



# Charities Act 2022

## 2022 CHAPTER 6

### PART 1 **E+W**

#### PURPOSES, POWERS AND GOVERNING DOCUMENTS

##### *Permanent endowment*

#### **10** Amendment of powers to release restrictions on spending capital **E+W**

- (1) The Charities Act 2011 is amended as follows.
- (2) In section 281 (power of unincorporated charities to spend capital: general)—
- (a) in subsection (1), omit “which is not a company or other body corporate”;
  - (b) after subsection (6) insert—
    - “(6A) If—
      - (a) an amount falls to be repaid to or paid into the fund by the charity trustees because the charity trustees have borrowed an amount from the fund,
      - (b) the amount when repaid or paid would fall to be added to the fund and to be subject to the same restrictions as to expenditure as apply to the other capital in the fund, and
      - (c) the condition in subsection (6B) is met in relation to the charity,the charity trustees may resolve for the purposes of this section that the obligation to repay or pay the amount ought to cease to have effect either wholly or in part.
  - (6B) The condition 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 obligation ceased to have effect to that extent.
  - (6C) Once the charity trustees have passed a resolution under subsection (6A), the obligation ceases to have effect to that extent.

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*Changes to legislation: There are currently no known outstanding effects for the Charities Act 2022, Section 10. (See end of Document for details)*

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(6D) Where a resolution passed under subsection (6A) relates to all outstanding obligations to repay amounts to or pay amounts into the fund in respect of the amount borrowed from the fund, any other obligation which falls to be carried out by the charity trustees because the charity trustees have borrowed that amount from the fund also ceases to have effect once the resolution has been passed.”

- (3) In section 282 (resolution to spend larger fund given for particular purpose)—
- (a) in the heading, omit “given for particular purpose”;
  - (b) in subsection (1), for the words from “which is not” to the end of the subsection substitute “if—
    - (a) in a case where subsection (1A) applies, the adjusted market value of the fund exceeds £25,000, or
    - (b) in any other case, the market value of the fund exceeds that sum.”;
  - (c) after subsection (1) insert—
 

“(1A) This subsection applies where the charity trustees of the charity have borrowed from the fund and all or part of that borrowing is outstanding.”;
  - (d) after subsection (3) insert—
 

“(3A) If—

    - (a) an amount falls to be repaid to or paid into the fund by the charity trustees because the charity trustees have borrowed an amount from the fund,
    - (b) the amount when repaid or paid would fall to be added to the fund and to be subject to the same restrictions as to expenditure as apply to the other capital in the fund, and
    - (c) the condition in subsection (3B) is met in relation to the charity,

the charity trustees may resolve for the purposes of this section that the obligation to repay or pay the amount ought to cease to have effect either wholly or in part.

(3B) The condition 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 obligation ceased to have effect to that extent.”;
  - (e) in subsection (4)(a), after “(2)” insert “or (3A)”;
  - (f) in subsection (5), at the appropriate place insert—
 

““adjusted market value”, in relation to an endowment fund, means the current market value of the fund as determined on a valuation carried out for the purpose—

    - (a) reduced by the value, if any, of the benefit of the debt owed by the charity trustees representing outstanding borrowing from the fund on the date of that valuation, and
    - (b) increased by the amount of the charity trustees’ outstanding borrowing from the fund on that date;”;

““outstanding borrowing” means outstanding borrowing by virtue of section 284A or otherwise.”;
    - (g) omit subsection (6).

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**Changes to legislation:** There are currently no known outstanding effects for the Charities Act 2022, Section 10. (See end of Document for details)

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- (4) In section 284 (when and how a section 282 resolution takes effect)—
- (a) in subsection (5), after “282(2)” insert “or (as the case may be) the obligation to repay or pay the amount to the fund ceases to have effect, by virtue of this section, to the extent resolved by the trustees under section 282(3A)”;
  - (b) after subsection (5) insert—
    - “(6) Where the resolution passed under section 282(3A) relates to all outstanding obligations to repay amounts to or pay amounts into the fund in respect of the amount borrowed from the fund, any other obligation which falls to be carried out by the charity trustees because the charity trustees have borrowed that amount from the fund ceases to have effect when the obligations to repay or pay amounts cease to have effect.”

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**Commencement Information**

- I1** S. 10 not in force at Royal Assent, see [s. 41\(4\)](#)
- I2** [S. 10](#) in force at 14.6.2023 by [S.I. 2023/643](#), [Sch. para. 2](#) (with [reg. 4](#))

**Changes to legislation:**

There are currently no known outstanding effects for the Charities Act 2022, Section 10.