



# Charities Act 2006

## 2006 CHAPTER 50

### PART 2

#### REGULATION OF CHARITIES

### CHAPTER 5

#### ASSISTANCE AND SUPERVISION OF CHARITIES BY COURT AND COMMISSION

##### *Mortgages of charity land*

#### **27 Restrictions on mortgaging**

- (1) Section 38 of the 1993 Act (restrictions on mortgaging) is amended as follows.
- (2) For subsections (2) and (3) substitute—
  - “(2) Subsection (1) above shall not apply to a mortgage of any such land if the charity trustees have, before executing the mortgage, obtained and considered proper advice, given to them in writing, on the relevant matters or matter mentioned in subsection (3) or (3A) below (as the case may be).
  - (3) In the case of a mortgage to secure the repayment of a proposed loan or grant, the relevant matters are—
    - (a) whether the loan or grant is necessary in order for the charity trustees to be able to pursue the particular course of action in connection with which they are seeking the loan or grant;
    - (b) whether the terms of the loan or grant are reasonable having regard to the status of the charity as the prospective recipient of the loan or grant; and
    - (c) the ability of the charity to repay on those terms the sum proposed to be paid by way of loan or grant.

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*Status: Point in time view as at 01/04/2008. This version of this provision has been superseded.*

*Changes to legislation: There are currently no known outstanding effects for the Charities Act 2006, Section 27. (See end of Document for details)*

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- (3A) In the case of a mortgage to secure the discharge of any other proposed obligation, the relevant matter is whether it is reasonable for the charity trustees to undertake to discharge the obligation, having regard to the charity's purposes.
- (3B) Subsection (3) or (as the case may be) subsection (3A) above applies in relation to such a mortgage as is mentioned in that subsection whether the mortgage—
- (a) would only have effect to secure the repayment of the proposed loan or grant or the discharge of the proposed obligation, or
  - (b) would also have effect to secure the repayment of sums paid by way of loan or grant, or the discharge of other obligations undertaken, after the date of its execution.
- (3C) Subsection (3D) below applies where—
- (a) the charity trustees of a charity have executed a mortgage of land held by or in trust for a charity in accordance with subsection (2) above, and
  - (b) the mortgage has effect to secure the repayment of sums paid by way of loan or grant, or the discharge of other obligations undertaken, after the date of its execution.
- (3D) In such a case, the charity trustees must not after that date enter into any transaction involving—
- (a) the payment of any such sums, or
  - (b) the undertaking of any such obligations,
- unless they have, before entering into the transaction, obtained and considered proper advice, given to them in writing, on the matters or matter mentioned in subsection (3)(a) to (c) or (3A) above (as the case may be).”
- (3) In subsection (4) (meaning of “proper advice”)—
- (a) for “subsection (2) above” substitute “ this section ”; and
  - (b) for “the making of the loan in question” substitute “ relation to the loan, grant or other transaction in connection with which his advice is given ”.

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**Commencement Information**

**II** S. 27 in force at 27.2.2007 by S.I. 2007/309, art. 2, Sch.

**Status:**

Point in time view as at 01/04/2008. This version of this provision has been superseded.

**Changes to legislation:**

There are currently no known outstanding effects for the Charities Act 2006, Section 27.