



Charities Act 1992

1992 CHAPTER 41

PART I

CHARITIES

Supervision and control by Commissioners

8 Power to act for protection of charities

(1) Section 20 of the 1960 Act (power to act for protection of charities) shall be amended as follows.

(2) For subsection (1) there shall be substituted—

“(1) Where, at any time after they have instituted an inquiry under section 6 of this Act with respect to any charity, the Commissioners are satisfied—

- (a) that there is or has been any misconduct or mismanagement in the administration of the charity; or
- (b) that it is necessary or desirable to act for the purpose of protecting the property of the charity or securing a proper application for the purposes of the charity of that property or of property coming to the charity;

the Commissioners may of their own motion do one or more of the following things, namely—

- (i) by order suspend any trustee, charity trustee, officer, agent or employee of the charity from the exercise of his office or employment pending consideration being given to his removal (whether under this section or otherwise);
- (ii) by order appoint such number of additional charity trustees as they consider necessary for the proper administration of the charity;
- (iii) by order vest any property held by or in trust for the charity in the official custodian for charities, or require the persons in whom any

Status: This is the original version (as it was originally enacted).

such property is vested to transfer it to him, or appoint any person to transfer any such property to him;

- (iv) order any person who holds any property on behalf of the charity, or of any trustee for it, not to part with the property without the approval of the Commissioners;
- (v) order any debtor of the charity not to make any payment in or towards the discharge of his liability to the charity without the approval of the Commissioners;
- (vi) by order restrict (notwithstanding anything in the trusts of the charity) the transactions which may be entered into, or the nature or amount of the payments which may be made, in the administration of the charity without the approval of the Commissioners;
- (vii) by order appoint (in accordance with section 20A of this Act) a receiver and manager in respect of the property and affairs of the charity.

(1A) Where, at any time after they have instituted an inquiry under section 6 of this Act with respect to any charity, the Commissioners are satisfied—

- (a) that there is or has been any misconduct or mismanagement in the administration of the charity; and
- (b) that it is necessary or desirable to act for the purpose of protecting the property of the charity or securing a proper application for the purposes of the charity of that property or of property coming to the charity;

the Commissioners may of their own motion do either or both of the following things, namely—

- (i) by order remove any trustee, charity trustee, officer, agent or employee of the charity who has been responsible for or privy to the misconduct or mismanagement or has by his conduct contributed to it or facilitated it;
- (ii) by order establish a scheme for the administration of the charity.”

(3) In subsection (2), after “subsection (1)” there shall be inserted “or (1A)”.

(4) In subsection (3), for paragraph (a) there shall be substituted—

- “(a) where, within the last five years, the trustee—
 - (i) having previously been adjudged bankrupt or had his estate sequestrated, has been discharged, or
 - (ii) having previously made a composition or arrangement with, or granted a trust deed for, his creditors, has been discharged in respect of it;
- (aa) where the trustee is a corporation in liquidation;
- (ab) where the trustee is incapable of acting by reason of mental disorder within the meaning of the Mental Health Act 1983;”.

(5) For subsection (7) there shall be substituted—

“(7) Subject to subsection (7A) below, subsections (10) and (11) of section 18 of this Act shall apply to orders under this section as they apply to orders under that section.

- (7A) The requirement to obtain any such certificate or leave as is mentioned in the proviso to section 18(11) shall not apply to—
- (a) an appeal by a charity or any of the charity trustees of a charity against an order under subsection (1)(vii) above appointing a receiver and manager in respect of the charity’s property and affairs, or
 - (b) an appeal by a person against an order under subsection (1A)(i) or (3)(a) above removing him from his office or employment.
- (7B) Subsection (12) of section 18 of this Act shall apply to an order under this section which establishes a scheme for the administration of a charity as it applies to such an order under that section.”
- (6) In subsection (8), for the words from the beginning to “the suspension” there shall be substituted “The power of the Commissioners to make an order under subsection (1)(i) above shall not be exercisable so as to suspend any person from the exercise of his office or employment for a period of more than twelve months; but (without prejudice to the generality of section 40(1) of this Act) any such order made in the case of any person may make provision as respects the period of his suspension”.
- (7) In subsection (9), after “section” there shall be inserted “otherwise than by virtue of subsection (1) above”.
- (8) After subsection (9) there shall be inserted—
- “(9A) The Commissioners shall, at such intervals as they think fit, review any order made by them under paragraph (i), or any of paragraphs (iii) to (vii), of subsection (1) above; and, if on any such review it appears to them that it would be appropriate to discharge the order in whole or in part, they shall so discharge it (whether subject to any savings or other transitional provisions or not).”
- (9) For subsection (10) there shall be substituted—
- “(10) If any person contravenes an order under subsection (1)(iv), (v) or (vi) above, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding the fifth level on the standard scale.
- (10A) Subsection (10) above shall not be taken to preclude the bringing of proceedings for breach of trust against any charity trustee or trustee for a charity in respect of a contravention of an order under subsection (1)(iv) or (vi) above (whether proceedings in respect of the contravention are brought against him under subsection (10) above or not).”
- (10) Section 20 of the 1960 Act, as amended by this section, and with the omission of repealed provisions, is set out in Schedule 1 to this Act.