



Charities Act 1993 (repealed)

1993 CHAPTER 10

PART IV

APPLICATION OF PROPERTY CY-PRÈS AND ASSISTANCE AND SUPERVISION OF CHARITIES BY COURT ^[F1]AND COMMISSION]

[^{F1}Powers of Commission] to make schemes and act for protection of charities etc.

Textual Amendments

- F1** Words in s. 16 cross-heading substituted (27.2.2007) by [Charities Act 2006 \(c. 50\)](#), s. 79(2), [Sch. 8 para. 108](#); [S.I. 2007/309](#), art. 2, [Sch.](#)

16 Concurrent jurisdiction with High Court for certain purposes.

- (1) Subject to the provisions of this Act, [^{F2}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—
- establishing a scheme for the administration of a charity;
 - appointing, discharging or removing a charity trustee or trustee for a charity, or removing an officer or employee;
 - 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 [^{F3}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 [^{F4}the Commission] as if prepared under subsection (1) above and without any further order of the court.
- (3) [^{F5}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

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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, [F6the 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) above; or
 - (c) in the case of a charity other than an exempt charity, on the application of the Attorney General.
- (5) In the case of a charity which is not an exempt charity and whose [F7gross income does not] exceed £500 a year, [F8the 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; or
 - (c) of any two or more inhabitants of the area of the charity if it is a local charity.
- (6) Where in the case of a charity, other than an exempt charity, [F9the 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 [F10the Commission has] given the charity trustees an opportunity to make representations to them, [F11the Commission] may proceed as if an application for a scheme had been made by the charity but [F11the Commission] shall not have power in a case where [F12it acts] by virtue of this subsection to alter the purposes of a charity, unless forty years have elapsed from the date of its foundation.
- (7) Where—
 - (a) a charity cannot apply to [F13the 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 [F14the Commission considers] appropriate in the circumstances of the case,
 [F13the Commission] may nevertheless proceed as if the application were an application made by the charity.
- (8) [F15The Commission] may on the application of any charity trustee or trustee for a charity exercise [F16its jurisdiction] under this section for the purpose of discharging him from his trusteeship.
- (9) Before exercising any jurisdiction under this section otherwise than on an order of the court, [F17the 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 in the United Kingdom 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 in the United Kingdom.
- (10) [F18The Commission shall not exercise its] jurisdiction under this section in any case (not referred to them 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, [F19the Commission] may consider more fit to be adjudicated on by the court.

F20(11)

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^{F20}(12)

^{F20}(13)

^{F20}(14)

(15) If the [^{F21}Minister] 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 [^{F22}the Commission may exercise its] jurisdiction under this section in accordance with subsection (5) above,

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

Textual Amendments

- F2** Words in s. 16(1) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 109(2)**; S.I. 2007/309, art. 2, Sch.
- F3** Words in s. 16(2) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 109(3)(a)**; S.I. 2007/309, art. 2, Sch.
- F4** Words in s. 16(2) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 109(3)(b)**; S.I. 2007/309, art. 2, Sch.
- F5** Words in s. 16(3) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 109(4)**; S.I. 2007/309, art. 2, Sch.
- F6** Words in s. 16(4) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 109(5)**; S.I. 2007/309, art. 2, Sch.
- F7** Words in s. 16(5) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 109(6)(a)**; S.I. 2007/309, art. 2, Sch.
- F8** Words in s. 16(5) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 109(6)(b)**; S.I. 2007/309, art. 2, Sch.
- F9** Words in s. 16(6) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 109(7)(a)**; S.I. 2007/309, art. 2, Sch.
- F10** Words in s. 16(6) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 109(7)(b)**; S.I. 2007/309, art. 2, Sch.
- F11** Words in s. 16(6) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 109(7)(c)**; S.I. 2007/309, art. 2, Sch.
- F12** Words in s. 16(6) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 109(7)(d)**; S.I. 2007/309, art. 2, Sch.
- F13** Words in s. 16(7) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 109(8)(a)**; S.I. 2007/309, art. 2, Sch.
- F14** Words in s. 16(7) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 109(8)(b)**; S.I. 2007/309, art. 2, Sch.
- F15** Words in s. 16(8) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 109(9)(a)**; S.I. 2007/309, art. 2, Sch.
- F16** Words in s. 16(8) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 109(9)(b)**; S.I. 2007/309, art. 2, Sch.
- F17** Words in s. 16(9) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 109(10)**; S.I. 2007/309, art. 2, Sch.
- F18** Words in s. 16(10) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 109(11)(a)**; S.I. 2007/309, art. 2, Sch.
- F19** Words in s. 16(10) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 109(11)(b)**; S.I. 2007/309, art. 2, Sch.

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- F20** S. 16(11)-(14) repealed (18.3.2008) by Charities Act 2006 (c. 50), s. 79(2), Sch. 8 para. 109(12), **Sch. 9**; S.I. 2008/751, art. 2, Sch. (with art. 4)
- F21** Word in s. 16(15) substituted (13.12.2006) by Transfer of Functions (Third Sector, Communities and Equality) Order 2006 (S.I. 2006/2951), art. 1(2), **Sch. para. 4(j)**
- F22** Words in s. 16(15)(b) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 109(13)**; S.I. 2007/309, art. 2, Sch.

Modifications etc. (not altering text)

- C1** S. 16(3)(9)(11)-(14) applied (1.8.1993) by 1987 c. 3, **s. 5(8)** (as substituted (1.8.1993) by ss. 98, 99(1), Sch. 6 para. 23(1) of this Act)
- C2** S. 16(4) excluded (1.4.1997) by 1996 c. 14, s. 120, **Sch. 5, Pt. II paras. 6, 8** (with s. 72(5)); S.I. 1997/305, **art. 2(1)**
- C3** S. 16(12) modified (temp.) (31.1.2007) by The Charities Act 2006 (Commencement No 1, Transitional Provisions and Savings) Order 2007 (S.I. 2007/309), **art. 13**

17 Further powers to make schemes or alter application of charitable property.

- (1) Where it appears to [^{F23}the Commission] that a scheme should be established for the administration of a charity, but also that it is necessary or desirable for the scheme to alter the provision made by an Act of Parliament establishing or regulating the charity or to make any other provision which goes or might go beyond the powers exercisable [^{F24}by the Commission] apart from this section, or that it is for any reason proper for the scheme to be subject to parliamentary review, then (subject to subsection (6) below) [^{F23}the Commission] may settle a scheme accordingly with a view to its being given effect under this section.
- (2) A scheme settled by [^{F25}the Commission] under this section may be given effect by order of the [^{F26}Minister], and a draft of the order shall be laid before Parliament.
- (3) Without prejudice to the operation of section 6 of the ^{M1}Statutory Instruments Act 1946 in other cases, in the case of a scheme which goes beyond the powers exercisable apart from this section in altering a statutory provision contained in or having effect under any public general Act of Parliament, the order shall not be made unless the draft has been approved by resolution of each House of Parliament.
- (4) Subject to subsection (5) below, any provision of a scheme brought into effect under this section may be modified or superseded by the court or [^{F27}the Commission] as if it were a scheme brought into effect by order of [^{F27}the Commission] under section 16 above.
- (5) Where subsection (3) above applies to a scheme, the order giving effect to it may direct that the scheme shall not be modified or superseded by a scheme brought into effect otherwise than under this section, and may also direct that that subsection shall apply to any scheme modifying or superseding the scheme to which the order gives effect.
- (6) The [^{F28}Commission] shall not proceed under this section without the like application and the like notice to the charity trustees, as would be required [^{F29}if the Commission was] proceeding (without an order of the court) under section 16 above; but on any application for a scheme, or in a case where [^{F30}it acts] by virtue of subsection (6) or (7) of that section, the [^{F28}Commission] may proceed under this section or that section as appears [^{F31}to it] appropriate.
- (7) Notwithstanding anything in the trusts of a charity, no expenditure incurred in preparing or promoting a Bill in Parliament shall without the consent of the court or

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[^{F32}the Commission] be defrayed out of any moneys applicable for the purposes of a charity but this subsection shall not apply in the case of an exempt charity.

- (8) Where [^{F33}the Commission is] satisfied—
- (a) that the whole of the income of a charity cannot in existing circumstances be effectively applied for the purposes of the charity; and
 - (b) that, if those circumstances continue, a scheme might be made for applying the surplus cy-près; and
 - (c) that it is for any reason not yet desirable to make such a scheme;

then [^{F34}the Commission] may by order authorise the charity trustees at their discretion (but subject to any conditions imposed by the order) to apply any accrued or accruing income for any purposes for which it might be made applicable by such a scheme, and any application authorised by the order shall be deemed to be within the purposes of the charity.

- (9) An order under subsection (8) above shall not extend to more than £300 out of income accrued before the date of the order, nor to income accruing more than three years after that date, nor to more than £100 out of the income accruing in any of those three years.

Textual Amendments

- F23** Words in s. 17(1) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 110(2)(a)**; S.I. 2007/309, art. 2, Sch.
- F24** Words in s. 17(1) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 110(2)(b)**; S.I. 2007/309, art. 2, Sch.
- F25** Words in s. 17(2) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 110(3)**; S.I. 2007/309, art. 2, Sch.
- F26** Word in s. 17(2) substituted (13.12.2006) by Transfer of Functions (Third Sector, Communities and Equality) Order 2006 (S.I. 2006/2951), art. 1(2), **Sch. para. 4(j)**
- F27** Words in s. 17(4) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 110(4)**; S.I. 2007/309, art. 2, Sch.
- F28** Words in s. 17(6) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 110(5)(a)**; S.I. 2007/309, art. 2, Sch.
- F29** Words in s. 17(6) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 110(5)(b)**; S.I. 2007/309, art. 2, Sch.
- F30** Words in s. 17(6) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 110(5)(c)**; S.I. 2007/309, art. 2, Sch.
- F31** Words in s. 17(6) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 110(5)(d)**; S.I. 2007/309, art. 2, Sch.
- F32** Words in s. 17(7) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 110(6)**; S.I. 2007/309, art. 2, Sch.
- F33** Words in s. 17(8) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 110(7)(a)**; S.I. 2007/309, art. 2, Sch.
- F34** Words in s. 17(8) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 110(7)(b)**; S.I. 2007/309, art. 2, Sch.

Modifications etc. (not altering text)

- C4** S. 17(1)-(5)(7) applied (1.8.1993) by 1987 c. 3, s. 5(8) (as substituted (1.8.1993) by ss. 98(1), 99(1), Sch. 6 para. 23(1) of this Act).

Marginal Citations

- M1** 1946 c. 36.

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18 Power to act for protection of charities.

- (1) Where, at any time [^{F35}after it has] instituted an inquiry under section 8 above with respect to any charity, [^{F36}the Commission is] 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,
- [^{F37}the Commission may of its] own motion do one or more of the following things—
- (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 [^{F38}as it considers] 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, or require the persons in whom any 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 [^{F39}the Commission];
 - (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 [^{F39}the Commission];
 - (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 [^{F39}the Commission];
 - (vii) by order appoint (in accordance with section 19 below) [^{F40}an interim manager, who shall act as receiver] and manager in respect of the property and affairs of the charity.
- (2) Where, at any time after [^{F41}it has] instituted an inquiry under section 8 above with respect to any charity, [^{F42}the Commission is] 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,
- [^{F43}the Commission may of its] own motion do either or both of the following things—
- (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) The references in subsection (1) or (2) above to misconduct or mismanagement shall (notwithstanding anything in the trusts of the charity) extend to the employment for the remuneration or reward of persons acting in the affairs of the charity, or for other administrative purposes, of sums which are excessive in relation to the property which is or is likely to be applied or applicable for the purposes of the charity.

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- (4) [^{F44}The Commission] may also remove a charity trustee by order made of [^{F45}its own motion]—
 - (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;
 - (b) where the trustee is a corporation in liquidation;
 - (c) where the trustee is incapable of acting by reason of mental disorder within the meaning of the ^{M2}Mental Health Act 1983;
 - (d) where the trustee has not acted, and will not declare his willingness or unwillingness to act;
 - (e) where the trustee is outside England and Wales or cannot be found or does not act, and his absence or failure to act impedes the proper administration of the charity.
- (5) [^{F46}The Commission may by order made of its] own motion appoint a person to be a charity trustee—
 - (a) in place of a charity trustee [^{F47}removed by the Commission] under this section or otherwise;
 - (b) where there are no charity trustees, or where by reason of vacancies in their number or the absence or incapacity of any of their number the charity cannot apply for the appointment;
 - (c) where there is a single charity trustee, not being a corporation aggregate, and [^{F48}the Commission is of] opinion that it is necessary to increase the number for the proper administration of the charity;
 - (d) where [^{F48}the Commission is of] opinion that it is necessary for the proper administration of the charity to have an additional charity trustee because one of the existing charity trustees who ought nevertheless to remain a charity trustee either cannot be found or does not act or is outside England and Wales.
- (6) The powers of [^{F49}the Commission] under this section to remove or appoint charity trustees of [^{F50}its own motion] shall include power to make any such order with respect to the vesting in or transfer to the charity trustees of any property as [^{F49}the Commission] could make on the removal or appointment of a charity trustee [^{F51}by it] under section 16 above.
- (7) Any order under this section for the removal or appointment of a charity trustee or trustee for a charity, or for the vesting or transfer of any property, shall be of the like effect as an order made under section 16 above.

^{F52}(8)

^{F52}(9)

^{F52}(10)

- (11) The power of [^{F53}the Commission] 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 89(1) below), any such order made in the case of any person may make provision as respects the period of his suspension for matters arising out

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of it, and in particular for enabling any person to execute any instrument in his name or otherwise act for him and, in the case of a charity trustee, for adjusting any rules governing the proceedings of the charity trustees to take account of the reduction in the number capable of acting.

- (12) Before exercising any jurisdiction under this section otherwise than by virtue of subsection (1) above, [^{F54}the Commission] shall give notice of [^{F55}its intention] to do so to each of the charity trustees, except any that cannot be found or has no known address in the United Kingdom; and any such notice may be given by post and, if given by post, may be addressed to the recipient's last known address in the United Kingdom.
- (13) [^{F56}The Commission] shall, at such intervals as [^{F57}it thinks fit], review any order made [^{F58}by it] under paragraph (i), or any of paragraphs (iii) to (vii), of subsection (1) above; and, if on any such review it appears [^{F59}to the Commission] that it would be appropriate to discharge the order in whole or in part, [^{F60}the Commission shall] so discharge it (whether subject to any savings or other transitional provisions or not).
- (14) 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 level 5 on the standard scale.
- (15) Subsection (14) 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 (14) above or not).
- (16) This section shall not apply to an exempt charity.

Textual Amendments

- F35** Words in s. 18(1) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), Sch. 8 para. 111(2) (a); S.I. 2007/309, art. 2, Sch.
- F36** Words in s. 18(1) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), Sch. 8 para. 111(2) (b); S.I. 2007/309, art. 2, Sch.
- F37** Words in s. 18(1) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), Sch. 8 para. 111(2) (c); S.I. 2007/309, art. 2, Sch.
- F38** Words in s. 18(1) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), Sch. 8 para. 111(2) (d); S.I. 2007/309, art. 2, Sch.
- F39** Words in s. 18(1) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), Sch. 8 para. 111(2) (e); S.I. 2007/309, art. 2, Sch.
- F40** Words in s. 18(1) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), Sch. 8 para. 111(2) (f); S.I. 2007/309, art. 2, Sch.
- F41** Words in s. 18(2) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), Sch. 8 para. 111(3) (a); S.I. 2007/309, art. 2, Sch.
- F42** Words in s. 18(2) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), Sch. 8 para. 111(3) (b); S.I. 2007/309, art. 2, Sch.
- F43** Words in s. 18(2) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), Sch. 8 para. 111(3) (c); S.I. 2007/309, art. 2, Sch.
- F44** Words in s. 18(4) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), Sch. 8 para. 111(4) (a); S.I. 2007/309, art. 2, Sch.
- F45** Words in s. 18(4) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), Sch. 8 para. 111(4) (b); S.I. 2007/309, art. 2, Sch.

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- F46** Words in s. 18(5) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 111(5) (a)**; S.I. 2007/309, art. 2, Sch.
- F47** Words in s. 18(5) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 111(5) (b)**; S.I. 2007/309, art. 2, Sch.
- F48** Words in s. 18(5) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 111(5) (c)**; S.I. 2007/309, art. 2, Sch.
- F49** Words in s. 18(6) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 111(6) (a)**; S.I. 2007/309, art. 2, Sch.
- F50** Words in s. 18(6) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 111(6) (b)**; S.I. 2007/309, art. 2, Sch.
- F51** Words in s. 18(6) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 111(6) (c)**; S.I. 2007/309, art. 2, Sch.
- F52** S. 18(8)-(10) repealed (18.3.2008) by Charities Act 2006 (c. 50), s. 79(2), Sch. 8 para. 111(7), **Sch. 9**; S.I. 2008/751, art. 2, Sch. (with art. 4)
- F53** Words in s. 18(11) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 111(8)**; S.I. 2007/309, art. 2, Sch.
- F54** Words in s. 18(12) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 111(9) (a)**; S.I. 2007/309, art. 2, Sch.
- F55** Words in s. 18(12) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 111(9) (b)**; S.I. 2007/309, art. 2, Sch.
- F56** Words in s. 18(13) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 111(10) (a)**; S.I. 2007/309, art. 2, Sch.
- F57** Words in s. 18(13) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 111(10) (b)**; S.I. 2007/309, art. 2, Sch.
- F58** Words in s. 18(13) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 111(10) (c)**; S.I. 2007/309, art. 2, Sch.
- F59** Words in s. 18(13) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 111(10) (d)**; S.I. 2007/309, art. 2, Sch.
- F60** Words in s. 18(13) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 111(10) (e)**; S.I. 2007/309, art. 2, Sch.

Marginal Citations

M2 1983 c. 20.

[^{F61}18A Power to suspend or remove trustees etc. from membership of charity

- (1) This section applies where the Commission makes—
 - (a) an order under section 18(1) above suspending from his office or employment any trustee, charity trustee, officer, agent or employee of a charity, or
 - (b) an order under section 18(2) above removing from his office or employment any officer, agent or employee of a charity,
 and the trustee, charity trustee, officer, agent or employee (as the case may be) is a member of the charity.
- (2) If the order suspends the person in question from his office or employment, the Commission may also make an order suspending his membership of the charity for the period for which he is suspended from his office or employment.
- (3) If the order removes the person in question from his office or employment, the Commission may also make an order—
 - (a) terminating his membership of the charity, and

Status: Point in time view as at 01/04/2009.

Changes to legislation: There are currently no known outstanding effects for the Charities Act 1993 (repealed), Cross Heading: Powers of Commission to make schemes and act for protection of charities etc.. (See end of Document for details)

- (b) prohibiting him from resuming his membership of the charity without the Commission's consent.
- (4) If an application for the Commission's consent under subsection (3)(b) above is made five years or more after the order was made, the Commission must grant the application unless satisfied that, by reason of any special circumstances, it should be refused.]

Textual Amendments

F61 S. 18A inserted (18.3.2008) by *Charities Act 2006 (c. 50)*, ss. 19, 79(2) (with *Sch. 10 para. 4*); *S.I. 2008/751*, art. 2, *Sch.*

19 Supplementary provisions relating to ^{F62}interim manager] appointed for a charity.

- ^{F63}(1) The Commission may under section 18(1)(vii) above appoint to be interim manager in respect of a charity such person (other than a member of its staff) as it thinks fit.]
- (2) Without prejudice to the generality of section 89(1) below, any order made by ^{F64}the Commission] under section 18(1)(vii) above may make provision with respect to the functions to be discharged by the ^{F65}interim manager] appointed by the order; and those functions shall be discharged by him under the supervision of ^{F64}the Commission].
- (3) In connection with the discharge of those functions any such order may provide—
- (a) for the ^{F66}interim manager] appointed by the order to have such powers and duties of the charity trustees of the charity concerned (whether arising under this Act or otherwise) as are specified in the order;
 - (b) for any powers or duties exercisable or falling to be performed by the ^{F66}interim manager] by virtue of paragraph (a) above to be exercisable or performed by him to the exclusion of those trustees.
- (4) Where a person has been appointed ^{F67}interim manager] by any such order—
- (a) section 29 below shall apply to him and to his functions as a person so appointed as it applies to a charity trustee of the charity concerned and to his duties as such; and
 - (b) ^{F68}the Commission] may apply to the High Court for directions in relation to any particular matter arising in connection with the discharge of those functions.
- (5) The High Court may on an application under subsection (4)(b) above—
- (a) give such directions, or
 - (b) make such orders declaring the rights of any persons (whether before the court or not),
- as it thinks just; and the costs of any such application shall be paid by the charity concerned.
- (6) Regulations made by the ^{F69}Minister] may make provision with respect to—
- (a) the appointment and removal of persons appointed in accordance with this section;
 - (b) the remuneration of such persons out of the income of the charities concerned;
 - (c) the making of reports to ^{F70}the Commission] by such persons.

Status: Point in time view as at 01/04/2009.

*Changes to legislation: There are currently no known outstanding effects for the Charities Act 1993 (repealed), Cross
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- (7) Regulations under subsection (6) above may, in particular, authorise [^{F70}the Commission]—
- (a) to require security for the due discharge of his functions to be given by a person so appointed;
 - (b) to determine the amount of such a person's remuneration;
 - (c) to disallow any amount of remuneration in such circumstances as are prescribed by the regulations.

Textual Amendments

- F62** Words in s. 19 heading substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 112(7)**; S.I. 2007/309, art. 2, Sch.
- F63** S. 19(1) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 112(2)**; S.I. 2007/309, art. 2, Sch.
- F64** Words in s. 19(2) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 112(3)(a)**; S.I. 2007/309, art. 2, Sch.
- F65** Words in s. 19(2) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 112(3)(b)**; S.I. 2007/309, art. 2, Sch.
- F66** Words in s. 19(3) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 112(4)**; S.I. 2007/309, art. 2, Sch.
- F67** Words in s. 19(4) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 112(5)(a)**; S.I. 2007/309, art. 2, Sch.
- F68** Words in s. 19(4) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 112(5)(b)**; S.I. 2007/309, art. 2, Sch.
- F69** Word in s. 19(6) substituted (13.12.2006) by Transfer of Functions (Third Sector, Communities and Equality) Order 2006 (S.I. 2006/2951), art. 1(2), **Sch. para. 4(k)**
- F70** Words in s. 19(6)(c) and (7) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 112(6)**; S.I. 2007/309, art. 2, Sch.

[^{F71}19A Power to give specific directions for protection of charity

- (1) This section applies where, at any time after the Commission has instituted an inquiry under section 8 above with respect to any charity, it is satisfied as mentioned in section 18(1)(a) or (b) above.
- (2) The Commission may by order direct—
 - (a) the charity trustees,
 - (b) any trustee for the charity,
 - (c) any officer or employee of the charity, or
 - (d) (if a body corporate) the charity itself,to take any action specified in the order which the Commission considers to be expedient in the interests of the charity.
- (3) An order under this section—
 - (a) may require action to be taken whether or not it would otherwise be within the powers exercisable by the person or persons concerned, or by the charity, in relation to the administration of the charity or to its property, but
 - (b) may not require any action to be taken which is prohibited by any Act of Parliament or expressly prohibited by the trusts of the charity or is inconsistent with its purposes.

Status: Point in time view as at 01/04/2009.

Changes to legislation: There are currently no known outstanding effects for the Charities Act 1993 (repealed), Cross Heading: Powers of Commission to make schemes and act for protection of charities etc.. (See end of Document for details)

- (4) Anything done by a person or body under the authority of an order under this section shall be deemed to be properly done in the exercise of the powers mentioned in subsection (3)(a) above.
- (5) Subsection (4) does not affect any contractual or other rights arising in connection with anything which has been done under the authority of such an order.]

Textual Amendments

F71 S. 19A inserted (18.3.2008) by [Charities Act 2006 \(c. 50\)](#), **ss. 20, 79(2)** (with [Sch. 10 para. 5](#)); [S.I. 2008/751](#), [art. 2](#), [Sch.](#)

[^{F72}19B Power to direct application of charity property

- (1) This section applies where the Commission is satisfied—
 - (a) that a person or persons in possession or control of any property held by or on trust for a charity is or are unwilling to apply it properly for the purposes of the charity, and
 - (b) that it is necessary or desirable to make an order under this section for the purpose of securing a proper application of that property for the purposes of the charity.
- (2) The Commission may by order direct the person or persons concerned to apply the property in such manner as is specified in the order.
- (3) An order under this section—
 - (a) may require action to be taken whether or not it would otherwise be within the powers exercisable by the person or persons concerned in relation to the property, but
 - (b) may not require any action to be taken which is prohibited by any Act of Parliament or expressly prohibited by the trusts of the charity.
- (4) Anything done by a person under the authority of an order under this section shall be deemed to be properly done in the exercise of the powers mentioned in subsection (3) (a) above.
- (5) Subsection (4) does not affect any contractual or other rights arising in connection with anything which has been done under the authority of such an order.]

Textual Amendments

F72 S. 19B inserted (18.3.2008) by [Charities Act 2006 \(c. 50\)](#), **ss. 21, 79(2)**; [S.I. 2008/751](#), [art. 2](#), [Sch.](#)

[^{F73}19C Copy of order under section 18, 18A, 19A or 19B, and Commission's reasons, to be sent to charity

- (1) Where the Commission makes an order under section 18, 18A, 19A or 19B, it must send the documents mentioned in subsection (2) below—
 - (a) to the charity concerned (if a body corporate), or
 - (b) (if not) to each of the charity trustees.

Status: Point in time view as at 01/04/2009.

Changes to legislation: There are currently no known outstanding effects for the Charities Act 1993 (repealed), Cross Heading: Powers of Commission to make schemes and act for protection of charities etc.. (See end of Document for details)

- (2) The documents are—
 - (a) a copy of the order, and
 - (b) a statement of the Commission's reasons for making it.
- (3) The documents must be sent to the charity or charity trustees as soon as practicable after the making of the order.
- (4) The Commission need not, however, comply with subsection (3) above in relation to the documents, or (as the case may be) the statement of its reasons, if it considers that to do so—
 - (a) would prejudice any inquiry or investigation, or
 - (b) would not be in the interests of the charity;
 but, once the Commission considers that this is no longer the case, it must send the documents, or (as the case may be) the statement, to the charity or charity trustees as soon as practicable.
- (5) Nothing in this section requires any document to be sent to a person who cannot be found or who has no known address in the United Kingdom.
- (6) Any documents required to be sent to a person under this section may be sent to, or otherwise served on, that person in the same way as an order made by the Commission under this Act could be served on him in accordance with section 91 below.]

Textual Amendments

- F73** S. 19C inserted (27.2.2007 for specified purposes, 18.3.2008 in so far as not already in force) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 113**; S.I. 2007/309, art. 2, Sch.; S.I. 2008/751, art. 2, Sch.

[^{F74}20 **Publicity relating to schemes**

- (1) The Commission may not—
 - (a) make any order under this Act to establish a scheme for the administration of a charity, or
 - (b) submit such a scheme to the court or the Minister for an order giving it effect, unless, before doing so, the Commission has complied with the publicity requirements in subsection (2) below.

This is subject to any disapplication of those requirements under subsection (4) below.

- (2) The publicity requirements are—
 - (a) that the Commission must give public notice of its proposals, inviting representations to be made to it within a period specified in the notice; and
 - (b) that, in the case of a scheme relating to a local charity (other than an ecclesiastical charity) in a parish or in a community in Wales, the Commission must communicate a draft of the scheme to the parish or community council (or, where a parish has no council, to the chairman of the parish meeting).
- (3) The time when any such notice is given or any such communication takes place is to be decided by the Commission.

Status: Point in time view as at 01/04/2009.

Changes to legislation: There are currently no known outstanding effects for the Charities Act 1993 (repealed), Cross Heading: Powers of Commission to make schemes and act for protection of charities etc.. (See end of Document for details)

- (4) The Commission may determine that either or both of the publicity requirements is or are not to apply in relation to a particular scheme if it is satisfied that—
- (a) by reason of the nature of the scheme, or
 - (b) for any other reason,
- compliance with the requirement or requirements is unnecessary.
- (5) Where the Commission gives public notice of any proposals under this section, the Commission—
- (a) must take into account any representations made to it within the period specified in the notice, and
 - (b) may (without further notice) proceed with the proposals either without modifications or with such modifications as it thinks desirable.
- (6) Where the Commission makes an order under this Act to establish a scheme for the administration of a charity, a copy of the order must be available, for at least a month after the order is published, for public inspection at all reasonable times—
- (a) at the Commission's office, and
 - (b) if the charity is a local charity, at some convenient place in the area of the charity.
- Paragraph (b) does not apply if the Commission is satisfied that for any reason it is unnecessary for a copy of the scheme to be available locally.
- (7) Any public notice of any proposals which is to be given under this section—
- (a) is to contain such particulars of the proposals, or such directions for obtaining information about them, as the Commission thinks sufficient and appropriate, and
 - (b) is to be given in such manner as the Commission thinks sufficient and appropriate.

Textual Amendments

F74 Ss. 20, 20A substituted (27.2.2007) for s. 20 by [Charities Act 2006 \(c. 50\)](#), **ss. 22, 79(2)**; S.I. 2007/309, [art. 2](#), Sch.

20A Publicity for orders relating to trustees or other individuals

- (1) The Commission may not make any order under this Act to appoint, discharge or remove a charity trustee or trustee for a charity, other than—
- (a) an order relating to the official custodian, or
 - (b) an order under section 18(1)(ii) above,
- unless, before doing so, the Commission has complied with the publicity requirement in subsection (2) below.
- This is subject to any disapplication of that requirement under subsection (4) below.
- (2) The publicity requirement is that the Commission must give public notice of its proposals, inviting representations to be made to it within a period specified in the notice.
- (3) The time when any such notice is given is to be decided by the Commission.

Status: Point in time view as at 01/04/2009.

Changes to legislation: There are currently no known outstanding effects for the Charities Act 1993 (repealed), Cross Heading: Powers of Commission to make schemes and act for protection of charities etc.. (See end of Document for details)

- (4) The Commission may determine that the publicity requirement is not to apply in relation to a particular order if it is satisfied that for any reason compliance with the requirement is unnecessary.
- (5) Before the Commission makes an order under this Act to remove without his consent—
- (a) a charity trustee or trustee for a charity, or
 - (b) an officer, agent or employee of a charity,
- the Commission must give him not less than one month's notice of its proposals, inviting representations to be made to it within a period specified in the notice.
- This does not apply if the person cannot be found or has no known address in the United Kingdom.
- (6) Where the Commission gives notice of any proposals under this section, the Commission—
- (a) must take into account any representations made to it within the period specified in the notice, and
 - (b) may (without further notice) proceed with the proposals either without modifications or with such modifications as it thinks desirable.
- (7) Any notice of any proposals which is to be given under this section—
- (a) is to contain such particulars of the proposals, or such directions for obtaining information about them, as the Commission thinks sufficient and appropriate, and
 - (b) (in the case of a public notice) is to be given in such manner as the Commission thinks sufficient and appropriate.
- (8) Any notice to be given under subsection (5)—
- (a) may be given by post, and
 - (b) if given by post, may be addressed to the recipient's last known address in the United Kingdom.]

Textual Amendments

F74 Ss. 20, 20A substituted (27.2.2007) for s. 20 by [Charities Act 2006 \(c. 50\)](#), [ss. 22, 79\(2\)](#); [S.I. 2007/309](#), [art. 2](#), [Sch.](#)

Status:

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Changes to legislation:

There are currently no known outstanding effects for the Charities Act 1993 (repealed), Cross
Heading: Powers of Commission to make schemes and act for protection of charities etc..