurisdiction; and any such notice may be given by post and, if given by post, may be addressed to the recipient's last known address.

(10) The Commission shall not exercise its jurisdiction under this section in any case (not referred to the Commission by order of the Court) which, by reason of its contentious character, or of any special question of law or of fact

which it may involve, or for other reasons, the Commission may consider more fit to be adjudicated on by the Court.

(11) If the Department thinks it expedient to do so—

- (a) in consequence of changes in the value of money, or
- (b) with a view to increasing the number of charities in respect of which the Commission may exercise its jurisdiction under this section in accordance with subsection (5),

it may by order amend that subsection by substituting a different sum for the sum for the time being specified there.