



Charities (Protection and Social Investment) Act 2016

2016 CHAPTER 4

7 Power to direct winding up

- (1) The Charities Act 2011 is amended as follows.
- (2) Before section 85 insert—

“84B Power to direct winding up

- (1) This section applies where the conditions in section 84(1) are met for that section to apply, but the Commission is satisfied—
 - (a) that the charity does not operate, or
 - (b) that its purposes can be promoted more effectively if it ceases to operate,and that exercising the power in subsection (2) is expedient in the public interest.
- (2) The Commission may by order direct—
 - (a) the charity trustees,
 - (b) any trustee for the charity,
 - (c) any officer or employee of the charity, or
 - (d) (if a body corporate) the charity itself,to take any action specified in the order for the purpose of having the charity wound up and dissolved, and any remaining property transferred to a charity with the same purposes.
- (3) An order under this section—
 - (a) may require action to be taken whether or not it would otherwise be within the powers exercisable by the person or persons concerned, or by the charity, in relation to the winding up and dissolution of the charity or to its property, and

Status: This is the original version (as it was originally enacted).

- (b) in particular, may require the person or persons concerned to do anything for the purpose of having the charity wound up and dissolved and its property transferred that could otherwise only be done by the members of the charity or any of them,
but may not require any action to be taken which is prohibited by any Act.
- (4) Before making an order under this section the Commission must give public notice of its intention to make the order, inviting representations to be made to it within a period specified in the notice.
- (5) The Commission—
- (a) must take into account any representations made to it within the period specified in the notice, and
 - (b) may make the order (without further notice) either without modifications or with such modifications as it thinks desirable.
- (6) An order under this section may not be made less than 60 days after the first day on which public notice under subsection (4) is given, unless the Commission is satisfied after complying with subsections (4) and (5) that it is necessary to make the order to prevent or reduce misconduct or mismanagement in the administration of the charity or to protect the property of the charity or property that may come to the charity.
- (7) Anything done by a person or body under the authority of an order under this section is to be treated as properly done in the exercise of the powers mentioned in subsection (3)(a).
- (8) Subsection (7) does not affect any contractual or other rights arising in connection with anything which has been done under the authority of such an order.”
- (3) In section 20 (incidental powers), in subsection (3) before “or 85” insert “, 84B”.
- (4) In section 86(2) (copy of certain orders, and reasons, to be sent to charity) and section 336(2)(a) (enforcement of orders of Commission) insert in the appropriate place—
“section 84B (power to direct winding up),”.
- (5) In Schedule 6 (appeals and applications to Tribunal), insert in the appropriate place—

“Order made by the Commission under section 84B(2) which directs a person to take action specified in the order.	The persons are any person who is directed by the order to take the specified action.	Power to quash the order and (if appropriate) remit the matter to the Commission.
Order made by the Commission under section 84B(2) which directs a person to do anything that could otherwise only be done by the members of the charity or any of them.	The persons are the member or members concerned.	Power to quash the order and (if appropriate) remit the matter to the Commission.”