



Charities Act 2022

2022 CHAPTER 6

PART 1

PURPOSES, POWERS AND GOVERNING DOCUMENTS

Ex gratia payments etc

15 Small ex gratia payments

In Part 18 of the Charities Act 2011 (miscellaneous and supplementary), before the italic heading preceding section 332 insert—

“Limited power to make ex gratia payments

331A Limited power for charity trustees to make ex gratia payments etc

- (1) The charity trustees of a charity may take any action falling within subsection (2)(a) or (b) if the conditions in subsection (3) are met.
- (2) The actions are—
 - (a) making any application of property of the charity, or
 - (b) waiving to any extent, on behalf of the charity, its entitlement to receive any property.
- (3) The conditions are—
 - (a) that the value of the property does not exceed the relevant threshold,
 - (b) that the charity trustees have no power to take the action apart from this section or by virtue of section 106, and
 - (c) that in all the circumstances the charity trustees could reasonably be regarded as being under a moral obligation to take the action.
- (4) The power conferred by this section may be restricted or excluded by the trusts of the charity.

Status: This is the original version (as it was originally enacted).

- (5) In relation to a charity established by (or whose purposes or functions are set out in) legislation, the power conferred by this section is not disapplied only because the legislation concerned prohibits application of property of the charity otherwise than as set out in the legislation.
- (6) For the purposes of subsection (3)(a)—
- (a) if the charity’s gross income in its last financial year did not exceed £25,000, the relevant threshold is £1,000;
 - (b) if the charity’s gross income in its last financial year exceeded £25,000 but not £250,000, the relevant threshold is £2,500;
 - (c) if the charity’s gross income in its last financial year exceeded £250,000 but not £1 million, the relevant threshold is £10,000;
 - (d) if the charity’s gross income in its last financial year exceeded £1 million, the relevant threshold is £20,000.
- (7) In subsection (5) “legislation” means—
- (a) an Act of Parliament;
 - (b) an Act or Measure of Senedd Cymru;
 - (c) subordinate legislation (within the meaning of the Interpretation Act 1978) made under an Act of Parliament;
 - (d) an instrument made under an Act or Measure of Senedd Cymru; or
 - (e) a Measure of the Church Assembly or of the General Synod of the Church of England.

331B Power to alter sums specified in s.331A

The Secretary of State may by regulations amend section 331A(6) (relevant income thresholds) by substituting a different sum for any sum for the time being specified in that provision.”

16 Power of Commission etc to authorise ex gratia payments etc

In section 106 of the Charities Act 2011 (power of Commission to authorise ex gratia payments etc)—

- (a) for subsection (1) substitute—
 - “(1) The Commission, the Attorney General or the court may authorise the charity trustees of a charity to take any action falling within subsection (2)(a) or (b) in a case where the charity trustees—
 - (a) (apart from by virtue of this section or section 331A) have no power to take the action, but
 - (b) in all the circumstances could reasonably be regarded as being under a moral obligation to take it.
 - (1A) In relation to a charity established by (or whose purposes or functions are set out in) legislation, subsection (1) is not disapplied only because the legislation concerned prohibits application of property of the charity otherwise than as set out in the legislation.
 - (1B) In subsection (1A) “legislation” means—
 - (a) an Act of Parliament;

- (b) an Act or Measure of Senedd Cymru;
 - (c) subordinate legislation (within the meaning of the Interpretation Act 1978) made under an Act of Parliament;
 - (d) an instrument made under an Act or Measure of Senedd Cymru; or
 - (e) a Measure of the Church Assembly or of the General Synod of the Church of England.”;
- (b) in subsection (3), after second “Commission” insert “by order and”.