



# Charities Act 1992

## 1992 CHAPTER 41

### <sup>F1</sup>PART I **U.K.**

#### Textual Amendments

**F1** Pt. I (except ss. 1(1)(4), 29, 30, 36, 49, 50) repealed (1.8.1993) by 1993 c. 10, s. 98(2), **Sch.7**

#### *Preliminary*

### **1 Interpretation of Part I, etc.** **E+W**

(1) In this Part—

“the 1960 Act” means the <sup>M1</sup>Charities Act 1960;

“financial year”—

(a) in relation to a charity which is a company, shall be construed in accordance with section 223 of the <sup>M2</sup>Companies Act 1985; and

(b) in relation to any other charity, shall be construed in accordance with regulations made by virtue of section 20(2);

“gross income”, in relation to a charity, means its gross recorded income from all sources, including special trusts;

“independent examiner”, in relation to a charity, means such a person as is mentioned in section 21(3)(a);

“the official custodian” means the official custodian for charities;

“the register” (unless the context otherwise requires) means the register of charities kept under section 4 of the 1960 Act, and “registered” shall be construed accordingly;

“special trust” means property which is held and administered by or on behalf of a charity for any special purposes of the charity, and is so held and administered on separate trusts relating only to that property.

<sup>F2</sup>(2) .....

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*Changes to legislation: There are currently no known outstanding effects for the Charities Act 1992, Part I. (See end of Document for details)*

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<sup>F2</sup>(3) .....

- (4) No vesting or transfer of any property in pursuance of any provision of this Part, or of any provision of the 1960 Act as amended by this Part, shall operate as a breach of a covenant or condition against alienation or give rise to a forfeiture.

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**Textual Amendments**

**F2** S. 1(2)(3) repealed (1.8.1993) by 1993 c. 10, s. 98(2), **Sch.7**

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**Commencement Information**

**I1** S. 1 partly in force at 1.9.1992; (except the definitions of "financial year", "independant examiner" and "special trust" in s. 1(1) and (3)), see s. 79(2) and S.I. 1992/1900, art. 2(1), **Sch. 1**.

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**Marginal Citations**

**M1** 1960 c.58.

**M2** 1985 c.6.

*Registration of charities*

*Charity names*

*Supervision and control by Commissioners*

*Powers with respect to administration of charities*

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*Status: Point in time view as at 01/03/1995.*

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### *Charity accounts*

### *Charity proceedings*

### *Charity property*

## **29 Divestment of charity property held by official custodian for charities. E+W**

- (1) The official custodian shall, in accordance with this section, divest himself of all property to which this subsection applies.
- (2) Subsection (1) applies to any property held by the official custodian in his capacity as such, with the exception of—
  - (a) any land; and
  - (b) any property (other than land) which is vested in him by virtue of an order of the Commissioners under section 20 of the 1960 Act [<sup>F3</sup>or section 18 of the Charities Act 1993] (power to act for protection of charities).
- (3) Where property to which subsection (1) applies is held by the official custodian in trust for particular charities, he shall (subject to subsection (7)) divest himself of that property in such manner as the Commissioners may direct.
- (4) Without prejudice to the generality of subsection (3), directions given by the Commissioners under that subsection may make different provision in relation to different property held by the official custodian or in relation to different classes or descriptions of property held by him, including (in particular)—
  - (a) provision designed to secure that the divestment required by subsection (1) is effected in stages or by means of transfers or other disposals taking place at different times;
  - (b) provision requiring the official custodian to transfer any specified investments, or any specified class or description of investments, held by him in trust for a charity—
    - (i) to the charity trustees or any trustee for the charity, or
    - (ii) to a person nominated by the charity trustees to hold any such investments in trust for the charity;

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- (c) provision requiring the official custodian to sell or call in any specified investments, or any specified class or description of investments, so held by him and to pay any proceeds of sale or other money accruing therefrom—
    - (i) to the charity trustees or any trustee for the charity, or
    - (ii) into any bank account kept in its name.
- (5) The charity trustees of a charity may, in the case of any property falling to be transferred by the official custodian in accordance with a direction under subsection (3), nominate a person to hold any such property in trust for the charity; but a person shall not be so nominated unless—
  - (a) if an individual, he resides in England and Wales; or
  - (b) if a body corporate, it has a place of business there.
- (6) Directions under subsection (3) shall, in the case of any property vested in the official custodian by virtue of section 22(6) of the 1960 Act (common investment funds), provide for any such property to be transferred—
  - (a) to the trustees appointed to manage the common investment fund concerned; or
  - (b) to any person nominated by those trustees who is authorised by or under the common investment scheme concerned to hold that fund or any part of it.
- (7) Where the official custodian—
  - (a) holds any relevant property in trust for a charity, but
  - (b) after making reasonable inquiries is unable to locate the charity or any of its trustees,
 he shall—
  - (i) unless the relevant property is money, sell the property and hold the proceeds of sale pending the giving by the Commissioners of a direction under subsection (8);
  - (ii) if the relevant property is money, hold it pending the giving of any such direction;
 and for this purpose “relevant property” means any property to which subsection (1) applies or any proceeds of sale or other money accruing to the official custodian in consequence of a direction under subsection (3).
- (8) Where subsection (7) applies in relation to a charity (“the dormant charity”), the Commissioners may direct the official custodian—
  - (a) to pay such amount as is held by him in accordance with that subsection to such other charity as is specified in the direction in accordance with subsection (9), or
  - (b) to pay to each of two or more other charities so specified in the direction such part of that amount as is there specified in relation to that charity.
- (9) The Commissioners may specify in a direction under subsection (8) such charity or charities as they consider appropriate, being in each case a charity whose purposes are, in the opinion of the Commissioners, as similar in character to those of the dormant charity as is reasonably practicable; but the Commissioners shall not so specify any charity unless they have received from the charity trustees written confirmation that they are willing to accept the amount proposed to be paid to the charity.
- (10) Any amount received by a charity by virtue of subsection (8) shall be received by the charity on terms that—

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- (a) it shall be held and applied by the charity for the purposes of the charity, but
  - (b) it shall, as property of the charity, nevertheless be subject to any restrictions on expenditure to which it, or (as the case may be) the property which it represents, was subject as property of the dormant charity.
- (11) At such time as the Commissioners are satisfied that the official custodian has divested himself of all property held by him in trust for particular charities, all remaining funds held by him as official custodian shall be paid by him into the Consolidated Fund.
- (12) Nothing in subsection (11) applies in relation to any property held by the official custodian which falls within subsection (2)(a) or (b).
- (13) In this section “land” does not include any interest in land by way of mortgage or other security.

#### Textual Amendments

**F3** Words in s. 29(2)(b) inserted (1.8.1993) by 1993 c. 10, s. 98(1), Sch. 6 para. 29(2)

#### Commencement Information

**I20** S. 29 wholly in force at 1.9.1992 see s. 79(2) and S.I. 1992/1900, art. 2(1), Sch. 1.

### 30 Provisions supplementary to s. 29. **E+W**

- (1) Any directions of the Commissioners under section 29 above shall have effect notwithstanding anything—
- (a) in the trusts of a charity, or
  - (b) in section 17(1) of the 1960 Act [<sup>F4</sup>or section 22(1) of the Charities Act 1993] (supplementary provisions as to property vested in official custodian).
- (2) Subject to subsection (3), any provision—
- (a) of the trusts of a charity, or
  - (b) of any directions given by an order of the Commissioners made in connection with a transaction requiring the sanction of an order under section 29(1) of the 1960 Act (restrictions on dealing with charity property),
- shall cease to have effect if and to the extent that it requires or authorises personal property of the charity to be transferred to or held by the official custodian; and for this purpose “personal property” extends to any mortgage or other real security, but does not include any interest in land other than such an interest by way of mortgage or other security.
- (3) Subsection (2) does not apply to—
- (a) any provision of an order made under section 20 of the 1960 Act [<sup>F5</sup>or section 18 of the Charities Act 1993](power to act for protection of charities); or
  - (b) any provision of any other order, or of any scheme, of the Commissioners if the provision requires trustees of a charity to make payments into an account maintained by the official custodian with a view to the accumulation of a sum as capital of the charity (whether or not by way of recoupment of a sum expended out of the charity’s permanent endowment);

but any such provision as is mentioned in paragraph (b) shall have effect as if, instead of requiring the trustees to make such payments into an account maintained by the

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official custodian, it required the trustees to make such payments into an account maintained by them or by any other person (apart from the official custodian) who is either a trustee for the charity or a person nominated by them to hold such payments in trust for the charity.

- (4) The disposal of any property by the official custodian in accordance with section 29 above shall operate to discharge him from his trusteeship of that property.
- (5) Where any instrument issued by the official custodian in connection with any such disposal contains a printed reproduction of his official seal, that instrument shall have the same effect as if it were duly sealed with his official seal.

#### Textual Amendments

- F4** Words in s. 30(1)(b) inserted (1.8.1993) by 1993 c. 10, s. 98(1), **Sch. 6 para. 29(3)**
- F5** Words in s. 30(3)(a) inserted (1.8.1993) by 1993 c. 10, s. 98(1), **Sch. 6 para. 29(4)**

#### Commencement Information

- I21** S. 30 wholly in force at 1.9.1992 see s. 79(2) and S.I. 1992/1900, art. 2(1), **Sch. 1**.

### 36 Removal of requirements under statutory provisions for consent to dealings with charity land. **E+W**

- (1) Any provision—
- establishing or regulating a particular charity and contained in, or having effect under, any Act of Parliament, or
  - contained in the trusts of a charity,
- shall cease to have effect if and to the extent that it provides for dispositions of, or other dealings with, land held by or in trust for the charity to require the consent of the Commissioners (whether signified by order or otherwise).
- (2) Any provision of an order or scheme under the <sup>M23</sup>Education Act 1944 or the <sup>M24</sup>Education Act 1973 relating to a charity shall cease to have effect if and to the extent that it requires, in relation to any sale, lease or other disposition of land held by or in trust for the charity, approval by the Commissioners or the Secretary of State of the amount for which the land is to be sold, leased or otherwise disposed of.
- (3) In this section “land” means land in England or Wales.

#### Commencement Information

- I27** S. 36 wholly in force at 1.1.1993 see s. 79(2) and S.I. 1992/1900, art. 4(1), **Sch. 3**.

#### Marginal Citations

- M23** 1944 c.31.

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*Changes to legislation: There are currently no known outstanding effects for the Charities Act 1992, Part I. (See end of Document for details)*

**M24** 1973 c.16.

### *Powers of investment*

### *Charitable companies*

### *Small charities*

### *Disqualification for acting as charity trustee*

### *Miscellaneous and supplementary*

## **49 Amendment of Redundant Churches and Other Religious Buildings Act 1969. E+W**

The <sup>M43</sup>Redundant Churches and Other Religious Buildings Act <sup>M44</sup>1969 shall have effect subject to the amendments specified in Schedule 5 to this Act.

#### **Commencement Information**

**I40** S. 49 wholly in force at 1.9.1992 see s. 79(2) and S.I. 1992/1900, art. 2(1), **Sch. 1**.

#### **Marginal Citations**

**M43** 1969 c.22.

**M44** 1969 c.22.

## **50 Contributions towards maintenance etc. of almshouses. E+W**

- (1) Any provision in the trusts of an almshouse charity which relates to the payment by persons resident in the charity's almshouses of contributions towards the cost of maintaining those almshouses and essential services in them shall cease to have effect

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if and to the extent that it provides for the amount, or the maximum amount, of such contributions to be a sum specified, approved or authorised by the Commissioners.

(2) In subsection (1)—

“almshouse” means any premises maintained as an almshouse, whether they are called an almshouse or not; and

“almshouse charity” means a charity which is authorised under its trusts to maintain almshouses.

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**Commencement Information**

**I41** S. 50 wholly in force at 1.9.1992 see s. 79(2) and S.I. 1992/1900, art. 2(1), **Sch. 1**.



**Status:**

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**Changes to legislation:**

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