



Charities Act 1993 (repealed)

1993 CHAPTER 10

PART IX

MISCELLANEOUS

Powers of investment

F170 Relaxation of restrictions on wider-range investments.

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Textual Amendments

- F1** S. 70 repealed (E.W.) (1.2.2001) by Trustee Act 2000 (c. 29), s. 40(1)(3), Sch. 2 Pt. I para. 2(1), **Sch. 4 Pt. I** (with s. 35); S.I. 2001/49, **art. 2**; s. 70 repealed (S.) (1.1.2006) by Charities and Trustee Investment (Scotland) Act 2005 (asp 10), s. 107(2), **Sch. 3 para. 9**; S.S.I. 2005/644, art. 2(1), **Sch. 1**

F271 Extension of powers of investment.

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Textual Amendments

- F2** S. 71 repealed (E.W.) (1.2.2001) by Trustee Act 2000 (c. 29), s. 40(1)(3), Sch. 2 Pt. I para. 2(1), **Sch. 4 Pt. I** (with s. 35); S.I. 2001/49, **art. 2**; s. 71 repealed (S.) (1.1.2006) by Charities and Trustee Investment (Scotland) Act 2005 (asp 10), s. 107(2), **Sch. 3 para. 9**; S.S.I. 2005/644, art. 2(1), **Sch. 1**

Status: Point in time view as at 01/04/2010. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Charities Act 1993 (repealed), Part IX. (See end of Document for details)

[^{F3} Charity trustees]

Textual Amendments

- F3** S. 72 cross-heading substituted (27.2.2007) by [Charities Act 2006 \(c. 50\)](#), s. 79(2), [Sch. 8 para. 155](#); [S.I. 2007/309](#), art. 2, Sch.

72 Persons disqualified for being trustees of a charity.

(1) Subject to the following provisions of this section, a person shall be disqualified for being a charity trustee or trustee for a charity if—

- (a) he has been convicted of any offence involving dishonesty or deception;
- (b) he has been adjudged bankrupt or sequestration of his estate has been awarded and (in either case) he has not been discharged [^{F4}or he is the subject of a bankruptcy restrictions order or an interim order];
- (c) he has made a composition or arrangement with, or granted a trust deed for, his creditors and has not been discharged in respect of it;
- (d) he has been removed from the office of charity trustee or trustee for a charity by an order made—
 - (i) by the [^{F5}Commission or] Commissioners under section 18(2)(i) above, or
 - (ii) by the Commissioners under section 20(1A)(i) of the ^{M1}Charities Act 1960 (power to act for protection of charities) or under section 20(1)(i) of that Act (as in force before the commencement of section 8 of the ^{M2}Charities Act 1992), or
 - (iii) by the High Court,

on the grounds of any misconduct or mismanagement in the administration of the charity for which he was responsible or to which he was privy, or which he by his conduct contributed to or facilitated;

- (e) he has been removed, under section 7 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (powers of Court of Session to deal with management of charities) [^{F6}or section 34(5)(e) of the Charities and Trustee Investment (Scotland) Act 2005 (powers of the Court of Session)], from being concerned in the management or control of any body;
- (f) he is [^{F7}subject to a disqualification order or disqualification undertaking under the Company Directors Disqualification Act 1986 or the Company Directors Disqualification (Northern Ireland) Order 2002] or to an order made under section 429(2)(b) of the ^{M3}Insolvency Act 1986 (failure to pay under county court administration order).

(2) In subsection (1) above—

- (a) paragraph (a) applies whether the conviction occurred before or after the commencement of that subsection, but does not apply in relation to any conviction which is a spent conviction for the purposes of the ^{M4}Rehabilitation of Offenders Act 1974;
- (b) paragraph (b) applies whether the adjudication of bankruptcy or the sequestration [^{F8}or the making of a bankruptcy restrictions order or an interim order] occurred before or after the commencement of that subsection;

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- (c) paragraph (c) applies whether the composition or arrangement was made, or the trust deed was granted, before or after the commencement of that subsection; and
 - (d) paragraphs (d) to (f) apply in relation to orders made and removals effected before or after the commencement of that subsection.
- (3) Where (apart from this subsection) a person is disqualified under subsection (1)(b) above for being a charity trustee or trustee for any charity which is a company, he shall not be so disqualified if leave has been granted under section 11 of the ^{M5}Company Directors Disqualification Act 1986 (undischarged bankrupts) for him to act as director of the charity; and similarly a person shall not be disqualified under subsection (1)(f) above for being a charity trustee or trustee for such a charity if—
- [^{F9}(a) in the case of a person subject to a disqualification order or disqualification undertaking under the ^{M6}Company Directors Disqualification Act 1986, leave for the purposes of section 1(1)(a) or 1A(1)(a) of that Act has been granted for him to act as director of the charity,
 - [^{F10}(aa) in the case of a person subject to a disqualification order or disqualification undertaking under the Company Directors Disqualification (Northern Ireland) Order 2002, leave has been granted by the High Court in Northern Ireland for him to act as director of the charity,]
 - (b) in the case of a person subject to an order under section 429(2)(b) of the ^{M7}Insolvency Act 1986, leave has been granted by the court which made the order for him to so act.
- (4) [^{F11}The Commission] may, on the application of any person disqualified under subsection (1) above, waive his disqualification either generally or in relation to a particular charity or a particular class of charities; but no such waiver may be granted in relation to any charity which is a company if—
- (a) the person concerned is for the time being prohibited, by virtue of—
 - (i) a disqualification order [^{F12}or disqualification undertaking] under the Company Directors Disqualification Act 1986, or
 - (ii) section 11(1) [^{F13}12(2)[^{F14},12A or 12B]] of that Act (undischarged bankrupts; failure to pay under county court administration order [^{F15}Northern Irish disqualification orders][^{F16}; Northern Irish disqualification undertakings]),from acting as director of the charity; and
 - (b) leave has not been granted for him to act as director of any other company.
- [If—
- ^{F17}(4A) (a) a person disqualified under subsection (1)(d) or (e) makes an application under subsection (4) above five years or more after the date on which his disqualification took effect, and
- (b) the Commission is not prevented from granting the application by virtue of paragraphs (a) and (b) of subsection (4),
- the Commission must grant the application unless satisfied that, by reason of any special circumstances, it should be refused.]
- (5) Any waiver under subsection (4) above shall be notified in writing to the person concerned.

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- (6) For the purposes of this section [^{F18}the Commission] shall keep, in such manner as [^{F19}it thinks fit], a register of all persons who have been removed from office as mentioned in subsection (1)(d) above either—
- (a) by an order of the Commissioners made before or after the commencement of subsection (1) above, or
 - (b) by an order of [^{F20}the Commission or] the High Court made after the commencement of section 45(1) of the ^{M8}Charities Act 1992;
- and, where any person is so removed from office by an order of the High Court, the court shall notify [^{F21}the Commission] of his removal.
- (7) The entries in the register kept under subsection (6) above shall be available for public inspection in legible form at all reasonable times.
- [In this section “the Commissioners” means the Charity Commissioners for England ^{F22}(8) and Wales.]]

Textual Amendments

- F4** Words in s. 72(1)(b) inserted (29.6.2006) by Enterprise Act 2002 (Disqualification from Office: General) Order 2006 (S.I. 2006/1722), art. 1(1), **Sch. 2 para. 4(a)**
- F5** Words in s. 72(1)(d)(i) inserted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 156(2)**; S.I. 2007/309, art. 2, Sch.
- F6** Words in s. 72(1)(e) inserted (1.4.2006) by Charities and Trustee Investment (Scotland) Act 2005 (Consequential Provisions and Modifications) Order 2006 (S.I. 2006/242), art. 1(3), **Sch. para. 6(2)**
- F7** Words in s. 72(1)(f) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 1(2), **Sch. 1 para. 139(8)(a)** (with art. 10)
- F8** Words in s. 72(2)(b) inserted (29.6.2006) by Enterprise Act 2002 (Disqualification from Office: General) Order 2006 (S.I. 2006/1722), art. 1(1), **Sch. 2 para. 4(b)**
- F9** S. 72(3)(a)(aa) substituted (2.4.2001) for s. 72(3)(a) by 2000 c. 39, s. 8, **Sch. 4 Pt. II para. 18(b)**; S.I. 2001/766, **art. 2(1)(a)** (subject to transitional provisions in art. 3)
- F10** S. 72(3)(aa) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 1(2), **Sch. 1 para. 139(8)(b)** (with art. 10)
- F11** Words in s. 72(4) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 156(3)**; S.I. 2007/309, art. 2, Sch.
- F12** Words in s. 72(4)(a)(i) inserted (2.4.2001) by 2000 c. 39, s. 8, **Sch. 4 Pt. II para. 18(c)(i)**; S.I. 2001/766, **art. 2(1)(a)** (subject to transitional provisions in art. 3)
- F13** Words in s. 72(4)(a)(ii) substituted (2.4.2001) by 2000 c. 39, s. 8, **Sch. 4 Pt. II para. 18(c)(ii)**; S.I. 2001/766, **art. 2(1)(a)** (subject to transitional provisions in art. 3)
- F14** Words in s. 72(4)(a)(ii) substituted (with application in accordance with art. 1(2) of the amending S.I.) by Insolvency Act 2000 (Company Directors Disqualification Undertakings) Order 2004 (S.I. 2004/1941), art. 1(2), **Sch. para. 5(c)**
- F15** Words in s. 72(4)(a)(ii) inserted (2.4.2001) by 2000 c. 39, s. 8, **Sch. 4 Pt. II para. 18(c)(ii)**; S.I. 2001/766, **art. 2(1)(a)** (subject to transitional provisions in art. 3)
- F16** Words in s. 72(4)(a)(ii) inserted (with application in accordance with art. 1(2) of the amending S.I.) by Insolvency Act 2000 (Company Directors Disqualification Undertakings) Order 2004 (S.I. 2004/1941), art. 1(2), **Sch. para. 5(c)**
- F17** S. 72(4A) inserted (27.2.2007) by Charities Act 2006 (c. 50), **ss. 35, 79(2)** (with Sch. 10 para. 11); S.I. 2007/309, art. 2, Sch.
- F18** Words in s. 72(6) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 156(4)(a)**; S.I. 2007/309, art. 2, Sch.

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- F19** Words in s. 72(6) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 156(4)(b)**; S.I. 2007/309, art. 2, Sch.
- F20** Words in s. 72(6) inserted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 156(4)(c)**; S.I. 2007/309, art. 2, Sch.
- F21** Words in s. 72(6) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 156(4)(d)**; S.I. 2007/309, art. 2, Sch.
- F22** S. 72(8) added (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 156(5)**; S.I. 2007/309, art. 2, Sch.

Marginal Citations

- M1** 1960 c. 58.
M2 1992 c. 41.
M3 1986 c. 45.
M4 1974 c. 53.
M5 1986 c. 46.
M6 1986 c. 46.
M7 1986 c. 45.
M8 1992 c. 41.

73 Person acting as charity trustee while disqualified.

- (1) Subject to subsection (2) below, any person who acts as a charity trustee or trustee for a charity while he is disqualified for being such a trustee by virtue of section 72 above shall be guilty of an offence and liable—
- on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or both;
 - on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or both.
- (2) Subsection (1) above shall not apply where—
- the charity concerned is a company; and
 - the disqualified person is disqualified by virtue only of paragraph (b) or (f) of section 72(1) above.
- (3) Any acts done as charity trustee or trustee for a charity by a person disqualified for being such a trustee by virtue of section 72 above shall not be invalid by reason only of that disqualification.
- (4) Where [^{F23}the Commission is] satisfied—
- that any person has acted as charity trustee or trustee for a charity (other than an exempt charity) while disqualified for being such a trustee by virtue of section 72 above, and
 - that, while so acting, he has received from the charity any sums by way of remuneration or expenses, or any benefit in kind, in connection with his acting as charity trustee or trustee for the charity,
- [^{F24}the Commission may by order] direct him to repay to the charity the whole or part of any such sums, or (as the case may be) to pay to the charity the whole or part of the monetary value [^{F25}(as determined by the Commission)] of any such benefit.
- (5) Subsection (4) above does not apply to any sums received by way of remuneration or expenses in respect of any time when the person concerned was not disqualified for being a charity trustee or trustee for the charity.

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Textual Amendments

- F23** Words in s. 73(4) substituted (27.2.2007) by [Charities Act 2006 \(c. 50\)](#), s. 79(2), [Sch. 8 para. 157\(a\)](#); [S.I. 2007/309, art. 2, Sch.](#)
- F24** Words in s. 73(4) substituted (27.2.2007) by [Charities Act 2006 \(c. 50\)](#), s. 79(2), [Sch. 8 para. 157\(b\)](#); [S.I. 2007/309, art. 2, Sch.](#)
- F25** Words in s. 73(4) substituted (27.2.2007) by [Charities Act 2006 \(c. 50\)](#), s. 79(2), [Sch. 8 para. 157\(c\)](#); [S.I. 2007/309, art. 2, Sch.](#)

[^{F26}73A Remuneration of trustees etc. providing services to charity

- (1) This section applies to remuneration for services provided by a person to or on behalf of a charity where—
- (a) he is a charity trustee or trustee for the charity, or
 - (b) he is connected with a charity trustee or trustee for the charity and the remuneration might result in that trustee obtaining any benefit.

This is subject to subsection (7) below.

- (2) If conditions A to D are met in relation to remuneration within subsection (1), the person providing the services (“the relevant person”) is entitled to receive the remuneration out of the funds of the charity.
- (3) Condition A is that the amount or maximum amount of the remuneration—
- (a) is set out in an agreement in writing between—
 - (i) the charity or its charity trustees (as the case may be), and
 - (ii) the relevant person,
 under which the relevant person is to provide the services in question to or on behalf of the charity, and
 - (b) does not exceed what is reasonable in the circumstances for the provision by that person of the services in question.
- (4) Condition B is that, before entering into that agreement, the charity trustees decided that they were satisfied that it would be in the best interests of the charity for the services to be provided by the relevant person to or on behalf of the charity for the amount or maximum amount of remuneration set out in the agreement.
- (5) Condition C is that if immediately after the agreement is entered into there is, in the case of the charity, more than one person who is a charity trustee and is—
- (a) a person in respect of whom an agreement within subsection (3) above is in force, or
 - (b) a person who is entitled to receive remuneration out of the funds of the charity otherwise than by virtue of such an agreement, or
 - (c) a person connected with a person falling within paragraph (a) or (b) above,
- the total number of them constitute a minority of the persons for the time being holding office as charity trustees of the charity.
- (6) Condition D is that the trusts of the charity do not contain any express provision that prohibits the relevant person from receiving the remuneration.
- (7) Nothing in this section applies to—

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- (a) any remuneration for services provided by a person in his capacity as a charity trustee or trustee for a charity or under a contract of employment, or
 - (b) any remuneration not within paragraph (a) which a person is entitled to receive out of the funds of a charity by virtue of any provision or order within subsection (8).
- (8) The provisions or orders within this subsection are—
- (a) any provision contained in the trusts of the charity,
 - (b) any order of the court or the Commission,
 - (c) any statutory provision contained in or having effect under an Act of Parliament other than this section.
- (9) Section 73B below applies for the purposes of this section.

Textual Amendments

F26 Ss. 73A - 73B inserted (18.3.2008) by [Charities Act 2006 \(c. 50\)](#), [ss. 36, 79\(2\)](#) (with [Sch. 10 para. 12](#)); [S.I. 2008/751](#), [art. 2](#), [Sch.](#)

73B Supplementary provisions for purposes of section 73A

- (1) Before entering into an agreement within section 73A(3) the charity trustees must have regard to any guidance given by the Commission concerning the making of such agreements.
- (2) The duty of care in section 1(1) of the Trustee Act 2000 applies to a charity trustee when making such a decision as is mentioned in section 73A(4).
- (3) For the purposes of section 73A(5) an agreement within section 73A(3) is in force so long as any obligations under the agreement have not been fully discharged by a party to it.
- (4) In section 73A—
 - “benefit” means a direct or indirect benefit of any nature;
 - “maximum amount”, in relation to remuneration, means the maximum amount of the remuneration whether specified in or ascertainable under the terms of the agreement in question;
 - “remuneration” includes any benefit in kind (and “amount” accordingly includes monetary value);
 - “services”, in the context of remuneration for services, includes goods that are supplied in connection with the provision of services.
- (5) For the purposes of section 73A the following persons are “connected” with a charity trustee or trustee for a charity—
 - (a) a child, parent, grandchild, grandparent, brother or sister of the trustee;
 - (b) the spouse or civil partner of the trustee or of any person falling within paragraph (a);
 - (c) a person carrying on business in partnership with the trustee or with any person falling within paragraph (a) or (b);
 - (d) an institution which is controlled—

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- (i) by the trustee or by any person falling within paragraph (a), (b) or (c), or
- (ii) by two or more persons falling within sub-paragraph (i), when taken together;
- (e) a body corporate in which—
 - (i) the trustee or any connected person falling within any of paragraphs (a) to (c) has a substantial interest, or
 - (ii) two or more persons falling within sub-paragraph (i), when taken together, have a substantial interest.
- (6) Paragraphs 2 to 4 of Schedule 5 to this Act apply for the purposes of subsection (5) above as they apply for the purposes of provisions of that Schedule.]

Textual Amendments

F26 Ss. 73A - 73B inserted (18.3.2008) by [Charities Act 2006 \(c. 50\)](#), **ss. 36, 79(2)** (with [Sch. 10 para. 12](#)); [S.I. 2008/751, art. 2, Sch.](#)

[^{F27}73C Disqualification of trustee receiving remuneration under section 73A

- (1) This section applies to any charity trustee or trustee for a charity—
 - (a) who is or would be entitled to remuneration under an agreement or proposed agreement within section 73A(3) above, or
 - (b) who is connected with a person who is or would be so entitled.
- (2) The charity trustee or trustee for a charity is disqualified from acting as such in relation to any decision or other matter connected with the agreement.
- (3) But any act done by such a person which he is disqualified from doing by virtue of subsection (2) above shall not be invalid by reason only of that disqualification.
- (4) Where the Commission is satisfied—
 - (a) that a person (“the disqualified trustee”) has done any act which he was disqualified from doing by virtue of subsection (2) above, and
 - (b) that the disqualified trustee or a person connected with him has received or is to receive from the charity any remuneration under the agreement in question, it may make an order under subsection (5) or (6) below (as appropriate).
- (5) An order under this subsection is one requiring the disqualified trustee—
 - (a) to reimburse to the charity the whole or part of the remuneration received as mentioned in subsection (4)(b) above;
 - (b) to the extent that the remuneration consists of a benefit in kind, to reimburse to the charity the whole or part of the monetary value (as determined by the Commission) of the benefit in kind.
- (6) An order under this subsection is one directing that the disqualified trustee or (as the case may be) connected person is not to be paid the whole or part of the remuneration mentioned in subsection (4)(b) above.
- (7) If the Commission makes an order under subsection (5) or (6) above, the disqualified trustee or (as the case may be) connected person accordingly ceases to have any entitlement under the agreement to so much of the remuneration (or its monetary

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value) as the order requires him to reimburse to the charity or (as the case may be) as it directs is not to be paid to him.

- (8) Subsections (4) to (6) of section 73B above apply for the purposes of this section as they apply for the purposes of section 73A above.]

Textual Amendments

F27 S. 73C inserted (18.3.2008) by Charities Act 2006 (c. 50), ss. 37, 79(2); S.I. 2008/751, art. 2, Sch.

[^{F28}73D Power to relieve trustees, auditors etc. from liability for breach of trust or duty

- (1) This section applies to a person who is or has been—
- a charity trustee or trustee for a charity,
 - a person appointed to audit a charity's accounts (whether appointed under an enactment or otherwise), or
 - an independent examiner, reporting accountant or other person appointed to examine or report on a charity's accounts (whether appointed under an enactment or otherwise).
- (2) If the Commission considers—
- that a person to whom this section applies is or may be personally liable for a breach of trust or breach of duty committed in his capacity as a person within paragraph (a), (b) or (c) of subsection (1) above, but
 - that he has acted honestly and reasonably and ought fairly to be excused for the breach of trust or duty,
- the Commission may make an order relieving him wholly or partly from any such liability.
- (3) An order under subsection (2) above may grant the relief on such terms as the Commission thinks fit.
- (4) Subsection (2) does not apply in relation to any personal contractual liability of a charity trustee or trustee for a charity.
- (5) For the purposes of this section and section 73E below—
- subsection (1)(b) above is to be read as including a reference to the Auditor General for Wales acting as auditor under section 43B above, and
 - subsection (1)(c) above is to be read as including a reference to the Auditor General for Wales acting as examiner under that section;
- and in subsection (1)(b) and (c) any reference to a charity's accounts is to be read as including any group accounts prepared by the charity trustees of a charity.
- (6) This section does not affect the operation of—
- section 61 of the Trustee Act 1925 (power of court to grant relief to trustees),
 - [^{F29}section 1157 of the Companies Act 2006] (power of court to grant relief to officers or auditors of companies), or
 - section 73E below (which extends [^{F30}section 1157] to auditors etc. of charities which are not companies).

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Textual Amendments

- F28** Ss. 73D, 73E inserted (27.2.2007 for specified purposes, 1.4.2008 for specified purposes) by [Charities Act 2006 \(c. 50\)](#), **ss. 38, 79(2)** (with [Sch. 10 para. 13](#)); S.I. 2007/309, art. 2, Sch.; S.I. 2008/945, art. 2, Sch. 1
- F29** Words in s. 73D(6)(b) substituted (1.10.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), art. 2(3), **Sch. 3 para. 11(a)** (with arts. 6, 11, 12)
- F30** Words in s. 73D(6)(c) substituted (1.10.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), art. 2(3), **Sch. 3 para. 11(b)** (with arts. 6, 11, 12)

73E Court's power to grant relief to apply to all auditors etc. of charities which are not companies

- (1) [^{F31}Section 1157 of the Companies Act 2006] (power of court to grant relief to officers or auditors of companies) shall have effect in relation to a person to whom this section applies as it has effect in relation to a person employed as an auditor by a company.
- (2) This section applies to—
- a person acting in a capacity within section 73D(1)(b) or (c) above in a case where, apart from this section, [^{F32}section 1157] would not apply in relation to him as a person so acting, and
 - a charity trustee of a CIO.”]

Textual Amendments

- F28** Ss. 73D, 73E inserted (27.2.2007 for specified purposes, 1.4.2008 for specified purposes) by [Charities Act 2006 \(c. 50\)](#), **ss. 38, 79(2)** (with [Sch. 10 para. 13](#)); S.I. 2007/309, art. 2, Sch.; S.I. 2008/945, art. 2, Sch. 1
- F31** Words in s. 73E(1) substituted (1.10.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), art. 2(3), **Sch. 3 para. 12(a)** (with arts. 6, 11, 12)
- F32** Words in s. 73E(2)(a) substituted (1.10.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), art. 2(3), **Sch. 3 para. 12(b)** (with arts. 6, 11, 12)

[^{F33}73F Trustees' indemnity insurance

- (1) The charity trustees of a charity may arrange for the purchase, out of the funds of the charity, of insurance designed to indemnify the charity trustees or any trustees for the charity against any personal liability in respect of—
- any breach of trust or breach of duty committed by them in their capacity as charity trustees or trustees for the charity, or
 - any negligence, default, breach of duty or breach of trust committed by them in their capacity as directors or officers of the charity (if it is a body corporate) or of any body corporate carrying on any activities on behalf of the charity.
- (2) The terms of such insurance must, however, be so framed as to exclude the provision of any indemnity for a person in respect of—
- any liability incurred by him to pay—
 - a fine imposed in criminal proceedings, or

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- (ii) a sum payable to a regulatory authority by way of a penalty in respect of non-compliance with any requirement of a regulatory nature (however arising);
 - (b) any liability incurred by him in defending any criminal proceedings in which he is convicted of an offence arising out of any fraud or dishonesty, or wilful or reckless misconduct, by him; or
 - (c) any liability incurred by him to the charity that arises out of any conduct which he knew (or must reasonably be assumed to have known) was not in the interests of the charity or in the case of which he did not care whether it was in the best interests of the charity or not.
- (3) For the purposes of subsection (2)(b) above—
- (a) the reference to any such conviction is a reference to one that has become final;
 - (b) a conviction becomes final—
 - (i) if not appealed against, at the end of the period for bringing an appeal, or
 - (ii) if appealed against, at the time when the appeal (or any further appeal) is disposed of; and
 - (c) an appeal is disposed of—
 - (i) if it is determined and the period for bringing any further appeal has ended, or
 - (ii) if it is abandoned or otherwise ceases to have effect.
- (4) The charity trustees of a charity may not purchase insurance under this section unless they decide that they are satisfied that it is in the best interests of the charity for them to do so.
- (5) The duty of care in section 1(1) of the Trustee Act 2000 applies to a charity trustee when making such a decision.
- (6) The Minister may by order make such amendments of subsections (2) and (3) above as he considers appropriate.
- (7) No order may be made under subsection (6) above unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.
- (8) This section—
- (a) does not authorise the purchase of any insurance whose purchase is expressly prohibited by the trusts of the charity, but
 - (b) has effect despite any provision prohibiting the charity trustees or trustees for the charity receiving any personal benefit out of the funds of the charity.]

Textual Amendments

F33 S. 73F inserted (27.2.2007) by [Charities Act 2006 \(c. 50\)](#), **ss. 39**, 79(2); S.I. 2007/309, art. 2, Sch.

Status: Point in time view as at 01/04/2010. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Charities Act 1993 (repealed), Part IX. (See end of Document for details)

[^{F34}Miscellaneous powers o charities]

Textual Amendments

F34 S. 74 cross-heading substituted (27.2.2007) by [Charities Act 2006 \(c. 50\)](#), s. 79(2), [Sch. 8 para. 158](#); [S.I. 2007/309](#), art. 2, Sch.

[^{F35}74 Power to transfer all property of unincorporated charity

- (1) This section applies to a charity if—
 - (a) its gross income in its last financial year did not exceed £10,000,
 - (b) it does not hold any designated land, and
 - (c) it is not a company or other body corporate.

“Designated land” means land held on trusts which stipulate that it is to be used for the purposes, or any particular purposes, of the charity.
- (2) The charity trustees of such a charity may resolve for the purposes of this section—
 - (a) that all the property of the charity should be transferred to another charity specified in the resolution, or
 - (b) that all the property of the charity should be transferred to two or more charities specified in the resolution in accordance with such division of the property between them as is so specified.
- (3) Any charity so specified may be either a registered charity or a charity which is not required to be registered.
- (4) But the charity trustees of a charity (“the transferor charity”) do not have power to pass a resolution under subsection (2) above unless they are satisfied—
 - (a) that it is expedient in the interests of furthering the purposes for which the property is held by the transferor charity for the property to be transferred in accordance with the resolution, and
 - (b) that the purposes (or any of the purposes) of any charity to which property is to be transferred under the resolution are substantially similar to the purposes (or any of the purposes) of the transferor charity.
- (5) Any resolution under subsection (2) above must be passed by a majority of not less than two-thirds of the charity trustees who vote on the resolution.
- (6) Where charity trustees have passed a resolution under subsection (2), they must send a copy of it to the Commission, together with a statement of their reasons for passing it.
- (7) Having received the copy of the resolution, the Commission—
 - (a) may direct the charity trustees to give public notice of the resolution in such manner as is specified in the direction, and
 - (b) if it gives such a direction, must take into account any representations made to it by persons appearing to it to be interested in the charity, where those representations are made to it within the period of 28 days beginning with the date when public notice of the resolution is given by the charity trustees.
- (8) The Commission may also direct the charity trustees to provide the Commission with additional information or explanations relating to—

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- (a) the circumstances in and by reference to which they have decided to act under this section, or
 - (b) their compliance with any obligation imposed on them by or under this section in connection with the resolution.
- (9) Subject to the provisions of section 74A below, a resolution under subsection (2) above takes effect at the end of the period of 60 days beginning with the date on which the copy of it was received by the Commission.
- (10) Where such a resolution has taken effect, the charity trustees must arrange for all the property of the transferor charity to be transferred in accordance with the resolution, and on terms that any property so transferred—
 - (a) is to be held by the charity to which it is transferred (“the transferee charity”) in accordance with subsection (11) below, but
 - (b) when so held is nevertheless to be subject to any restrictions on expenditure to which it was subject as property of the transferor charity;and the charity trustees must arrange for the property to be so transferred by such date after the resolution takes effect as they agree with the charity trustees of the transferee charity or charities concerned.
- (11) The charity trustees of any charity to which property is transferred under this section must secure, so far as is reasonably practicable, that the property is applied for such of its purposes as are substantially similar to those of the transferor charity.

But this requirement does not apply if those charity trustees consider that complying with it would not result in a suitable and effective method of applying the property.
- (12) For the purpose of enabling any property to be transferred to a charity under this section, the Commission may, at the request of the charity trustees of that charity, make orders vesting any property of the transferor charity—
 - (a) in the transferee charity, in its charity trustees or in any trustee for that charity, or
 - (b) in any other person nominated by those charity trustees to hold property in trust for that charity.
- (13) The Minister may by order amend subsection (1) above by substituting a different sum for the sum for the time being specified there.
- (14) In this section references to the transfer of property to a charity are references to its transfer—
 - (a) to the charity, or
 - (b) to the charity trustees, or
 - (c) to any trustee for the charity, or
 - (d) to a person nominated by the charity trustees to hold it in trust for the charity, as the charity trustees may determine.
- (15) Where a charity has a permanent endowment, this section has effect in accordance with section 74B.

Status: Point in time view as at 01/04/2010. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Charities Act 1993 (repealed), Part IX. (See end of Document for details)

Textual Amendments

F35 Ss. 74-74B substituted for s. 74 (18.3.2008) by [Charities Act 2006 \(c. 50\)](#), **ss. 40**, 79(2); S.I. 2008/751, [art. 2](#), [Sch.](#) (with [art. 9](#))

74A Resolution not to take effect or to take effect at later date

- (1) This section deals with circumstances in which a resolution under section 74(2) above either—
 - (a) does not take effect under section 74(9) above, or
 - (b) takes effect at a time later than that mentioned in section 74(9).
- (2) A resolution does not take effect under section 74(9) above if before the end of—
 - (a) the period of 60 days mentioned in section 74(9) (“the 60-day period”), or
 - (b) that period as modified by subsection (3) or (4) below,
 the Commission notifies the charity trustees in writing that it objects to the resolution, either on procedural grounds or on the merits of the proposals contained in the resolution.

“On procedural grounds” means on the grounds that any obligation imposed on the charity trustees by or under section 74 above has not been complied with in connection with the resolution.
- (3) If under section 74(7) above the Commission directs the charity trustees to give public notice of a resolution, the running of the 60-day period is suspended by virtue of this subsection—
 - (a) as from the date on which the direction is given to the charity trustees, and
 - (b) until the end of the period of 42 days beginning with the date on which public notice of the resolution is given by the charity trustees.
- (4) If under section 74(8) above the Commission directs the charity trustees to provide any information or explanations, the running of the 60-day period is suspended by virtue of this subsection—
 - (a) as from the date on which the direction is given to the charity trustees, and
 - (b) until the date on which the information or explanations is or are provided to the Commission.
- (5) Subsection (6) below applies once the period of time, or the total period of time, during which the 60-day period is suspended by virtue of either or both of subsections (3) and (4) above exceeds 120 days.
- (6) At that point the resolution (if not previously objected to by the Commission) is to be treated as if it had never been passed.

Textual Amendments

F35 Ss. 74-74B substituted for s. 74 (18.3.2008) by [Charities Act 2006 \(c. 50\)](#), **ss. 40**, 79(2); S.I. 2008/751, [art. 2](#), [Sch.](#) (with [art. 9](#))

Status: Point in time view as at 01/04/2010. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Charities Act 1993 (repealed), Part IX. (See end of Document for details)

74B Transfer where charity has permanent endowment

- (1) This section provides for the operation of section 74 above where a charity within section 74(1) has a permanent endowment (whether or not the charity's trusts contain provision for the termination of the charity).
- (2) In such a case section 74 applies as follows—
 - (a) if the charity has both a permanent endowment and other property (“unrestricted property”)—
 - (i) a resolution under section 74(2) must relate to both its permanent endowment and its unrestricted property, and
 - (ii) that section applies in relation to its unrestricted property in accordance with subsection (3) below and in relation to its permanent endowment in accordance with subsections (4) to (11) below;
 - (b) if all of the property of the charity is comprised in its permanent endowment, that section applies in relation to its permanent endowment in accordance with subsections (4) to (11) below.
- (3) Section 74 applies in relation to unrestricted property of the charity as if references in that section to all or any of the property of the charity were references to all or any of its unrestricted property.
- (4) Section 74 applies in relation to the permanent endowment of the charity with the following modifications.
- (5) References in that section to all or any of the property of the charity are references to all or any of the property comprised in its permanent endowment.
- (6) If the property comprised in its permanent endowment is to be transferred to a single charity, the charity trustees must (instead of being satisfied as mentioned in section 74(4)(b)) be satisfied that the proposed transferee charity has purposes which are substantially similar to all of the purposes of the transferor charity.
- (7) If the property comprised in its permanent endowment is to be transferred to two or more charities, the charity trustees must (instead of being satisfied as mentioned in section 74(4)(b)) be satisfied—
 - (a) that the proposed transferee charities, taken together, have purposes which are substantially similar to all of the purposes of the transferor charity, and
 - (b) that each of the proposed transferee charities has purposes which are substantially similar to one or more of the purposes of the transferor charity.
- (8) In the case of a transfer to which subsection (7) above applies, the resolution under section 74(2) must provide for the property comprised in the permanent endowment of the charity to be divided between the transferee charities in such a way as to take account of such guidance as may be given by the Commission for the purposes of this section.
- (9) The requirement in section 74(11) shall apply in the case of every such transfer, and in complying with that requirement the charity trustees of a transferee charity must secure that the application of property transferred to the charity takes account of any such guidance.
- (10) Any guidance given by the Commission for the purposes of this section may take such form and be given in such manner as the Commission considers appropriate.

Status: Point in time view as at 01/04/2010. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Charities Act 1993 (repealed), Part IX. (See end of Document for details)

- (11) For the purposes of sections 74 and 74A above, any reference to any obligation imposed on the charity trustees by or under section 74 includes a reference to any obligation imposed on them by virtue of any of subsections (6) to (8) above.
- (12) Section 74(14) applies for the purposes of this section as it applies for the purposes of section 74.]

Textual Amendments

F35 Ss. 74-74B substituted for s. 74 (18.3.2008) by [Charities Act 2006 \(c. 50\)](#), **ss. 40, 79(2)**; [S.I. 2008/751](#), **art. 2**, [Sch.](#) (with [art. 9](#))

[^{F36}74C Power to replace purposes of unincorporated charity

- (1) This section applies to a charity if—
- (a) its gross income in its last financial year did not exceed £10,000,
 - (b) it does not hold any designated land, and
 - (c) it is not a company or other body corporate.
- “Designated land” means land held on trusts which stipulate that it is to be used for the purposes, or any particular purposes, of the charity.
- (2) The charity trustees of such a charity may resolve for the purposes of this section that the trusts of the charity should be modified by replacing all or any of the purposes of the charity with other purposes specified in the resolution.
- (3) The other purposes so specified must be charitable purposes.
- (4) But the charity trustees of a charity do not have power to pass a resolution under subsection (2) above unless they are satisfied—
- (a) that it is expedient in the interests of the charity for the purposes in question to be replaced, and
 - (b) that, so far as is reasonably practicable, the new purposes consist of or include purposes that are similar in character to those that are to be replaced.
- (5) Any resolution under subsection (2) above must be passed by a majority of not less than two-thirds of the charity trustees who vote on the resolution.
- (6) Where charity trustees have passed a resolution under subsection (2), they must send a copy of it to the Commission, together with a statement of their reasons for passing it.
- (7) Having received the copy of the resolution, the Commission—
- (a) may direct the charity trustees to give public notice of the resolution in such manner as is specified in the direction, and
 - (b) if it gives such a direction, must take into account any representations made to it by persons appearing to it to be interested in the charity, where those representations are made to it within the period of 28 days beginning with the date when public notice of the resolution is given by the charity trustees.
- (8) The Commission may also direct the charity trustees to provide the Commission with additional information or explanations relating to—
- (a) the circumstances in and by reference to which they have decided to act under this section, or

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- (b) their compliance with any obligation imposed on them by or under this section in connection with the resolution.
- (9) Subject to the provisions of section 74A above (as they apply in accordance with subsection (10) below), a resolution under subsection (2) above takes effect at the end of the period of 60 days beginning with the date on which the copy of it was received by the Commission.
- (10) Section 74A above applies to a resolution under subsection (2) of this section as it applies to a resolution under subsection (2) of section 74 above, except that any reference to section 74(7), (8) or (9) is to be read as a reference to subsection (7), (8) or (9) above.
- (11) As from the time when a resolution takes effect under subsection (9) above, the trusts of the charity concerned are to be taken to have been modified in accordance with the terms of the resolution.
- (12) The Minister may by order amend subsection (1) above by substituting a different sum for the sum for the time being specified there.]

Textual Amendments

F36 S. 74C inserted (18.3.2008) by [Charities Act 2006 \(c. 50\)](#), ss. 41, 79(2); S.I. 2008/751, art. 2, Sch. (with art. 9)

[^{F37}74D Power to modify powers or procedures of unincorporated charity

- (1) This section applies to any charity which is not a company or other body corporate.
- (2) The charity trustees of such a charity may resolve for the purposes of this section that any provision of the trusts of the charity—
 - (a) relating to any of the powers exercisable by the charity trustees in the administration of the charity, or
 - (b) regulating the procedure to be followed in any respect in connection with its administration,should be modified in such manner as is specified in the resolution.
- (3) Subsection (4) applies if the charity is an unincorporated association with a body of members distinct from the charity trustees.
- (4) Any resolution of the charity trustees under subsection (2) must be approved by a further resolution which is passed at a general meeting of the body either—
 - (a) by a majority of not less than two-thirds of the members entitled to attend and vote at the meeting who vote on the resolution, or
 - (b) by a decision taken without a vote and without any expression of dissent in response to the question put to the meeting.
- (5) Where—
 - (a) the charity trustees have passed a resolution under subsection (2), and
 - (b) (if subsection (4) applies) a further resolution has been passed under that subsection,the trusts of the charity are to be taken to have been modified in accordance with the terms of the resolution.

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- (6) The trusts are to be taken to have been so modified as from such date as is specified for this purpose in the resolution under subsection (2), or (if later) the date when any such further resolution was passed under subsection (4).]

Textual Amendments

F37 S. 74D inserted (27.2.2007) by [Charities Act 2006 \(c. 50\)](#), **ss. 42, 79(2)**; S.I. 2007/309, art. 2, Sch.

[^{F38}75 Power of unincorporated charities to spend capital: general

- (1) This section applies to any available endowment fund of a charity which is not a company or other body corporate.
- (2) But this section does not apply to a fund if section 75A below (power of larger charities to spend capital given for particular purpose) applies to it.
- (3) Where the condition in subsection (4) below is met in relation to the charity, the charity trustees may resolve for the purposes of this section that the fund, or a portion of it, ought to be freed from the restrictions with respect to expenditure of capital that apply to it.
- (4) The condition in this subsection is that the charity trustees are satisfied that the purposes set out in the trusts to which the fund is subject could be carried out more effectively if the capital of the fund, or the relevant portion of the capital, could be expended as well as income accruing to it, rather than just such income.
- (5) Once the charity trustees have passed a resolution under subsection (3) above, the fund or portion may by virtue of this section be expended in carrying out the purposes set out in the trusts to which the fund is subject without regard to the restrictions mentioned in that subsection.
- (6) The fund or portion may be so expended as from such date as is specified for this purpose in the resolution.
- (7) In this section “available endowment fund”, in relation to a charity, means—
 - (a) the whole of the charity’s permanent endowment if it is all subject to the same trusts, or
 - (b) any part of its permanent endowment which is subject to any particular trusts that are different from those to which any other part is subject.

Textual Amendments

F38 **Ss. 75-75B** substituted for **s. 75** (18.3.2008) by [Charities Act 2006 \(c. 50\)](#), **ss. 43, 79(2)**; S.I. 2008/751, art. 2, Sch. (with art. 10)

75A Power of larger unincorporated charities to spend capital given for particular purpose

- (1) This section applies to any available endowment fund of a charity which is not a company or other body corporate if—
 - (a) the capital of the fund consists entirely of property given—

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- (i) by a particular individual,
 - (ii) by a particular institution (by way of grant or otherwise), or
 - (iii) by two or more individuals or institutions in pursuit of a common purpose, and
 - (b) the financial condition in subsection (2) below is met.
- (2) The financial condition in this subsection is met if—
- (a) the relevant charity’s gross income in its last financial year exceeded £1,000, and
 - (b) the market value of the endowment fund exceeds £10,000.
- (3) Where the condition in subsection (4) below is met in relation to the charity, the charity trustees may resolve for the purposes of this section that the fund, or a portion of it, ought to be freed from the restrictions with respect to expenditure of capital that apply to it.
- (4) The condition in this subsection is that the charity trustees are satisfied that the purposes set out in the trusts to which the fund is subject could be carried out more effectively if the capital of the fund, or the relevant portion of the capital, could be expended as well as income accruing to it, rather than just such income.
- (5) The charity trustees—
- (a) must send a copy of any resolution under subsection (3) above to the Commission, together with a statement of their reasons for passing it, and
 - (b) may not implement the resolution except in accordance with the following provisions of this section.
- (6) Having received the copy of the resolution the Commission may—
- (a) direct the charity trustees to give public notice of the resolution in such manner as is specified in the direction, and
 - (b) if it gives such a direction, must take into account any representations made to it by persons appearing to it to be interested in the charity, where those representations are made to it within the period of 28 days beginning with the date when public notice of the resolution is given by the charity trustees.
- (7) The Commission may also direct the charity trustees to provide the Commission with additional information or explanations relating to—
- (a) the circumstances in and by reference to which they have decided to act under this section, or
 - (b) their compliance with any obligation imposed on them by or under this section in connection with the resolution.
- (8) When considering whether to concur with the resolution the Commission must take into account—
- (a) any evidence available to it as to the wishes of the donor or donors mentioned in subsection (1)(a) above, and
 - (b) any changes in the circumstances relating to the charity since the making of the gift or gifts (including, in particular, its financial position, the needs of its beneficiaries, and the social, economic and legal environment in which it operates).
- (9) The Commission must not concur with the resolution unless it is satisfied—

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- (a) that its implementation would accord with the spirit of the gift or gifts mentioned in subsection (1)(a) above (even though it would be inconsistent with the restrictions mentioned in subsection (3) above), and
 - (b) that the charity trustees have complied with the obligations imposed on them by or under this section in connection with the resolution.
- (10) Before the end of the period of three months beginning with the relevant date, the Commission must notify the charity trustees in writing either—
- (a) that the Commission concurs with the resolution, or
 - (b) that it does not concur with it.
- (11) In subsection (10) “the relevant date” means—
- (a) in a case where the Commission directs the charity trustees under subsection (6) above to give public notice of the resolution, the date when that notice is given, and
 - (b) in any other case, the date on which the Commission receives the copy of the resolution in accordance with subsection (5) above.
- (12) Where—
- (a) the charity trustees are notified by the Commission that it concurs with the resolution, or
 - (b) the period of three months mentioned in subsection (10) above has elapsed without the Commission notifying them that it does not concur with the resolution,
- the fund or portion may, by virtue of this section, be expended in carrying out the purposes set out in the trusts to which the fund is subject without regard to the restrictions mentioned in subsection (3).
- (13) The Minister may by order amend subsection (2) above by substituting a different sum for any sum specified there.
- (14) In this section—
- (a) “available endowment fund” has the same meaning as in section 75 above,
 - (b) “market value”, in relation to an endowment fund, means—
 - (i) the market value of the fund as recorded in the accounts for the last financial year of the relevant charity, or
 - (ii) if no such value was so recorded, the current market value of the fund as determined on a valuation carried out for the purpose, and
 - (c) the reference in subsection (1) to the giving of property by an individual includes his giving it under his will.

Textual Amendments

F38 Ss. 75-75B substituted for s. 75 (18.3.2008) by Charities Act 2006 (c. 50), ss. 43, 79(2); S.I. 2008/751, art. 2, Sch. (with art. 10)

75B Power to spend capital subject to special trusts

- (1) This section applies to any available endowment fund of a special trust which, as the result of a direction under section 96(5) below, is to be treated as a separate charity (“the relevant charity”) for the purposes of this section.

Status: Point in time view as at 01/04/2010. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Charities Act 1993 (repealed), Part IX. (See end of Document for details)

- (2) Where the condition in subsection (3) below is met in relation to the relevant charity, the charity trustees may resolve for the purposes of this section that the fund, or a portion of it, ought to be freed from the restrictions with respect to expenditure of capital that apply to it.
- (3) The condition in this subsection is that the charity trustees are satisfied that the purposes set out in the trusts to which the fund is subject could be carried out more effectively if the capital of the fund, or the relevant portion of the capital, could be expended as well as income accruing to it, rather than just such income.
- (4) Where the market value of the fund exceeds £10,000 and the capital of the fund consists entirely of property given—
- (a) by a particular individual,
 - (b) by a particular institution (by way of grant or otherwise), or
 - (c) by two or more individuals or institutions in pursuit of a common purpose,
- subsections (5) to (11) of section 75A above apply in relation to the resolution and that gift or gifts as they apply in relation to a resolution under section 75A(3) and the gift or gifts mentioned in section 75A(1)(a).
- (5) Where—
- (a) the charity trustees have passed a resolution under subsection (2) above, and
 - (b) (in a case where section 75A(5) to (11) above apply in accordance with subsection (4) above) either—
 - (i) the charity trustees are notified by the Commission that it concurs with the resolution, or
 - (ii) the period of three months mentioned in section 75A(10) has elapsed without the Commission notifying them that it does not concur with the resolution,
- the fund or portion may, by virtue of this section, be expended in carrying out the purposes set out in the trusts to which the fund is subject without regard to the restrictions mentioned in subsection (2).
- (6) The fund or portion may be so expended as from such date as is specified for this purpose in the resolution.
- (7) The Minister may by order amend subsection (4) above by substituting a different sum for the sum specified there.
- (8) In this section—
- (a) “available endowment fund” has the same meaning as in section 75 above,
 - (b) “market value” has the same meaning as in section 75A above, and
 - (c) the reference in subsection (4) to the giving of property by an individual includes his giving it under his will.]

Textual Amendments

F38 Ss. 75-75B substituted for s. 75 (18.3.2008) by Charities Act 2006 (c. 50), ss. 43, 79(2); S.I. 2008/751, art. 2, Sch. (with art. 10)

Status: Point in time view as at 01/04/2010. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Charities Act 1993 (repealed), Part IX. (See end of Document for details)

F³⁹ Mergers

Textual Amendments

F39 Ss. 75C-75F inserted (28.11.2007 except for the insertion of s. 75C(11)) by [Charities Act 2006 \(c. 50\)](#), [ss. 44, 79\(2\)](#) (with [Sch. 10 para. 14](#)); [S.I. 2007/3286, art. 2, Sch. 1](#)

75C Register of charity mergers

- (1) The Commission shall establish and maintain a register of charity mergers.
- (2) The register shall be kept by the Commission in such manner as it thinks fit.
- (3) The register shall contain an entry in respect of every relevant charity merger which is notified to the Commission in accordance with subsections (6) to (9) and such procedures as it may determine.
- (4) In this section “relevant charity merger” means—
 - (a) a merger of two or more charities in connection with which one of them (“the transferee”) has transferred to it all the property of the other or others, each of which (a “transferor”) ceases to exist, or is to cease to exist, on or after the transfer of its property to the transferee, or
 - (b) a merger of two or more charities (“transferors”) in connection with which both or all of them cease to exist, or are to cease to exist, on or after the transfer of all of their property to a new charity (“the transferee”).
- (5) In the case of a merger involving the transfer of property of any charity which has both a permanent endowment and other property (“unrestricted property”) and whose trusts do not contain provision for the termination of the charity, subsection (4)(a) or (b) applies in relation to any such charity as if—
 - (a) the reference to all of its property were a reference to all of its unrestricted property, and
 - (b) any reference to its ceasing to exist were omitted.
- (6) A notification under subsection (3) above may be given in respect of a relevant charity merger at any time after—
 - (a) the transfer of property involved in the merger has taken place, or
 - (b) (if more than one transfer of property is so involved) the last of those transfers has taken place.
- (7) If a vesting declaration is made in connection with a relevant charity merger, a notification under subsection (3) above must be given in respect of the merger once the transfer, or the last of the transfers, mentioned in subsection (6) above has taken place.
- (8) A notification under subsection (3) is to be given by the charity trustees of the transferee and must—
 - (a) specify the transfer or transfers of property involved in the merger and the date or dates on which it or they took place;
 - (b) include a statement that appropriate arrangements have been made with respect to the discharge of any liabilities of the transferor charity or charities; and
 - (c) in the case of a notification required by subsection (7), set out the matters mentioned in subsection (9).

Status: Point in time view as at 01/04/2010. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Charities Act 1993 (repealed), Part IX. (See end of Document for details)

- (9) The matters are—
- (a) the fact that the vesting declaration in question has been made;
 - (b) the date when the declaration was made; and
 - (c) the date on which the vesting of title under the declaration took place by virtue of section 75E(2) below.
- (10) In this section and section 75D—
- (a) any reference to a transfer of property includes a transfer effected by a vesting declaration; and
 - (b) “vesting declaration” means a declaration to which section 75E(2) below applies.
- (11) Nothing in this section or section 75E or 75F applies in a case where section 69K (amalgamation of CIOs) or 69M (transfer of CIO’s undertaking) applies.

75D Register of charity mergers: supplementary

- (1) Subsection (2) applies to the entry to be made in the register in respect of a relevant charity merger, as required by section 75C(3) above.
- (2) The entry must—
- (a) specify the date when the transfer or transfers of property involved in the merger took place,
 - (b) if a vesting declaration was made in connection with the merger, set out the matters mentioned in section 75C(9) above, and
 - (c) contain such other particulars of the merger as the Commission thinks fit.
- (3) The register shall be open to public inspection at all reasonable times.
- (4) Where any information contained in the register is not in documentary form, subsection (3) above shall be construed as requiring the information to be available for public inspection in legible form at all reasonable times.
- (5) In this section—
- “the register” means the register of charity mergers;
 - “relevant charity merger” has the same meaning as in section 75C.

75E Pre-merger vesting declarations

- (1) Subsection (2) below applies to a declaration which—
- (a) is made by deed for the purposes of this section by the charity trustees of the transferor,
 - (b) is made in connection with a relevant charity merger, and
 - (c) is to the effect that (subject to subsections (3) and (4)) all of the transferor’s property is to vest in the transferee on such date as is specified in the declaration (“the specified date”).
- (2) The declaration operates on the specified date to vest the legal title to all of the transferor’s property in the transferee, without the need for any further document transferring it.

This is subject to subsections (3) and (4).

Status: Point in time view as at 01/04/2010. This version of this part contains provisions that are prospective.

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- (3) Subsection (2) does not apply to—
- (a) any land held by the transferor as security for money subject to the trusts of the transferor (other than land held on trust for securing debentures or debenture stock);
 - (b) any land held by the transferor under a lease or agreement which contains any covenant (however described) against assignment of the transferor's interest without the consent of some other person, unless that consent has been obtained before the specified date; or
 - (c) any shares, stock, annuity or other property which is only transferable in books kept by a company or other body or in a manner directed by or under any enactment.
- (4) In its application to registered land within the meaning of the Land Registration Act 2002, subsection (2) has effect subject to section 27 of that Act (dispositions required to be registered).
- (5) In this section “relevant charity merger” has the same meaning as in section 75C.
- (6) In this section—
- (a) any reference to the transferor, in relation to a relevant charity merger, is a reference to the transferor (or one of the transferors) within the meaning of section 75C above, and
 - (b) any reference to all of the transferor's property, where the transferor is a charity within section 75C(5), is a reference to all of the transferor's unrestricted property (within the meaning of that provision).
- (7) In this section any reference to the transferee, in relation to a relevant charity merger, is a reference to—
- (a) the transferee (within the meaning of section 75C above), if it is a company or other body corporate, and
 - (b) otherwise, to the charity trustees of the transferee (within the meaning of that section).

75F Effect of registering charity merger on gifts to transferor

- (1) This section applies where a relevant charity merger is registered in the register of charity mergers.
- (2) Any gift which—
- (a) is expressed as a gift to the transferor, and
 - (b) takes effect on or after the date of registration of the merger,
- takes effect as a gift to the transferee, unless it is an excluded gift.
- (3) A gift is an “excluded gift” if—
- (a) the transferor is a charity within section 75C(5), and
 - (b) the gift is intended to be held subject to the trusts on which the whole or part of the charity's permanent endowment is held.
- (4) In this section—
- “relevant charity merger” has the same meaning as in section 75C; and
 - “transferor” and “transferee” have the same meanings as in section 75E.]

Status: Point in time view as at 01/04/2010. This version of this part contains provisions that are prospective.

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Local charities

76 Local authority’s index of local charities.

- (1) The council of a county ^{F40}or county borough] or of a district or London borough and the Common Council of the City of London may maintain an index of local charities or of any class of local charities in the council’s area, and may publish information contained in the index, or summaries or extracts taken from it.
- (2) A council proposing to establish or maintaining under this section an index of local charities or of any class of local charities shall, on request, be supplied by ^{F41}the Commission] free of charge with copies of such entries in the register of charities as are relevant to the index or with particulars of any changes in the entries of which copies have been supplied before; and ^{F41}the Commission] may arrange that ^{F42}it will] without further request supply a council with particulars of any such changes.
- (3) An index maintained under this section shall be open to public inspection at all reasonable times.
- (4) A council may employ any voluntary organisation as their agent for the purposes of this section, on such terms and within such limits (if any) or in such cases as they may agree; and for this purpose “voluntary organisation” means any body of which the activities are carried on otherwise than for profit, not being a public or local authority.
- (5) A joint board discharging any of a council’s functions shall have the same powers under this section as the council as respects local charities in the council’s area which are established for purposes similar or complementary to any services provided by the board.

Textual Amendments

- F40** Words in s. 76(1) inserted (1.4.1996) by 1994 c. 19, s. 66(6), **Sch. 16 para. 101(1)** (with ss. 54(5)(7), 55(5), **Sch. 17 para. 22(1), 23(2)**); S.I. 1996/396, art. 4, **Sch. 2**
- F41** Words in s. 76(2) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 159(a)**; S.I. 2007/309, art. 2, **Sch.**
- F42** Words in s. 76(2) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 159(b)**; S.I. 2007/309, art. 2, **Sch.**

Modifications etc. (not altering text)

- C1** Ss. 76-78 extended (with modifications) (19.9.1995) by 1995 c. 25, ss. 70, 125(2), **Sch. 9 para. 15** (with ss. 7(6), 115, 117, **Sch. 8 para. 7**)

77 Reviews of local charities by local authority.

- (1) The council of a county ^{F43}or county borough]or of a district or London borough and the Common Council of the City of London may, subject to the following provisions of this section, initiate, and carry out in co-operation with the charity trustees, a review of the working of any group of local charities with the same or similar purposes in the council’s area, and may make to ^{F44}the Commission] such report on the review and such recommendations arising from it as the council after consultation with the trustees think fit.

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- (2) A council having power to initiate reviews under this section may co-operate with other persons in any review by them of the working of local charities in the council's area (with or without other charities), or may join with other persons in initiating and carrying out such a review.
- (3) No review initiated by a council under this section shall extend to any charity without the consent of the charity trustees, nor to any ecclesiastical charity.
- (4) No review initiated under this section by the council of a district shall extend to the working in any county of a local charity established for purposes similar or complementary to any services provided by county councils unless the review so extends with the consent of the council of that county.

[^{F45}(4A) Subsection (4) above does not apply in relation to Wales.]

- (5) Subsections (4) and (5) of section 76 above shall apply for the purposes of this section as they apply for the purposes of that section.

Textual Amendments

F43 Words in s. 77(1) inserted (1.4.1996) by 1994 c. 19, s. 66(6), **Sch. 16 para. 101(2)** (with ss. 54(5)(7), 55(5), **Sch. 17** paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2**

F44 Words in s. 77(1) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 160**; S.I. 2007/309, art. 2, **Sch.**

F45 S. 77(4A) inserted (1.4.1996) by 1994 c. 19, s. 66(6), **Sch. 16 para. 101(2)** (with ss. 54(5)(7), 55(5), **Sch. 17** paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2**

Modifications etc. (not altering text)

C2 Ss. 76-78 extended (with modifications) (19.9.1995) by 1995 c. 48, ss. 70, 125(2), **Sch. 9 para. 15** (with ss. 7(6), 115, 117, **Sch. 8** para. 7)

78 Co-operation between charities, and between charities and local authorities.

- (1) Any local council and any joint board discharging any functions of such a council—
 - (a) may make, with any charity established for purposes similar or complementary to services provided by the council or board, arrangements for co-ordinating the activities of the council or board and those of the charity in the interests of persons who may benefit from those services or from the charity; and
 - (b) shall be at liberty to disclose to any such charity in the interests of those persons any information obtained in connection with the services provided by the council or board, whether or not arrangements have been made with the charity under this subsection.

In this subsection “local council” means [^{F46}, in relation to England,] the council of a county, or of a district, London borough, [^{F47} or parish], and includes also the Common Council of the City of London and the Council of the Isles of Scilly [^{F48} and, in relation to Wales, the council of a county, county borough or community].

- (2) Charity trustees shall, notwithstanding anything in the trusts of the charity, have power by virtue of this subsection to do all or any of the following things, where it appears to them likely to promote or make more effective the work of the charity, and may

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defray the expense of so doing out of any income or money applicable as income of the charity, that is to say—

- (a) they may co-operate in any review undertaken under section 77 above or otherwise of the working of charities or any class of charities;
- (b) they may make arrangements with an authority acting under subsection (1) above or with another charity for co-ordinating their activities and those of the authority or of the other charity;
- (c) they may publish information of other charities with a view to bringing them to the notice of those for whose benefit they are intended.

Textual Amendments

- F46** Words in s. 78(1) inserted (1.4.1996) by 1994 c. 19, s. 66(6), **Sch. 16 para. 101(3)(a)** (with ss. 54(5)(7), 55(5), **Sch. 17 paras. 22(1), 23(2)**); S.I. 1996/396, art. 4, **Sch. 2**
- F47** Words in s. 78(1) substituted (1.4.1996) by 1994 c. 19, s. 66(6), **Sch. 16 para. 101(3)(b)** (with ss. 54(5)(7), 55(5), **Sch. 17 paras. 22(1), 23(2)**); S.I. 1996/396, art. 4, **Sch. 2**
- F48** Words in s. 78(1) added (1.4.1996) by 1994 c. 19, s. 66(6), **Sch. 16 para. 101(3)(c)** (with ss. 54(5)(7), 55(5), **Sch. 17 paras. 22(1), 23(2)**); S.I. 1996/396, art. 4, **Sch. 2**

Modifications etc. (not altering text)

- C3** S. 78 extended (with modifications) (19.9.1995) by 1995 c. 48, ss. 70, 125(2), **Sch. 9 para. 15** (with **Sch. 8 para. 7**)

79 Parochial charities.

- (1) Where trustees hold any property for the purposes of a public recreation ground, or of allotments (whether under inclosure Acts or otherwise), for the benefit of inhabitants of a parish having a parish council, or for other charitable purposes connected with such a parish, except for an ecclesiastical charity, they may with the approval of ^[F49]the Commission] and with the consent of the parish council transfer the property to the parish council or to persons appointed by the parish council; and the council or their appointees shall hold the property on the same trusts and subject to the same conditions as the trustees did.

This subsection shall apply to property held for any public purposes as it applies to property held for charitable purposes.

- (2) Where the charity trustees of a parochial charity in a parish, not being an ecclesiastical charity nor a charity founded within the preceding forty years, do not include persons elected by the local government electors, ratepayers or inhabitants of the parish or appointed by the parish council or parish meeting, the parish council or parish meeting may appoint additional charity trustees, to such number as ^[F50]the Commission] may allow; and if there is a sole charity trustee not elected or appointed as aforesaid of any such charity, the number of the charity trustees may, with the approval of ^[F50]the Commission], be increased to three of whom one may be nominated by the person holding the office of the sole trustee and one by the parish council or parish meeting.
- (3) Where, under the trusts of a charity other than an ecclesiastical charity, the inhabitants of a rural parish (whether in vestry or not) or a select vestry were formerly (in 1894) entitled to appoint charity trustees for, or trustees or beneficiaries of, the charity, then—

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- (a) in a parish having a parish council, the appointment shall be made by the parish council or, in the case of beneficiaries, by persons appointed by the parish council; and
 - (b) in a parish not having a parish council, the appointment shall be made by the parish meeting.
- (4) Where overseers as such or, except in the case of an ecclesiastical charity, churchwardens as such were formerly (in 1894) charity trustees of or trustees for a parochial charity in a rural parish, either alone or jointly with other persons, then instead of the former overseer or church warden trustees there shall be trustees (to a number not greater than that of the former overseer or churchwarden trustees) appointed by the parish council or, if there is no parish council, by the parish meeting.
- (5) Where, outside Greater London (other than the outer London boroughs), overseers of a parish as such were formerly (in 1927) charity trustees of or trustees for any charity, either alone or jointly with other persons, then instead of the former overseer trustees there shall be trustees (to a number not greater than that of the former overseer trustees) appointed by the parish council or, if there is no parish council, by the parish meeting.
- (6) In the case of an urban parish existing immediately before the passing of the ^{M9}Local Government Act 1972 which after 1st April 1974 is not comprised in a parish, the power of appointment under subsection (5) above shall be exercisable by the district council.
- (7) In the application of the foregoing provisions of this section to Wales—
- (a) for references in subsections (1) and (2) to a parish or a parish council there shall be substituted respectively references to a community or a community council;
 - (b) for references in subsections (3)(a) and (b) to a parish, a parish council or a parish meeting there shall be substituted respectively references to a community, a community council or the [^{F51}council of the county or (as the case may be) county borough];
 - (c) for references in subsections (4) and (5) to a parish council or a parish meeting there shall be substituted respectively references to a community council or the [^{F51}council of the county or (as the case may be) county borough].
- (8) Any appointment of a charity trustee or trustee for a charity which is made by virtue of this section shall be for a term of four years, and a retiring trustee shall be eligible for re-appointment but—
- (a) on an appointment under subsection (2) above, where no previous appointments have been made by virtue of that subsection or of the corresponding provision of the ^{M10}Local Government Act 1894 or the ^{M11}Charities Act 1960, and more than one trustee is appointed, half of those appointed (or as nearly as may be) shall be appointed for a term of two years; and
 - (b) an appointment made to fill a casual vacancy shall be for the remainder of the term of the previous appointment.
- [^{F52}(9) This section shall not affect the trusteeship, control or management of any [^{F53}foundation or voluntary school within the meaning of the School Standards and Framework Act 1998.]]
- (10) The provisions of this section shall not extend to the Isles of Scilly, and shall have effect subject to any order (including any future order) made under any enactment

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relating to local government with respect to local government areas or the powers of local authorities.

- (11) In this section the expression “formerly (in 1894)” relates to the period immediately before the passing of the Local Government Act 1894, and the expression “formerly (in 1927)” to the period immediately before 1st April 1927; and the word “former” shall be construed accordingly.

Textual Amendments

- F49** Words in s. 79(1) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 161(2)**; S.I. 2007/309, art. 2, **Sch.**
- F50** Words in s. 79(2) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 161(3)**; S.I. 2007/309, art. 2, **Sch.**
- F51** Words in s. 79(b)(c) substituted (1.4.1996) by 1994 c. 19, s. 66(6), **Sch. 16 para. 101(4)** (with ss. 54(5) (7), 55(5), **Sch. 17 paras. 22(1), 23(2)**); S.I. 1996/396, art. 4, **Sch. 2**
- F52** S. 79(9) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 119** (with s. 1(4), **Sch. 39**)
- F53** Words in s. 79(9) substituted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para. 49** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

Marginal Citations

- M9** 1972 c. 70.
M10 1894 c. 73.
M11 1960 c. 58.

Scottish charities

80 Supervision by [^{F54}Commission] of certain Scottish charities.

- (1) The following provisions of this Act, namely—

- (a) sections 8 and 9,
- (b) section 18 (except subsection (2)(ii)),
- [^{F55}(c) sections 19 to 19C, and
- (d) section 31A,]

shall have effect in relation to any recognised body which is managed or controlled wholly or mainly in or from England or Wales as they have effect in relation to a charity.

- (2) Where—

- (a) a recognised body is managed or controlled wholly or mainly in or from Scotland, but
- (b) any person in England and Wales holds any property on behalf of the body or of any person concerned in its management or control,

then, if [^{F56}the Commission is satisfied] as to the matters mentioned in subsection (3) below, [^{F57}it may make] an order requiring the person holding the property not to part with it without [^{F58}the Commission's approval].

- (3) The matters referred to in subsection (2) above are—

- (a) that there has been any misconduct or mismanagement in the administration of the body; and

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- (b) that it is necessary or desirable to make an order under that subsection for the purpose of protecting the property of the body or securing a proper application of such property for the purposes of the body;
- and the reference in that subsection to [F59the Commission] being satisfied as to those matters is a reference to [F60the Commission being] so satisfied on the basis of such information as may be [F61supplied to it] by the [F62Scottish Charity Regulator].
- (4) Where—
- (a) any person in England and Wales holds any property on behalf of a recognised body or of any person concerned in the management or control of such a body, and
- (b) [F63the Commission is satisfied] (whether on the basis of such information as may be [F64supplied to it] by the [F65Scottish Charity Regulator] or otherwise)
-
- (i) that there has been any misconduct or mismanagement in the administration of the body, and
- (ii) that it is necessary or desirable to make an order under this subsection for the purpose of protecting the property of the body or securing a proper application of such property for the purposes of the body,
- [F66the Commission] may by order vest the property in such recognised body or charity as is specified in the order in accordance with subsection (5) below, or require any persons in whom the property is vested to transfer it to any such body or charity, or appoint any person to transfer the property to any such body or charity.
- (5) The [F67Commission] may specify in an order under subsection (4) above such other recognised body or such charity as [F68it considers] appropriate, being a body or charity whose purposes are, in the opinion of the [F67Commission], as similar in character to those of the body referred to in paragraph (a) of that subsection as is reasonably practicable; but the [F67Commission] shall not so specify any body or charity unless [F69it has received]—
- (a) from the persons concerned in the management or control of the body, or
- (b) from the charity trustees of the charity,
- as the case may be, written confirmation that they are willing to accept the property.
- (6) In this section “recognised body” [F70means a body entered in the Scottish Charity Register].

Textual Amendments

- F54** Word in s. 80 heading substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 162(7)**; S.I. 2007/309, art. 2, Sch.
- F55** S. 80(1)(c)(d) substituted for s. 80(1)(c) (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. 162(2)**; S.I. 2007/309, art. 2, Sch.; S.I. 2008/751, art. 2, Sch.
- F56** Words in s. 80(2) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 162(3)(a)**; S.I. 2007/309, art. 2, Sch.
- F57** Words in s. 80(2) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 162(3)(b)**; S.I. 2007/309, art. 2, Sch.
- F58** Words in s. 80(2) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 162(3)(c)**; S.I. 2007/309, art. 2, Sch.
- F59** Words in s. 80(3) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 162(4)(a)**; S.I. 2007/309, art. 2, Sch.

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- F60** Words in s. 80(3) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 162(4)(b)**; S.I. 2007/309, art. 2, Sch.
- F61** Words in s. 80(3) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 162(4)(c)**; S.I. 2007/309, art. 2, Sch.
- F62** Words in s. 80(3) substituted (1.4.2006) by Charities and Trustee Investment (Scotland) Act 2005 (Consequential Provisions and Modifications) Order 2006 (S.I. 2006/242), art. 1(3), **Sch. para. 6(3)(a)**
- F63** Words in s. 80(4) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 162(5)(a)**; S.I. 2007/309, art. 2, Sch.
- F64** Words in s. 80(4) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 162(5)(b)**; S.I. 2007/309, art. 2, Sch.
- F65** Words in s. 80(4)(b) substituted (1.4.2006) by Charities and Trustee Investment (Scotland) Act 2005 (Consequential Provisions and Modifications) Order 2006 (S.I. 2006/242), art. 1(3), **Sch. para. 6(3)(a)**
- F66** Words in s. 80(4) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 162(5)(c)**; S.I. 2007/309, art. 2, Sch.
- F67** Words in s. 80(5) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 162(6)(a)**; S.I. 2007/309, art. 2, Sch.
- F68** Words in s. 80(5) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 162(6)(b)**; S.I. 2007/309, art. 2, Sch.
- F69** Words in s. 80(5) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 162(6)(c)**; S.I. 2007/309, art. 2, Sch.
- F70** Words in s. 80(6) substituted (1.4.2006) by Charities and Trustee Investment (Scotland) Act 2005 (Consequential Provisions and Modifications) Order 2006 (S.I. 2006/242), art. 1(3), **Sch. para. 6(3)(b)**

Modifications etc. (not altering text)

- C4** S. 80: functions of the Lord Advocate transferred to the Secretary of State, and all property, rights and liabilities to which the Lord Advocate is entitled or subject in connection with any such function transferred to the Secretary of State for Scotland (19.5.1999) by S.I. 1999/678, arts. 2, 3, **Sch.** (with art. 7)

Administrative provisions about charities

PROSPECTIVE

81 Manner of giving notice of charity meetings, etc.

.....

82 Manner of executing instruments.

- (1) Charity trustees may, subject to the trusts of the charity, confer on any of their body (not being less than two in number) a general authority, or an authority limited in such manner as the trustees think fit, to execute in the names and on behalf of the trustees assurances or other deeds or instruments for giving effect to transactions to which the trustees are a party; and any deed or instrument executed in pursuance of an authority so given shall be of the same effect as if executed by the whole body.
- (2) An authority under subsection (1) above—
 - (a) shall suffice for any deed or instrument if it is given in writing or by resolution of a meeting of the trustees, notwithstanding the want of any formality that would be required in giving an authority apart from that subsection;

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Changes to legislation: There are currently no known outstanding effects for the Charities Act 1993 (repealed), Part IX. (See end of Document for details)

- (b) may be given so as to make the powers conferred exercisable by any of the trustees, or may be restricted to named persons or in any other way;
 - (c) subject to any such restriction, and until it is revoked, shall, notwithstanding any change in the charity trustees, have effect as a continuing authority given by the charity trustees from time to time of the charity and exercisable by such trustees.
- (3) In any authority under this section to execute a deed or instrument in the names and on behalf of charity trustees there shall, unless the contrary intention appears, be implied authority also to execute it for them in the name and on behalf of the official custodian or of any other person, in any case in which the charity trustees could do so.
- (4) Where a deed or instrument purports to be executed in pursuance of this section, then in favour of a person who (then or afterwards) in good faith acquires for money or money's worth an interest in or charge on property or the benefit of any covenant or agreement expressed to be entered into by the charity trustees, it shall be conclusively presumed to have been duly executed by virtue of this section.
- (5) The powers conferred by this section shall be in addition to and not in derogation of any other powers.

83 Transfer and evidence of title to property vested in trustees.

- (1) Where, under the trusts of a charity, trustees of property held for the purposes of the charity may be appointed or discharged by resolution of a meeting of the charity trustees, members or other persons, a memorandum declaring a trustee to have been so appointed or discharged shall be sufficient evidence of that fact if the memorandum is signed either at the meeting by the person presiding or in some other manner directed by the meeting and is attested by two persons present at the meeting.
- (2) A memorandum evidencing the appointment or discharge of a trustee under subsection (1) above, if executed as a deed, shall have the like operation under section 40 of the ^{M12}Trustee Act 1925 (which relates to vesting declarations as respects trust property in deeds appointing or discharging trustees) as if the appointment or discharge were effected by the deed.
- (3) For the purposes of this section, where a document purports to have been signed and attested as mentioned in subsection (1) above, then on proof (whether by evidence or as a matter of presumption) of the signature the document shall be presumed to have been so signed and attested, unless the contrary is shown.
- (4) This section shall apply to a memorandum made at any time, except that subsection (2) shall apply only to those made after the commencement of the ^{M13}Charities Act 1960.
- (5) This section shall apply in relation to any institution to which the ^{M14}Literary and Scientific Institutions Act 1854 applies as it applies in relation to a charity.

Marginal Citations

M12 1925 c. 19.

M13 1960 c. 58.

M14 1854 c. 112.

Status:

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Changes to legislation:

There are currently no known outstanding effects for the Charities Act 1993 (repealed), Part IX.