



Charities Act 1993

1993 CHAPTER 10

PART IV

APPLICATION OF PROPERTY CY-PRÈS AND ASSISTANCE AND SUPERVISION OF CHARITIES BY COURT AND COMMISSIONERS

Additional powers of Commissioners

28 Power to give directions about dormant bank accounts of charities

- (1) Where the Commissioners—
 - (a) are informed by a relevant institution—
 - (i) that it holds one or more accounts in the name of or on behalf of a particular charity (“the relevant charity”), and
 - (ii) that the account, or (if it so holds two or more accounts) each of the accounts, is dormant, and
 - (b) are unable, after making reasonable inquiries, to locate that charity or any of its trustees,they may give a direction under subsection (2) below.
- (2) A direction under this subsection is a direction which—
 - (a) requires the institution concerned to transfer the amount, or (as the case may be) the aggregate amount, standing to the credit of the relevant charity in the account or accounts in question to such other charity as is specified in the direction in accordance with subsection (3) below; or
 - (b) requires the institution concerned to transfer to each of two or more other charities so specified in the direction such part of that amount or aggregate amount as is there specified in relation to that charity.
- (3) The Commissioners may specify in a direction under subsection (2) above such other charity or charities as they consider appropriate, having regard, in a case where the purposes of the relevant charity are known to them, to those purposes and to the purposes of the other charity or charities; but the Commissioners shall not so specify

any charity unless they have received from the charity trustees written confirmation that those trustees are willing to accept the amount proposed to be transferred to the charity.

(4) Any amount received by a charity by virtue of this section shall be received by the charity on terms that—

- (a) it shall be held and applied by the charity for the purposes of the charity, but
- (b) it shall, as property of the charity, nevertheless be subject to any restrictions on expenditure to which it was subject as property of the relevant charity.

(5) Where—

- (a) the Commissioners have been informed as mentioned in subsection (1)(a) above by any relevant institution, and
- (b) before any transfer is made by the institution in pursuance of a direction under subsection (2) above, the institution has, by reason of any circumstances, cause to believe that the account, or (as the case may be) any of the accounts, held by it in the name of or on behalf of the relevant charity is no longer dormant,

the institution shall forthwith notify those circumstances in writing to the Commissioners; and, if it appears to the Commissioners that the account or accounts in question is or are no longer dormant, they shall revoke any direction under subsection (2) above which has previously been given by them to the institution with respect to the relevant charity.

(6) The receipt of any charity trustees or trustee for a charity in respect of any amount received from a relevant institution by virtue of this section shall be a complete discharge of the institution in respect of that amount.

(7) No obligation as to secrecy or other restriction on disclosure (however imposed) shall preclude a relevant institution from disclosing any information to the Commissioners for the purpose of enabling them to discharge their functions under this section.

(8) For the purposes of this section—

- (a) an account is dormant if no transaction, other than—
 - (i) a transaction consisting in a payment into the account, or
 - (ii) a transaction which the institution holding the account has itself caused to be effected,

has been effected in relation to the account within the period of five years immediately preceding the date when the Commissioners are informed as mentioned in paragraph (a) of subsection (1) above;

- (b) a “relevant institution” means—
 - (i) the Bank of England;
 - (ii) an institution which is authorised by the Bank of England to operate a deposit-taking business under Part I of the Banking Act 1987;
 - (iii) a European deposit-taker as defined in regulation 82(3) of the Banking Coordination (Second Council Directive) Regulations 1992;
 - (iv) a building society which is authorised by the Building Societies Commission under section 9 of the Building Societies Act 1986 to raise money from its members; or
 - (v) such other institution mentioned in Schedule 2 to the Banking Act 1987 as the Secretary of State may prescribe by regulations; and

- (c) references to the transfer of any amount to a charity are references to its transfer—
- (i) to the charity trustees, or
 - (ii) to any trustee for the charity,
- as the charity trustees may determine (and any reference to any amount received by a charity shall be construed accordingly).
- (9) For the purpose of determining the matters in respect of which any of the powers conferred by section 8 or 9 above may be exercised it shall be assumed that the Commissioners have no functions under this section in relation to accounts to which this subsection applies (with the result that, for example, a relevant institution shall not, in connection with the functions of the Commissioners under this section, be required under section 8(3)(a) above to furnish any statements, or answer any questions or inquiries, with respect to any such accounts held by the institution).
- This subsection applies to accounts which are dormant accounts by virtue of subsection (8)(a) above but would not be such accounts if sub-paragraph (i) of that provision were omitted.
- (10) Subsection (1) above shall not apply to any account held in the name of or on behalf of an exempt charity.