



Charities Act 1992

1992 CHAPTER 41

PART I

CHARITIES

Charity property

34 Restrictions on mortgaging charity land

- (1) Subject to subsection (2), no mortgage of land held by or in trust for a charity shall be granted without an order of the court or of the Commissioners.
- (2) Subsection (1) shall not apply to a mortgage of any such land by way of security for the repayment of a loan where the charity trustees have, before executing the mortgage, obtained and considered proper advice, given to them in writing, on the matters mentioned in subsection (3).
- (3) Those matters are—
 - (a) whether the proposed loan is necessary in order for the charity trustees to be able to pursue the particular course of action in connection with which the loan is sought by them;
 - (b) whether the terms of the proposed loan are reasonable having regard to the status of the charity as a prospective borrower; and
 - (c) the ability of the charity to repay on those terms the sum proposed to be borrowed.
- (4) For the purposes of subsection (2) proper advice is the advice of a person—
 - (a) who is reasonably believed by the charity trustees to be qualified by his ability in and practical experience of financial matters; and
 - (b) who has no financial interest in the making of the loan in question;

and such advice may constitute proper advice for those purposes notwithstanding that the person giving it does so in the course of his employment as an officer or employee of the charity or of the charity trustees.

Status: This is the original version (as it was originally enacted).

- (5) This section applies notwithstanding anything in the trusts of a charity; but nothing in this section applies to any mortgage for which general or special authority is given as mentioned in section 32(9)(a).
- (6) In this section—
“land” means land in England or Wales;
“mortgage” includes a charge.
- (7) Nothing in this section applies to an exempt charity.