
STATUTORY INSTRUMENTS

1987 No. 2048

The Charities (Northern Ireland) Order 1987

Extension of powers of trustees of certain charities

Resolution by trustees of old charity to alter objects

3.—(1) This Article applies to any charity—

(a) which has the following characteristics—

(i) the sole or primary object of the charity is the relief of poverty (within any meaning given to that expression under the law of charitable trusts, as applied for the time being), and

(ii) it is established for purposes which are by their nature or by the trusts of the charity directed wholly or mainly to the benefit of a particular area in Northern Ireland; and

(b) which is not a company or other body corporate; and

(c) where—

(i) at least 50 years have elapsed since the date of the charity's foundation, or

(ii) it is subject to a scheme (whether established by the court or by the Department) for the joint administration of two or more charities, and in the case of each of the charities comprised in the scheme at least 50 years have elapsed since the date of its foundation.

(2) If the trustees are of the opinion—

(a) that the objects of the charity may fairly be considered obsolete or lacking in usefulness, or impossible of achievement, having regard to the period that has elapsed since the charity was founded, the social and economic changes that have taken place in that period and other circumstances (if any) relevant to the functioning and administration of the charity, and

(b) that an alteration of the charity's objects is required in order that the charity's resources may be applied to better effect, consistently with the spirit of the original gift, they may (subject to the following provisions) pass a resolution that the trusts of the charity be modified by replacing the objects of the charity by other objects, being in law charitable, specified in the resolution.

(3) The objects so specified must be, in the trustees' opinion, not so far dissimilar in character to those of the original charitable gift that this modification of the charity's trusts would constitute an unjustifiable departure from the intentions of the founder of the charity or violate the spirit of the gift.

(4) The trustees must take such steps as are reasonably open to them to secure the approval to the proposed alteration of objects of any person identifiable as having been the founder of the charity.

(5) The resolution of the trustees must be unanimous and be in the form set out in Schedule 1.

(6) Having passed the resolution, the trustees shall—

(a) give such public notice that they have done so as they think reasonable and justified, having regard to the resources of the charity and the extent of its area of benefit, and

- (b) send copies of the resolution to the Department, accompanied by a statement of their reasons for being of the opinions specified in paragraphs (2) and (3).

The trustees need not comply with sub-paragraph (a) if they consider that, in all the circumstances, no useful purpose would be served by giving public notice of the resolution.

(7) The Department may, when considering the resolution, require the trustees to provide additional information or explanation as to the circumstances in and by reference to which they have determined to act under this Article or as to their compliance with this Article; and the Department shall take into consideration any representations made by any persons appearing to the Department to be interested.

(8) The Department shall, not more than 3 months from the time when it receives a copy of the resolution from the trustees—

- (a) if it appears to the Department that the requirements of this Article are satisfied in respect of the resolution, and that the proposed alteration of objects is justified in all the circumstances (treating the trustees' opinion under paragraphs (2) and (3) as prima facie well-founded and not to be set aside in the absence of contrary considerations), give to the trustees notice of the Department's concurrence with the resolution, or
- (b) give them notice that further time is required in which to consider the case (but so that not more than an additional 6 months shall be taken for that purpose), or
- (c) give them notice that the Department does not concur with the resolution.

Any notice given by the Department under this paragraph (including any notice of concurrence, or non-concurrence, given after the Department has taken further time for consideration) shall be in writing.

(9) If the Department gives notice of its concurrence with the resolution then, with effect from the date specified in the notice, the trusts of the charity shall, by virtue of this Article, be deemed modified in accordance with the terms of the resolution, and the trust instrument shall have effect accordingly.

(10) References in this Article to a charity's trust instrument include any document which for the time being lays down or regulates the manner in which the charity's property may or must be applied.

(11) This Article does not apply to a charity which is a company or other body corporate.