



Charities Act 1960

1960 CHAPTER 58

PART I

THE CENTRAL AUTHORITIES

1 The Charity Commissioners

- (1) There shall continue to be a body of Charity Commissioners for England and Wales, and they shall have such functions as are conferred on them by this Act in addition to any functions under any other enactment not repealed by this Act.
- (2) The provisions of the First Schedule to this Act shall have effect with respect to the constitution and proceedings of the Commissioners and other matters relating to the Commissioners and their officers and servants.
- (3) The Commissioners shall (without prejudice to their specific powers and duties under other enactments) have the general function of promoting the effective use of charitable resources by encouraging the development of better methods of administration, by giving charity trustees information or advice on any matter affecting the charity and by investigating and checking abuses.
- (4) It shall be the general object of the Commissioners so to act in the case of any charity (unless it is a matter of altering its purposes) as best to promote and make effective the work of the charity in meeting the needs designated by its trusts; but the Commissioners shall not themselves have power to act in the administration of a charity.
- (5) The Commissioners shall, as soon as possible after the end of every year, make to the Secretary of State a report on their operations during that year, and he shall lay a copy of the report before each House of Parliament.

2 The Minister of Education

- (1) Subject to the provisions of this Act, any functions conferred on the Commissioners by or under this or any other Act (including functions belonging at the passing of this

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Act to the Minister of Education by virtue of any transfer previously made) shall be functions equally of the Commissioners and of the Minister of Education, and anything which is to be or may be done under or for the purposes of the trusts of a charity by virtue of any mention therein of the Commissioners or of the Minister (or by virtue of any reference therein which has effect as if they or he were mentioned) shall be equally effective if done by or to either; and references to the Commissioners or to the Minister shall be construed as extending to each of them so far as may be necessary to give full effect to this subsection.

- (2) Her Majesty may by Order in Council give, vary and revoke directions for determining or making known the cases in which the Commissioners should act, and those in which the Minister of Education should act, where they have concurrent powers by virtue of this section ; and, subject to any such directions, it shall be for the Minister to act in relation to charities whose purposes are wholly or mainly purposes of concern to him in connection with his general functions relating to education, and for the Commissioners to act in other cases.

Any Order in Council under this subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.

- (3) Where a person has occasion to make any application, give any notice or do any other thing which may be made, given or done equally to the Commissioners or to the Minister of Education, he shall take such steps as are reasonable to secure that it is made, given or done to whichever should act in the matter; but nothing done to or by the Commissioners or the Minister shall be ineffective by reason of this subsection or of subsection (2) above.
- (4) The Minister of Education shall continue to discharge the functions conferred by the Endowed Schools Act, 1869, and subsequent Acts on the commissioners established by that Act or on any person as successor to those commissioners, and to settle schemes under that Act for the approval of Her Majesty in Council and submit them for such approval, after taking the steps required by those Acts of those commissioners before submission of a scheme to the Committee of Council on Education and the steps required of that Committee after approval of a scheme by them; and officers of the Minister shall discharge accordingly any functions conferred on officers of those commissioners (including their assistant commissioners) or on officers of any person as successor to those commissioners.
- (5) No provision of this Act conferring on the Secretary of State any power in relation to the Commissioners, or requiring them to make a report to him, shall apply in relation to the Minister of Education, but the Minister shall deal with his operations under this Act or under the Endowed Schools Acts, 1869 to 1948, in his report made to Parliament under section five of the Education Act, 1944.

3 The official custodian for charities

- (1) There shall be an " official custodian for charities ", whose function it shall be to act as trustee for charities in the cases provided for by this Act; and the official custodian for charities shall be by that name a corporation sole having perpetual succession and using an official seal, which shall be officially and judicially noticed.
- (2) Such officer of the Commissioners as they may from time to time designate shall be the official custodian for charities.

- (3) The official custodian for charities shall perform his duties in accordance with such general or special directions as may be given him by the Commissioners, and his expenses (except those re-imbursed to him or recovered by him as trustee for any charity) shall be defrayed by the Commissioners.
- (4) Anything which is required to or may be done by, to or before the official custodian for charities may be done by, to or before any officer of the Commissioners generally or specially authorised by them to act for him during a vacancy in his office or otherwise.
- (5) The official custodian for charities shall not be liable as trustee for any charity in respect of any loss or of the misapplication of any property, unless it is occasioned by or through the wilful neglect or default of the custodian or person acting for him; but the Consolidated Fund shall be liable to make good to a charity any sums for which the custodian may be liable by reason of any such neglect or default.
- (6) The official custodian for charities shall keep such books of account and such records in relation thereto as may be directed by the Treasury, and shall prepare accounts in such form, in such manner and at such times as may be so directed.
- (7) The accounts so prepared shall be examined and certified by the Comptroller and Auditor General, and the report to be made by the Commissioners to the Secretary of State for any year shall include a copy of the accounts so prepared for any period ending in or with the year, and of the certificate and report of the Comptroller and Auditor General with respect to those accounts.
- (8) References in this section to the Commissioners shall not extend to the Minister of Education, nor shall subsection (1) of section two of this Act confer on that Minister any functions in relation to the official custodian for charities or to the vesting in or transfer to him of any property.

PART II

PROVISIONS FOR INQUIRING INTO, MAKING KNOWN AND CO-ORDINATING CHARITABLE ACTIVITIES

Registration of charities

4 Register of charities

- (1) There shall be a register of charities which shall be established and maintained by the Commissioners and in which there shall be entered such particulars as the Commissioners may from time to time determine of any charity there registered.
- (2) There shall be entered in the register every charity not excepted by subsection (4) below ; and a charity so excepted may be entered in the register at the request of the charity, but (whether or not it was excepted at the time of registration) may at any time, and shall at the request of the charity, be removed from the register.
- (3) Any institution which no longer appears to the Commissioners to be a charity shall be removed from the register, with effect, where the removal is due to any change in its purposes or trusts, from the date of that change; and there shall also be removed from the register any charity which ceases to exist or does not operate.

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- (4) The following charities are not required to be registered, that is to say.—
- (a) any charity comprised in the Second Schedule to this Act (in this Act referred to as an " exempt charity ");
 - (b) any charity which is excepted by order or regulations;
 - (c) any charity having neither any permanent endowment, nor any income from property amounting to more than fifteen pounds a year, nor the use and occupation of any land;
- and no charity is required to be registered, in respect of any registered place of worship.
- (5) With any application for a charity to be registered there shall be supplied to the Commissioners copies of its trusts (or, if they are not set out in any extant document, particulars of them), and such other documents or information as may be prescribed or as the Commissioners may require for the purpose of the application.
- (6) It shall be the duty—
- (a) of the charity trustees of any charity which is not registered nor excepted from registration to apply for it to be registered, and to supply the documents and information required by subsection (5) above; and
 - (b) of the charity trustees (or last charity trustees) of any institution which is for the time being registered to notify the Commissioners if it ceases to exist, or if there is any change in its trusts, or in the particulars of it entered in the register, and to supply to the Commissioners particulars of any such change and copies of any new trusts or alterations of the trusts ;
- and any person who makes default in carrying out any of the duties imposed by this subsection may be required by order of the Commissioners to make good that default.
- (7) The register (including the entries cancelled when institutions are removed from the register) shall be open to public inspection at all reasonable times; and copies (or particulars) of the trusts of any registered charity as supplied to the Commissioners under this section shall, so long as it remains on the register, be kept by them and be open to public inspection at all reasonable times, except in so far as regulations otherwise provide.
- (8) Nothing in the foregoing subsections shall require any person to supply the Commissioners with copies of schemes for the administration of a charity made otherwise than by the court, or to notify the Commissioners of any change made with respect to a registered charity by such a scheme, or require a person, if he refers the Commissioners to a document or copy already in the possession of the Commissioners or of the Minister of Education, to supply a further copy of the document; but where by virtue of this subsection a copy of any document need not be supplied to the Commissioners, a copy of it, if it relates to a registered charity, shall be open to inspection under subsection (7) above as if supplied to the Commissioners under this section.
- (9) In this section " registered place of worship " means any land or building falling within section nine of the Places of Worship Registration Act, 1855, as amended by this Act (that is to say, the land and buildings which, if this Act had not been passed, would by virtue of that section as amended by subsequent enactments be partially exempted from the operation of the Charitable Trusts Act, 1853), and for the purposes of this subsection " building " includes part of a building.
- (10) This section shall not apply to charities taking effect before the commencement of this Act until such date as the Secretary of State or, as regards any part of the register to be

maintained by him, the Minister of Education may appoint by order made by statutory instrument; and different dates may be appointed for different cases or classes of case.

5 Effect of, and claims and objections to, registration

- (1) An institution shall for all purposes other than rectification of the register be conclusively presumed to be or have been a charity at any time when it is or was on the register of charities.
- (2) Any person who is or may be affected by the registration of an institution as a charity may, on the ground that it is not a charity, object to its being entered by the Commissioners in the register, or apply to them for it to be removed from the register; and provision may be made by regulations as to the manner in which any such objection or application is to be made, prosecuted or dealt with.
- (3) An appeal against any decision of the Commissioners to enter or not to enter an institution in the register of charities, or to remove or not to remove an institution from the register, may be brought in the High Court by the Attorney General, or by the persons who are or claim to be the charity trustees of the institution, or by any person whose objection or application under subsection (2) above is disallowed by the decision.
- (4) If there is an appeal to the High Court against any decision of the Commissioners to enter an institution in the register, or not to remove an institution from the register, then until the Commissioners are satisfied whether the decision of the Commissioners is or is not to stand, the entry in the register shall be maintained, but shall be in suspense and marked to indicate that it is in suspense; and for the purposes of subsection (1) above an institution shall be deemed not to be on the register during any period when the entry relating to it is in suspense under this subsection.
- (5) Any question affecting the registration or removal from the register of an institution may, notwithstanding that it has been determined by a decision on appeal under subsection (3) above, be considered afresh by the Commissioners and shall not be concluded by that decision, if it appears to the Commissioners that there has been a change of circumstances or that the decision is inconsistent with a later judicial decision, whether given on such an appeal or not.

Powers of Commissioners and Minister to obtain information, etc.

6 General power to institute inquiries

- (1) The Commissioners may from time to time institute inquiries with regard to charities or a particular charity or class of charities, either generally or for particular purposes:
Provided that no such inquiry shall extend to any exempt charity.
- (2) The Commissioners may either conduct such an inquiry themselves or appoint a person to conduct it and make a report to them.
- (3) For the purposes of any such inquiry the Commissioners may by order, and a person appointed by them to conduct the inquiry may by precept, require any person (subject to the provisions of this section)—
 - (a) to furnish accounts and statements in writing with respect to any matter in question at the inquiry, being a matter on which he has or can reasonably

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obtain information, or to return answers in writing to any questions or inquiries addressed to him on any such matter, and to verify any such accounts, statements or answers by statutory declaration;

- (b) to attend at a specified time and place and give evidence or produce documents in his custody or control which relate to any matter in question at the inquiry.
- (4) For the purposes of any such inquiry evidence may be taken on oath, and the person conducting the inquiry may for that purpose administer oaths, or may instead of administering an oath require the person examined to make and subscribe a declaration of the truth of the matters about which he is examined.
 - (5) The Commissioners may pay to any person the necessary expenses of his attendance to give evidence or produce documents for the purpose of an inquiry under this section, and a person shall not be required in obedience to an order or precept under paragraph (b) of subsection (3) above to go more than ten miles from his place of residence unless those expenses are paid or tendered to him.
 - (6) No person claiming to hold any property adversely to a charity, or freed or discharged from any charitable trust or charge, shall be required under this section to furnish any information or produce any document relating to that property or any trust or charge alleged to affect it.
 - (7) Where the Commissioners propose to take any action in consequence of an inquiry under this section, they may publish the report of the person conducting the inquiry, or such other statement of the results of the inquiry as they think fit, in any manner calculated in their opinion to bring it to the attention of persons who may wish to make representations to them about the action to be taken.
 - (8) The council of a county, county borough, county district or borough included in a rural district and, in London, the Common Council of the City of London and the council of a metropolitan borough may contribute to the expenses of the Commissioners in connection with inquiries under this section into local charities in the council's area.
 - (9) If any person wilfully alters, suppresses, conceals or destroys any document which he may be required to produce under this section, he shall be liable on summary conviction to a fine not exceeding one hundred pounds, or to imprisonment for a term not exceeding six months, or to both.

7 Power to call for documents, and search records

- (1) The Commissioners may by order require any person having in his possession or control any books, records, deeds or papers relating to a charity to furnish them with copies of or extracts from any of those documents or, unless the document forms part of the records or other documents of a court or of a public or local authority, require him to transmit the document itself to them for their inspection.
- (2) Any officer of the Commissioners, if so authorised by them, shall be entitled without payment to inspect and take copies of or extracts from the records or other documents of any court, or of any public registry or office of records, for any purpose connected with the discharge of the functions of the Commissioners or of the official custodian for charities.
- (3) The Commissioners shall be entitled without payment to keep any copy or extract furnished to them under subsection (1) above; and where a document transmitted to them under that subsection for their inspection relates only to one or more charities

and is not held by any person entitled as trustee or otherwise to the custody of it, the Commissioners may keep it or may deliver it to the charity trustees or to any other person who may be so entitled.

- (4) No person claiming to hold any property adversely to a charity, or freed or discharged from any charitable trust or charge, shall be required under subsection (1) above to transmit to the Commissioners any document relating to that property or any trust or charge alleged to affect it, or to furnish any copy of or extract from any such document.
- (5) No person properly having the custody of documents relating only to an exempt charity shall be required under subsection (1) above to transmit to the Commissioners any of those documents, or to furnish any copy of or extract from any of them.

8 Receipt and audit of accounts of charities

- (1) Statements of account giving the prescribed information about the affairs of a charity shall be transmitted to the Commissioners by the charity trustees on request; and, in the case of a charity having a permanent endowment, such a statement relating to the permanent endowment shall be transmitted yearly without any request, unless the charity is excepted by order or regulations.
- (2) Any statement of account transmitted to the Commissioners in pursuance of subsection (1) above shall be kept by them for such period as they think fit; and during that period it shall be open to public inspection at all reasonable times.
- (3) The Commissioners may by order require that the condition and accounts of a charity for such period as they think fit shall be investigated and audited by an auditor appointed by them, being a member of one of the following bodies:—
 - The Institute of Chartered Accountants in England and Wales;
 - The Society of Incorporated Accountants ;
 - The Institute of Chartered Accountants of Scotland;
 - The Association of Certified and Corporate Accountants;
 - The Institute of Chartered Accountants in Ireland;
 - Any other body of accountants established in the United Kingdom and for the time being recognised for the purposes of paragraph (a) of subsection (1) of section one hundred and sixty-one of the Companies Act, 1948, by the Board of Trade.
- (4) An auditor acting under subsection (3) above—
 - (a) shall have a right of access to all books, accounts and documents relating to the charity which are in the possession or control of the charity trustees or to which the charity trustees have access;
 - (b) shall be entitled to require from any charity trustee, past or present, and from any past or present officer or servant of the charity such information and explanation as he thinks necessary for the performance of his duties;
 - (c) shall at the conclusion or during the progress of the audit make such reports to the Commissioners about the audit or about the accounts or affairs of the charity as he thinks the case requires, and shall send a copy of any such report to the charity trustees.
- (5) The expenses of any audit under subsection (3) above, including the remuneration of the auditor, shall be paid by the Commissioners.

- (6) If any person—
- (a) fails to transmit to the Commissioners any statement of account required by subsection (1) above; or
 - (b) fails to afford an auditor any facility to which he is entitled under subsection (4) above ;
- the Commissioners may by order give to that person or to the charity trustees for the time being such directions as the Commissioners think appropriate for securing that the default is made good.

- (7) This section shall not apply to an exempt charity.

9 Exchange of information, etc.

- (1) The Commissioners may furnish the Commissioners of Inland Revenue and other government departments and local authorities, and the Commissioners of Inland Revenue and other government departments and local authorities may furnish the Commissioners, with the names and addresses of institutions which have for any purpose been treated by the person furnishing the information as established for charitable purposes or, in order to give or obtain assistance in determining whether an institution ought to be treated as so established, with information as to the purposes of the institution and the trusts under which it is established or regulated.
- (2) The Commissioners shall supply any person, on payment of such fee as they think reasonable, with copies of or extracts from any document in their possession which is for the time being open to public inspection under this Act.

Powers of local authorities and of charity trustees

10 Local authority's index of local charities

- (1) The council of a county or of a borough may maintain an index of local charities or of any class of local charities in the council's area, and may publish information contained in the index, or summaries or extracts taken from it
- (2) A council proposing to establish or maintaining under this section an index of local charities or of any class of local charities shall, on request, be supplied by the Commissioners free of charge with copies of such entries in the register of charities as are relevant to the index or with particulars of any changes in the entries of which copies have been supplied before ; and the Commissioners may arrange that they will without further request supply a council with particulars of any such changes.
- (3) An index maintained under this section shall be open to public inspection at all reasonable times.
- (4) A council may employ any voluntary organisation, and the council of a county may employ the council of any county district in the county, or the divisional executive (within the meaning of Part III of the First Schedule to the Education Act, 1944) for any part of the county, as their agent for the purposes of this section, on such terms and within such limits (if any) or in such cases as they may agree; and for this purpose " voluntary organisation " means any body of which the activities are carried on otherwise than for profit, not being a public or local authority.

(5) A joint board discharging any of a council's functions shall have the same powers under this section as the council as respects local charities in the council's area which are established for purposes similar or complementary to any services provided by the board.

(6) The provisions of this section may be adopted in any urban district by resolution of the council, and shall thereupon (subject to any further resolution of the council revoking the adoption) have effect in relation to the district as if it were a borough.

A council passing any such resolution shall transmit copies of it to the Commissioners and to the Minister of Education, and to the council of the county in which the urban district is situated.

(7) In this section the expression "borough" shall extend to a borough included in a rural district, and in the application of this section to London for any reference to a borough or to a county district there shall be substituted a reference to a metropolitan borough, but the Common Council of the City of London shall have the like powers under this section as the council of a metropolitan borough.

11 Reviews of local charities by local authority

(1) The council of a county or of a borough may, subject to the following provisions of this section, initiate, and carry out in co-operation with the charity trustees, a review of the working of any group of local charities with the same or similar purposes in the council's area, and may make to the Commissioners such report on the review and such recommendations arising from it as the council after consultation with the trustees think fit.

(2) A council having power to initiate reviews under this section may co-operate with other persons in any review by them of the working of local charities in the council's area (with or without other charities), or may join with other persons in initiating and carrying out such a review.

(3) No review initiated by a council under this section shall extend to any charity without the consent of the charity trustees, nor to any ecclesiastical charity.

(4) No review initiated under this section by the council of a borough shall extend to the working in any county of a local charity established for purposes similar or complementary to any services provided by county councils, unless the review so extends with the consent of the council of that county or the council initiating it provides those services in its area under delegated powers.

(5) Subsections (4) to (7) of the last foregoing section shall apply for the purposes of this section as they apply for the purposes of that.

12 Co-operation between charities, and between charities and local authorities

(1) Any local council and any joint board discharging any functions of such a council may make, with any charity established for purposes similar or complementary to services provided by the council or board, arrangements for co-ordinating the activities of the council or board and those of the charity in the interests of persons who may benefit from those services or from the charity, and shall be at liberty to disclose to any such charity in the interests of those persons any information obtained in connection with

the services provided by the council or board, whether or not arrangements have been made with the charity under this subsection.

In this subsection " local council" means the council of a county, of a county borough, of a metropolitan borough, of a county district, of a borough included in a rural district or of a rural parish, and includes also the Common Council of the City of London and the Council of the Isles of Scilly.

- (2) Charity trustees shall, notwithstanding anything in the trusts of the charity, have power by virtue of this subsection to do all or any of the following things, where it appears to them likely to promote or make more effective the work of the charity, and may defray the expense of so doing out of any income or moneys applicable as income of the charity, that is to say.—
- (a) they may co-operate in any review undertaken under the last foregoing section or otherwise of the working of charities or any class of charities;
 - (b) they may make arrangements with an authority acting under subsection (1) above or with another charity for co-ordinating their activities and those of the authority or of the other charity ;
 - (c) they may publish information of other charities with a view to bringing them to the notice of those for whose benefit they are intended.

PART III

APPLICATION OF PROPERTY CY-PRÈS, AND ASSISTANCE AND SUPERVISION OF CHARITIES BY COURT AND CENTRAL AUTHORITIES

Extended powers of court, and variation of charters

13 Occasions for applying property cy-près

- (1) Subject to subsection (2) below, the circumstances in which the original purposes of a charitable gift can be altered to allow the property given or part of it to be applied cy-près shall be as follows:—
- (a) where the original purposes, in whole or in part.—
 - (i) have been as far as may be fulfilled ; or
 - (ii) cannot be carried out, or not according to the directions given and to the spirit of the gift; or
 - (b) where the original purposes provide a use for part only of the property available by virtue of the gift; or
 - (c) where the property available by virtue of the gift and other property applicable for similar purposes can be more effectively used in conjunction, and to that end can suitably, regard being had to the spirit of the gift, be made applicable to common purposes; or
 - (d) where the original purposes were laid down by reference to an area which then was but has since ceased to be a unit for some other purpose, or by reference to a class of persons or to an area which has for any reason since ceased to be suitable, regard being had to the spirit of the gift, or to be practical in administering the gift; or
 - (e) where the original purposes, in whole or in part, have, since they were laid down.—

- (i) been adequately provided for by other means; or
 - (ii) ceased, as being useless or harmful to the community or for other reasons, to be in law charitable ; or
 - (iii) ceased in any other way to provide a suitable and effective method of using the property available by virtue of the gift, regard being had to the spirit of the gift.
- (2) Subsection (1) above shall not affect the conditions which must be satisfied in order that property given for charitable purposes may be applied cy-près, except in so far as those conditions require a failure of the original purposes.
- (3) References in the foregoing subsections to the original purposes of a gift shall be construed, where the application of the property given has been altered or regulated by a scheme or otherwise, as referring to the purposes for which the property is for the time being applicable.
- (4) Without prejudice to the power to make schemes in circumstances falling within subsection (1) above, the court may by scheme made under the court's jurisdiction with respect to charities, in any case where the purposes for which the property is held are laid down by reference to any such area as is mentioned in the first column in the Third Schedule to this Act, provide for enlarging the area to any such area as is mentioned in the second column in the same entry in that Schedule.
- (5) It is hereby declared that a trust for charitable purposes places a trustee under a duty, where the case permits and requires the property or some part of it to be applied cy-près, to secure its effective use for charity by taking steps to enable it to be so applied.

14 Application cy-près of gifts of donors unknown or disclaiming

- (1) Property given for specific charitable purposes which fail shall be applicable cy-près as if given for charitable purposes generally, where it belongs—
- (a) to a donor who, after such advertisements and inquiries as are reasonable, cannot be identified or cannot be found; or
 - (b) to a donor who has executed a written disclaimer of his right to have the property returned.
- (2) For the purposes of this section property shall be conclusively presumed (without any advertisement or inquiry) to belong to donors who cannot be identified, in so far as it consists—
- (a) of the proceeds of cash collections made by means of collecting boxes or by other means not adapted for distinguishing one gift from another; or
 - (b) of the proceeds of any lottery, competition, entertainment, sale or similar money-raising activity, after allowing for property given to provide prizes or articles for sale or otherwise to enable the activity to be undertaken.
- (3) The court may by order direct that property not falling within subsection (2) above shall for the purposes of this section be treated (without any advertisement or inquiry) as belonging to donors who cannot be identified, where it appears to the court either—
- (a) that it would be unreasonable, having regard to the amounts likely to be returned to the donors, to incur expense with a view to returning the property; or

- (b) that it would be unreasonable, having regard to the nature, circumstances and amount of the gifts, and to the lapse of time since the gifts were made, for the donors to expect the property to be returned.
- (4) Where property is applied cy-près by virtue of this section, the donor shall be deemed to have parted with all his interest at the time when the gift was made; but where property is so applied as belonging to donors who cannot be identified or cannot be found, and is not so applied by virtue of subsection (2) or (3) above.—
 - (a) the scheme shall specify the total amount of that property; and
 - (b) the donor of any part of that amount shall be entitled, if he makes a claim not later than twelve months after the date on which the scheme is made, to recover from the charity for which the property is applied a sum equal to that part, less any expenses properly incurred by the charity trustees after that date in connection with claims relating to his gift; and
 - (c) the scheme may include directions as to the provision to be made for meeting any such claim.
 - (5) For the purposes of this section, charitable purposes shall be deemed to "fail" where any difficulty in applying property to those purposes makes that property or the part not applicable cy-près available to be returned to the donors.
 - (6) In this section, except in so far as the context otherwise requires, references to a donor include persons claiming through or under the original donor, and references to property given include the property for the time being representing the property originally given or property derived from it.
 - (7) This section shall apply to property given for charitable purposes, notwithstanding that it was so given before the commencement of this Act.

15 Charities governed by charter, or by or under statute

- (1) Where a Royal charter establishing or regulating a body corporate is amendable by the grant and acceptance of a further charter, a scheme relating to the body corporate or to the administration of property held by the body (including a scheme for the cy-près application of any such property) may be made by the court under the court's jurisdiction with respect to charities notwithstanding that the scheme cannot take effect without the alteration of the charter, but shall be so framed that the scheme, or such part of it as cannot take effect without the alteration of the charter, does not purport to come into operation unless or until Her Majesty thinks fit to amend the charter in such manner as will permit the scheme or that part of it to have effect.
- (2) Where under the court's jurisdiction with respect to charities or the corresponding jurisdiction of a court in Northern Ireland, or under powers conferred by this Act or by any enactment relating to charities of the Parliament of Northern Ireland, a scheme is made with respect to a body corporate, and it appears to Her Majesty expedient, having regard to the scheme, to amend any Royal charter relating to that body, Her Majesty may, on the application of that body, amend the charter accordingly by Order in Council in any way in which the charter could be amended by the grant and acceptance of a further charter; and any such Order in Council may be revoked or varied in like manner as the charter it amends.
- (3) The jurisdiction of the court with respect to charities shall not be excluded or restricted in the case of a charity of any description mentioned in the Fourth Schedule to this Act by the operation of the enactments or instruments there mentioned in relation to that

description, and a scheme established for any such charity may modify or supersede in relation to it the provision made by any such enactment or instrument as if made by a scheme of the court, and may also make any such provision as is authorised by that Schedule.

Property vested in official custodian

16 Entrusting charity property to official custodian, and determination of trust

- (1) The court may by order vest any property held by or in trust for a charity in the official custodian for charities, or authorise or require the persons in whom any such property is vested to transfer it to him, or appoint any person to transfer any such property to him.
- (2) Where any personal property is held by or in trust for a charity, or is comprised in any testamentary gift to a charity, the property may with the agreement of the official custodian for charities be transferred to him; and his receipt for any such property comprised in a testamentary gift to a charity shall be a complete discharge of the personal representative.

In this subsection, the expression "personal property" shall extend to any real security, but shall not include any interest in land otherwise than by way of security only.

- (3) Where property is vested in the official custodian for charities in trust for a charity, the court may make an order discharging him from the trusteeship as respects all or any of that property.
- (4) Where the official custodian for charities is discharged from his trusteeship of any property, or the trusts on which he holds any property come to an end, the court may make such vesting orders and give such directions as may seem to the court to be necessary or expedient in consequence.
- (5) No person shall be liable for any loss occasioned by his acting in conformity with an order under this section or by his giving effect to anything done in pursuance of such an order, or be excused from so doing by reason of the order having been in any respect improperly obtained; and no vesting or transfer of any property in pursuance of this section shall operate as a breach of a covenant or condition against alienation or give rise to a forfeiture.

17 Supplementary provisions as to property vested in official custodian

- (1) Subject to the provisions of this Act, where property is vested in the official custodian for charities in trust for a charity, he shall not exercise any powers of management, but he shall as trustee of any property have all the same powers, duties and liabilities, and be entitled to the same rights and immunities, and be subject to the control and orders of the court, as a corporation appointed custodian trustee under section four of the Public Trustee Act, 1906, except that he shall have no power to charge fees.
- (2) Where any land or interest in land is vested in the official custodian for charities in trust for a charity, the charity trustees shall have power in his name and on his behalf to execute and do all assurances and things which they could properly require him to execute or do—
 - (a) for carrying out any transaction affecting the land or interest which is authorised by order of the court or of the Commissioners; or

- (b) for granting any lease for a term ending not more than twenty-two years after it is granted, not being a lease granted wholly or partly in consideration of a fine, or for accepting the surrender of a lease.
- (3) Where any land or interest in land is vested in the official custodian for charities in trust for a charity, the charity trustees shall have the like power to make obligations entered into by them binding on the land or interest as if it were vested in them; and any covenant, agreement or condition which is enforceable by or against the custodian by reason of the land or interest being vested in him shall be enforceable by or against the charity trustees as if the land or interest were vested in them.
- (4) In relation to a corporate charity, subsections (2) and (3) above shall apply with the substitution of references to the charity for references to the charity trustees.
- (5) Subsections (2) and (3) above shall not authorise any charity trustees or charity to impose any personal liability on the official custodian for charities.
- (6) Where the official custodian for charities is entitled as trustee for a charity to the custody of securities or documents of title relating to the trust property, he may permit them to be in the possession or under the control of the charity trustees, without thereby incurring any liability.

Powers of Commissioners and Minister to make schemes, etc.

18 Concurrent jurisdiction with High Court for certain purposes

- (1) Subject to the provisions of this Act, the Commissioners may by order exercise the same jurisdiction and powers as are exercisable by the High Court in charity proceedings for the following purposes, that is to say:—
 - (a) establishing a scheme for the administration of a charity;
 - (b) appointing, discharging or removing a charity trustee or trustee for a charity, or removing an officer or servant;
 - (c) vesting or transferring property, or requiring or entitling any person to call for or make any transfer of property or any payment.
- (2) Where the court directs a scheme for the administration of a charity to be established, the court may by order refer the matter to the Commissioners for them to prepare or settle a scheme in accordance with such directions (if any) as the court sees fit to give, and any such order may provide for the scheme to be put into effect by order of the Commissioners as if prepared under subsection (1) above and without any further order of the court.
- (3) The Commissioners shall not have jurisdiction under this section to try or determine the title at law or in equity to any property as between a charity or trustee for a charity and a person holding or claiming the property or an interest in it adversely to the charity, or to try or determine any question as to the existence or extent of any charge or trust.
- (4) Subject to the following subsections, the Commissioners shall not exercise their jurisdiction under this section as respects any charity, except—
 - (a) on the application of the charity ; or
 - (b) on an order of the court under subsection (2) above.

- (5) In the case of a charity not having any income from property amounting to more than fifty pounds a year, and not being an exempt charity, the Commissioners may exercise their jurisdiction under this section on the application—
- (a) of the Attorney General; or
 - (b) of any one or more of the charity trustees, or of any person interested in the charity, or of any two or more inhabitants of the area of the charity, if it is a local charity.

- (6) Where in the case of a charity, other than an exempt charity, the Commissioners are satisfied that the charity trustees ought in the interests of the charity to apply for a scheme, but have unreasonably refused or neglected to do so, the Commissioners may apply to the Secretary of State for him to refer the case to them with a view to a scheme, and if, after giving the charity trustees an opportunity to make representations to him, the Secretary of State does so, the Commissioners may proceed accordingly without the application required by subsection (4) or (5) above:

Provided that the Commissioners shall not have power in a case where they act by virtue of this subsection to alter the purposes of a charity, unless forty years have elapsed from the date of its foundation.

- (7) The Commissioners may on the application of any charity trustee or trustee for a charity exercise their jurisdiction under this section for the purpose of discharging him from his trusteeship.
- (8) Before exercising any jurisdiction under this section otherwise than on an order of the court, the Commissioners shall give notice of their intention to do so to each of the charity trustees, except any that cannot be found or has no known address in the United Kingdom or who is party or privy to an application for the exercise of the jurisdiction; and any such notice may be given by post and, if given by post, may be addressed to the recipient's last known address in the United Kingdom.
- (9) The Commissioners shall not exercise their jurisdiction under this section in any case (not referred to them by order of the court) which, by reason of its contentious character, or of any special question of law or of fact which it may involve, or for other reasons, the Commissioners may consider more fit to be adjudicated on by the court.
- (10) An appeal against any order of the Commissioners under this section may be brought in the High Court by the Attorney General.
- (11) An appeal against any order of the Commissioners under this section may also, at any time within the three months beginning with the day following that on which the order is published, be brought in the High Court by the charity or any of the charity trustees, or by any person removed from any office or employment by the order (unless he is removed with the concurrence of the charity trustees or with the approval of the special visitor, if any, of the charity):

Provided that no appeal shall be brought under this subsection except with a certificate of the Commissioners that it is a proper case for an appeal or with the leave of one of the judges of the High Court attached to the Chancery Division.

- (12) Where an order of the Commissioners under this section establishes a scheme for the administration of a charity, any person interested in the charity shall have the like right of appeal under subsection (11) above as a charity trustee, and so also, in the case of a charity which is a local charity in any area, shall any two or more inhabitants of the area and the parish council of any rural parish comprising the area or any part of it;

but a parish council shall not exercise their right of appeal without the consent of the parish meeting.

- (13) In the application of this section to the Minister of Education, subsection (6) shall have effect so as to authorise him to proceed with a view to a scheme in the circumstances in which it authorises the Commissioners to apply to the Secretary of State for him to refer a case to them.

19 Further powers to make schemes or alter application of charitable property

- (1) Where it appears to the Commissioners that a scheme should be established for the administration of a charity, but also that it is necessary or desirable for the scheme to alter the provision made by an Act of Parliament establishing or regulating the charity or to make any other provision which goes or might go beyond the powers exercisable by them apart from this section, or that it is for any reason proper for the scheme to be subject to parliamentary review, then (subject to subsection (6) below) the Commissioners - may settle a scheme accordingly with a view to its being given effect under this section.
- (2) A scheme settled by the Commissioners under this section may be given effect by order of the Secretary of State made by statutory instrument, and a draft of the statutory instrument shall be laid before Parliament.
- (3) Without prejudice to the operation of section six of the Statutory Instruments Act, 1946, in other cases, in the case of a scheme which goes beyond the powers exercisable apart from this section in altering a statutory provision contained in or having effect under any public general Act of Parliament, the order shall not be made unless the draft has been approved by resolution of each House of Parliament.
- (4) Subject to subsection (5) below, any provision of a scheme brought into effect under this section may be modified or superseded by the court or the Commissioners as if it were a scheme brought into effect by order of the Commissioners under section eighteen of this Act.
- (5) Where subsection (3) above applies to a scheme, the order giving effect to it may direct that the scheme shall not be modified or superseded by a scheme brought into effect otherwise than under this section, and may also direct that that subsection shall apply to any scheme modifying or superseding the scheme to which the order gives effect.
- (6) The Commissioners shall not proceed under this section without the like application or the like reference from the Secretary of State, and the like notice to the charity trustees, as would be required if they were proceeding (without an order of the court) under section eighteen of this Act; but on any application or reference made with a view to a scheme, the Commissioners may proceed under this section or that as appears to them appropriate.
- (7) Notwithstanding anything in the trusts of a charity, no expenditure incurred in preparing or promoting a Bill in Parliament shall without the consent of the court or the Commissioners be defrayed out of any moneys applicable for the purposes of a charity:

 Provided that this subsection shall not apply in the case of an exempt charity.
- (8) Where the Commissioners are satisfied—

- (a) that the whole of the income of a charity cannot in existing circumstances be effectively applied for the purposes of the charity; and
- (b) that, if those circumstances continue, a scheme might be made for applying the surplus *cy-près*; and
- (c) that it is for any reason not yet desirable to make such a scheme;

then the Commissioners may by order authorise the charity trustees at their discretion (but subject to any conditions imposed by the order) to apply any accrued or accruing income for any purposes for which it might be made applicable by such a scheme, and any application authorised by the order shall be deemed to be within the purposes of the charity:

Provided that the order shall not extend to more than three hundred pounds out of income accrued before the date of the order, nor to income accruing more than three years after that date, nor to more than one hundred pounds out of the income accruing in any of those three years.

- (9) In the application of this section to the Minister of Education, a reference to that Minister shall be substituted for the reference in subsection (2) to the Secretary of State.

20 Power to act for protection of charities

- (1) Where the Commissioners are satisfied as the result of an inquiry instituted by them under section six of this Act—

- (a) that there has been in the administration of a charity any misconduct or mismanagement; and
- (b) that it is necessary or desirable to act for the purpose of protecting the property of the charity or securing a proper application for the purposes of the charity of that property or of property coming to the charity;

then for that purpose the Commissioners may of their own motion do all or any of the following things:—

- (i) they may by order remove any trustee, charity trustee, officer, agent or servant of the charity who has been responsible for or privy to the misconduct or mismanagement or has by his conduct contributed to it or facilitated it;
- (ii) they may make any such order as is authorised by subsection (1) of section sixteen of this Act with respect to the vesting in or transfer to the official custodian for charities of property held by or in trust for the charity;
- (iii) they may order any bank or other person who holds money or securities on behalf of the charity or of any trustee for it not to part with the money or securities without the approval of the Commissioners;
- (iv) they may, notwithstanding anything in the trusts of the charity, by order restrict the transactions which may be entered into, or the nature or amount of the payments which may be made, in the administration of the charity without the approval of the Commissioners.

- (2) The references in subsection (1) above to misconduct or mismanagement shall (notwithstanding anything in the trusts of the charity) extend to the employment for the remuneration or reward of persons acting in the affairs of the charity, or for other administrative purposes, of sums which are excessive in relation to the property which is or is likely to be applied or applicable for the purposes of the charity.

- (3) The Commissioners may also remove a charity trustee by order made of their own motion—
- (a) where the trustee has been convicted of felony, or is a bankrupt or a corporation in liquidation, or is incapable of acting by reason of mental disorder within the meaning of the Mental Health Act, 1959;
 - (b) where the trustee has not acted, and will not declare his willingness or unwillingness to act;
 - (c) where the trustee is outside England and Wales or cannot be found or does not act, and his absence or failure to act impedes the proper administration of the charity.
- (4) The Commissioners may by order made of their own motion appoint a person to be a charity trustee—
- (a) in place of a charity trustee removed by them under this section or otherwise ;
 - (b) where there are no charity trustees, or where by reason of vacancies in their number or the absence or incapacity of any of their number the charity cannot apply for the appointment;
 - (c) where there is a single charity trustee, not being a corporation aggregate, and the Commissioners are of opinion that it is necessary to increase the number for the proper administration of the charity;
 - (d) where the Commissioners are of opinion that it is necessary for the proper administration of the charity to have an additional charity trustee, because one of the existing charity trustees who ought nevertheless to remain a charity trustee either cannot be found or does not act or is outside England and Wales.
- (5) The powers of the Commissioners under this section to remove or appoint charity trustees of their own motion shall include power to make any such order with respect to the vesting in or transfer to the charity trustees of any property as the Commissioners could make on the removal or appointment of a charity trustee by them under section eighteen of this Act.
- (6) Any order under this section for the removal or appointment of a charity trustee or trustee for a charity, or for the vesting or transfer of any property, shall be of the like effect as an order made under section eighteen of this Act.
- (7) Subsections (10) and (11) of section eighteen of this Act shall apply to orders under this section as they apply to orders under that, save that where the Commissioners have by order removed a trustee, charity trustee, officer, agent, or servant of a charity under the power conferred by subsection (1) of this section, an appeal against such an order may be brought by any person so removed without a certificate of the Commissioners and without the leave of one of the judges of the High Court attached to the Chancery Division.
- (8) The power of the Commissioners under subsection (1) above to remove a trustee, charity trustee, officer, agent or servant of a charity shall include power to suspend him from the exercise of his office or employment pending the consideration of his removal (but not for a period longer than three months), and to make provision as respects the period of the suspension for matters arising out of it, and in particular for enabling any person to execute any instrument in his name or otherwise act for him and, in the case of a charity trustee, for adjusting any rules governing the proceedings of the charity trustees to take account of the reduction in the number capable of acting.

- (9) Before exercising any jurisdiction under this section, the Commissioners shall give notice of their intention to do so to each of the charity trustees, except any that cannot be found or has no known address in the United Kingdom; and any such notice may be given by post and, if given by post, may be addressed to the recipient's last known address in the United Kingdom.
- (10) If any person contravenes an order under paragraph (iii) of subsection (1) above, he shall be liable on summary conviction to a fine not exceeding one hundred pounds, or to imprisonment for a term not exceeding six months, or to both; but no proceedings for an offence punishable under this subsection shall be instituted except by or with the consent of the Commissioners.
- (11) Notwithstanding subsection (8) of section three of this Act, paragraph (ii) of subsection (1) above shall apply to the Minister of Education as well as to the Commissioners.
- (12) This section shall not apply to an exempt charity.

21 Publicity for proceedings under ss. 18 to 20

- (1) The Commissioners shall not make any order under this Act to establish a scheme for the administration of a charity, or submit such a scheme to the court or the Secretary of State for an order giving it effect, unless not less than one month previously there has been given public notice of their proposals, inviting representations to be made to them within a time specified in the notice, being not less than one month from the date of such notice, and, in the case of a scheme relating to a local charity in a rural parish (other than an ecclesiastical charity), a draft of the scheme has been communicated to the parish council or, in the case of a parish not having a parish council, to the chairman of the parish meeting.
- (2) The Commissioners shall not make any order under this Act to appoint, discharge or remove a charity trustee or trustee for a charity (other than the official custodian for charities), unless not less than one month previously there has been given the like public notice as is required by subsection (1) above for an order establishing a scheme:

Provided that this subsection shall not apply in the case of an order discharging or removing a trustee if the Commissioners are of opinion that it is unnecessary and not in his interest to give publicity to the proposal to discharge or remove him.
- (3) Before the Commissioners make an order under this Act to remove without his consent a charity trustee or trustee for a charity, or an officer, agent or servant of a charity, the Commissioners shall, unless he cannot be found or has no known address in the United Kingdom, give him not less than one month's notice of their proposal, inviting representations to be made to them within a time specified in the notice.
- (4) Where notice is given of any proposals as required by subsections (1) to (3) above, the Commissioners shall take into consideration any representations made to them about the proposals within the time specified in the notice, and may (without further notice) proceed with the proposals either with-, out modification or with such modifications as appear to them to be desirable.
- (5) Where the Commissioners make an order which is subject to appeal under subsection (11) of section eighteen of this Act, the order shall be published either by giving public notice of it or by giving notice of it to all persons entitled to appeal against it under that subsection, as the Commissioners think fit.

- (6) Where the Commissioners make an order under this Act to establish a scheme for the administration of a charity, a copy of the order shall, for not less than one month after the order is published, be available for public inspection at all reasonable times at the Commissioners' office and also at some convenient place in the area of the charity, if it is a local charity.
- (7) Any notice to be given under this section of any proposals or order shall give such particulars of the proposals or order, or such directions for obtaining information about them, as the Commissioners think sufficient and appropriate, and any public notice shall be given in such manner as they think sufficient and appropriate.
- (8) Any notice to be given under this section, other than a public notice, may be given by post and, if given by post, may be addressed to the recipient's last known address in the United Kingdom.

Establishment of common investment funds

22 Schemes to establish common investment funds

- (1) The court or the Commissioners may by order make and bring into effect schemes (in this section referred to as "common investment schemes") for the establishment of common investment funds under trusts which provide—
 - (a) for property transferred to the fund by or on behalf of a charity participating in the scheme to be invested under the control of trustees appointed to manage the fund; and
 - (b) for the participating charities to be entitled (subject to the provisions of the scheme) to the capital and income of the fund in shares determined by reference to the amount or value of the property transferred to it by or on behalf of each of them and to the value of the fund at the time of the transfers.
- (2) The court or the Commissioners may make a common investment scheme on the application of any two or more charities.
- (3) A common investment scheme may be made in terms admitting any charity to participate, or the scheme may restrict the right to participate in any manner.
- (4) A common investment scheme may make provision for, and for all matters connected with, the establishment, investment, management and winding up of the common investment fund, and may in particular include provision—
 - (a) for remunerating persons appointed trustees to hold or manage the fund or any part of it, with or without provision authorising a person to receive the remuneration notwithstanding that he is also a charity trustee of or trustee for a participating charity;
 - (b) for restricting the size of the fund, and for regulating as to time, amount or otherwise the right to transfer property to or withdraw it from the fund, and for enabling sums to be advanced out of the fund by way of loan to a participating charity pending the withdrawal of property from the fund by the charity;
 - (c) for enabling income to be withheld from distribution with a view to avoiding fluctuations in the amounts distributed, and generally for regulating distributions of income;
 - (d) for enabling moneys to be borrowed temporarily for the purpose of meeting payments to be made out of the fund;

- (e) for enabling questions arising under the scheme as to the right of a charity to participate, or as to the rights of participating charities, or as to any other matter, to be conclusively determined by the decision of the trustees managing the fund or in any other manner;
 - (f) for regulating the accounts and information to be supplied to participating charities.
- (5) A common investment scheme, in addition to the provision for property to be transferred to the fund on the basis that the charity shall be entitled to a share in the capital and income of the fund, may include provision for enabling sums to be deposited by or on behalf of a charity on the basis that (subject to the provisions of the scheme) the charity shall be entitled to repayment of the sums deposited and to interest thereon at a rate determined by or under the scheme; and where a scheme makes any such provision it shall also provide for excluding from the amount of capital and income to be shared between charities participating otherwise than by way of deposit such amounts (not exceeding the amounts properly attributable to the making of deposits) as are from time to time reasonably required in respect of the liabilities of the fund for the repayment of deposits and for the interest on deposits, including amounts required by way of reserve.
- (6) A common investment scheme may provide for the assets of the common investment fund or any of them to be vested in the official custodian for charities, and, if made by the Commissioners or if they consent, may also appoint him or authorise him to be appointed trustee to manage the fund or any part of it, and as managing trustee he shall, subject to section three of this Act, have the same powers, duties and liabilities as other managing trustees; but where a common investment scheme provides for the official custodian for charities to exercise any discretion with respect to the investment of the fund it shall make provision for him to be advised by a committee of persons who have special experience of investment and finance or of the administration of trusts, or who represent or are nominated by bodies having that experience.
- (7) Except in so far as a common investment scheme provides to the contrary, the rights under it of a participating charity shall not be capable of being assigned or charged, nor shall any trustee or other person concerned in the management of the common investment fund be required or entitled to take account of any trust or other equity affecting a participating charity or its property or rights.
- (8) The powers of investment of every charity shall include power to participate in common investment schemes, unless the power is excluded by a provision specifically referring to common investment schemes in the trusts of the charity.
- (9) A common investment fund shall be deemed for all purposes to be a charity, and the assets of the fund shall be treated for the purposes of this Act as a permanent endowment, except that if the scheme establishing the fund admits to participation only charities not having a permanent endowment, the fund shall be treated as a charity not having a permanent endowment; and if the scheme admits only exempt charities, the fund shall be an exempt charity for the purposes of this Act.
- (10) The persons managing a common investment fund shall not be treated for the purposes of the Prevention of Fraud (Investments) Act, 1958, as carrying on the business of dealing in securities within the meaning of that Act, nor shall subsection (1) of section fourteen of that Act (which restricts the distribution of circulars relating to investments) prohibit the distribution or possession of any document by reason only that it contains an invitation or information relating to a common investment fund.

- (11) Subsections (9) and (10) above shall apply not only to common investment funds established under the powers of this section, but also to any similar fund established for the exclusive benefit of charities by or under any enactment relating to any particular charities or class of charity.
- (12) Notwithstanding subsection (8) of section three of this Act, subsection (6) above shall apply to schemes made by the Minister of Education as it applies to those made by the court.

Miscellaneous powers of Commissioners and Minister

23 Power to authorise dealings with charity property, etc.

- (1) Subject to the provisions of this section, where it appears to the Commissioners that any action proposed or contemplated in the administration of a charity is expedient in the interests of the charity, they may by order sanction that action, whether or not it would otherwise be within the powers exercisable by the charity trustees in the administration of the charity; and anything done under the authority of such an order shall be deemed to be properly done in the exercise of those powers.
- (2) An order under this section may be made so as to authorise a particular transaction, compromise or the like, or a particular application of property, or so as to give a more general authority, and (without prejudice to the generality of subsection (1) above) may authorise a charity to use common premises, or employ a common staff, or otherwise combine for any purpose of administration, with any other charity.
- (3) An order under this section may give directions as to the manner in which any expenditure is to be borne and as to other matters connected with or arising out of the action thereby authorised; and where anything is done in pursuance of an authority given by any such order, any directions given in connection therewith shall be binding on the charity trustees for the time being as if contained in the trusts of the charity:

 Provided that any such directions may on the application of the charity be modified or superseded by a further order.
- (4) Without prejudice to the generality of subsection (3) above, the directions which may be given by an order under this section shall in particular include directions for meeting any expenditure out of a specified fund, for charging any expenditure to capital or to income, for requiring expenditure charged to capital to be recouped out of income within a specified period, for restricting the costs to be incurred at the expense of the charity, or for the investment of moneys arising from any transaction.
- (5) An order under this section may authorise any act, notwithstanding that it is prohibited by any of the disabling Acts mentioned in subsection (6) below, or that the trusts of the charity provide for the act to be done by or under the authority of the court; but no such order shall authorise the doing of any act expressly prohibited by Act of Parliament other than the disabling Acts or by the trusts of the charity, or confer any authority in relation to a disused church as defined in that subsection, or shall extend or alter the purposes of the charity.
- (6) The Acts referred to in subsection (5) above as the disabling Acts are the Ecclesiastical Leases Act, 1571, the Ecclesiastical Leases Act, 1572, the Ecclesiastical Leases Act, 1575, and the Ecclesiastical Leases Act, 1836; and in that subsection "disused church" means a building which has been consecrated and of which the use or disposal is

regulated, and can be further regulated, by a scheme having effect under the Union of Benefices Measures, 1923 to 1952, or the Reorganisation Areas Measures, 1944 and 1954, and extends to any land which under such a scheme is to be used or disposed of with a disused church, and for this purpose " building " includes part of a building.

24 Power to advise charity trustees

- (1) The Commissioners may on the written application of any charity trustee give him their opinion or advice on any matter affecting the performance of his duties as such.
- (2) A charity trustee or trustee for a charity acting in accordance with the opinion or advice of the Commissioners given under this section with respect to the charity shall be deemed, as regards his responsibility for so acting, to have acted in accordance with his trust, unless, when he does so, either—
 - (a) he knows or has reasonable cause to suspect that the opinion or advice was given in ignorance of material facts; or
 - (b) the decision of the court has been obtained on the matter or proceedings are pending to obtain one.

25 Powers for preservation of charity documents

- (1) The Commissioners may provide books in which any deed, will or other document relating to a charity may be enrolled.
- (2) The Commissioners may accept for safe keeping any document of or relating to a charity, and the charity trustees or other persons having the custody of documents of or relating to a charity (including a charity which has ceased to exist) may with the consent of the Commissioners deposit them with the Commissioners for safe keeping, except in the case of documents required by some other enactment to be kept elsewhere.
- (3) Where a document is enrolled by the Commissioners or is for the time being deposited with them under this section, evidence of its contents may be given by means of a copy certified by any officer of the Commissioners generally or specially authorised by them to act for this purpose; and a document purporting to be such a copy shall be received in evidence without proof of the official position, authority or handwriting of the person certifying it or of the original document being enrolled or deposited as aforesaid.
- (4) Regulations may make provision for such documents deposited with the Commissioners under this section as may be prescribed to be destroyed or otherwise disposed of after such period or in such circumstances as may be prescribed.
- (5) Subsections (3) and (4) above shall apply to any document transmitted to the Commissioners under section seven of this Act and kept by them under subsection (3) of that section, as if the document had been deposited with them for safe keeping under this section.

26 Power to order taxation of solicitor's bill

- (1) The Commissioners may order that a solicitor's bill of costs for business done for a charity, or for charity trustees or trustees for a charity, shall be taxed, together with the costs of the taxation, by a taxing officer in such division of the High Court as may be

specified in the order, or by the taxing officer of any other court having jurisdiction to order the taxation of the bill.

- (2) On any order under this section for the taxation of a solicitor's bill the taxation shall proceed, and the taxing officer shall have the same powers and duties, and the costs of the taxation shall be borne, as if the order had been made, on the application of the person chargeable with the bill, by the court in which the costs are taxed.
- (3) No order under this section for the taxation of a solicitor's bill shall be made after payment of the bill, unless the Commissioners are of opinion that it contains exorbitant charges; and no such order shall in any case be made where the solicitor's costs are not subject to taxation on an order of the High Court by reason either of an agreement as to his remuneration or of the lapse of time since payment of the bill.

27 Powers for recovery or redemption of charity rentcharges

- (1) Where it appears to the Commissioners that a charity is entitled to receive a rentcharge issuing out of any land, or out of the rents, profits or other income of any land, they may take legal proceedings on behalf of the charity for recovering the rentcharge or compelling payment.
- (2) Where a charity is entitled to receive a rentcharge issuing out of any land, the Commissioners may give to the estate owner in respect of the fee simple in the land (or, if the rentcharge is payable in respect of an estate for a term of years, then to the estate owner in respect of that estate) a notice to treat with the charity trustees for the redemption of the rent-charge.
- (3) Where a notice to treat is given under subsection (2) above in respect of any land, and the rentcharge is still subsisting at the expiration of ten years from the date on which the notice is given, then (subject to the provisions of this section) the person who is then the estate owner in respect of the relevant estate in the land shall be liable to pay the redemption price to the charity or to the person entitled to receive it as trustee for the charity, and on payment or tender of the redemption price shall be entitled to a proper and effective release of the rentcharge (or, if he has so requested, a proper and effective transfer of it to a person nominated by him).
- (4) For the purposes of subsection (3) above the redemption price for a rentcharge shall be such as may be determined in accordance with regulations made by the Treasury.
- (5) Proceedings for the recovery of sums due under subsection (3) above may be taken by the Commissioners on behalf of the charity.
- (6) Where an estate owner of land liable to a rentcharge has by law or by contract any right of indemnity or contribution in respect of the rentcharge against any person or property, then on his redeeming the rentcharge in accordance with subsection (3) above he shall have the like right of indemnity or contribution in respect of the redemption price.
- (7) For the purposes of the Land Charges Act, 1925, and of the Land Registration Act, 1925, a notice to treat under this section shall be treated as a land charge affecting the estate of the estate owner to whom it is given, and those Acts shall apply to the notice to treat as they apply to an estate contract.
- (8) Where an estate owner of land liable to a rentcharge pays it through an agent, a notice to treat under this section, if given to the agent on behalf of the estate owner, shall for the purposes of this section be deemed to be given to the estate owner, notwithstanding

that the agent's authority from the estate owner does not extend to accepting the notice on his behalf.

- (9) This section shall apply to any periodical payment other than rent incident to a reversion as it applies to a rentcharge.

Miscellaneous

28 Taking of legal proceedings

- (1) Charity proceedings may be taken with reference to a charity either by the charity, or by any of the charity trustees, or by any person interested in the charity, or by any two or more inhabitants of the area of the charity, if it is a local charity, but not by any other person.
- (2) Subject to the following provisions of this section, no charity proceedings relating to a charity (other than an exempt charity) shall be entertained or proceeded with in any court unless the taking of the proceedings is authorised by order of the Commissioners.
- (3) The Commissioners shall not, without special reasons, authorise the taking of charity proceedings where in their opinion the case can be dealt with by them under the powers of this Act.
- (4) This section shall not require any order for the taking of proceedings in a pending cause or matter or for the bringing of any appeal.
- (5) Where the foregoing provisions of this section require the taking of charity proceedings to be authorised by an order of the Commissioners, the proceedings may nevertheless be entertained or proceeded with if after the order had been applied for and refused leave to take the proceedings was obtained from one of the judges of the High Court attached to the Chancery Division.
- (6) Nothing in the foregoing subsections shall apply to the taking of proceedings by the Attorney General, with or without a relator.
- (7) Where it appears to the Commissioners, on an application for an order under this section or otherwise, that it is desirable for legal proceedings to be taken with reference to any charity (other than an exempt charity) or its property or affairs, and for the proceedings to be taken by the Attorney General, the Commissioners shall so inform the Attorney General, and send him such statements and particulars as they think necessary to explain the matter.
- (8) In this section " charity proceedings " means proceedings in any court in England or Wales brought under the court's jurisdiction with respect to charities, or brought under the court's jurisdiction with respect to trusts in relation to the administration of a trust for charitable purposes.
- (9) The Charities Procedure Act, 1812, and so much of any local or private Act establishing or regulating a charity as relates to the persons by whom or the manner or form in which any charity proceedings may be brought shall cease to have effect.

29 Restrictions on dealing with charity property

- (1) Subject to the exceptions provided for by this section, no property forming part of the permanent endowment of a charity shall, without an order of the court or of the

Commissioners, be mortgaged or charged by way of security for the repayment of money borrowed, nor, in the case of land in England or Wales, be sold, leased or otherwise disposed of.

- (2) Subsection (1) above shall apply to any land which is held by or in trust for a charity and is or has at any time been occupied for the purposes of the charity, as it applies to land forming part of the permanent endowment of a charity; but a transaction for which the sanction of an order under subsection (1) above is required by virtue only of this subsection shall, notwithstanding that it is entered into without such an order, be valid in favour of a person who (then or afterwards) in good faith acquires an interest in or charge on the land for money or money's worth.
- (3) This section shall apply notwithstanding anything in the trusts of a charity, but shall not require the sanction of an order—
 - (a) for any transaction for which general or special authority is expressly given (without the authority being made subject to the sanction of an order) by any statutory provision contained in or having effect under an Act of Parliament or by any scheme legally established; or
 - (b) for the granting of a lease for a term ending not more than twenty-two years after it is granted, not being a lease granted wholly or partly in consideration of a fine; or
 - (c) for any disposition of an advowson.
- (4) This section shall not apply to an exempt charity, nor to any charity which is excepted by order or regulations.

30 Charitable companies

- (1) Where a charity may be wound up by the High Court under the Companies Act, 1948, a petition for it to be wound up under that Act by any court in England or Wales having jurisdiction may be presented by the Attorney General, as well as by any person authorised by that Act.
- (2) Where a charity is a company or other body corporate, and has power to alter the instruments establishing or regulating it as a body corporate, no exercise of that power which has the effect of the body ceasing to be a charity shall be valid so as to affect the application of any property acquired under any disposition or agreement previously made otherwise than for full consideration in money or money's worth, or of any property representing property so acquired, or of any property representing income which has accrued before the alteration is made, or of the income from any such property as aforesaid.

31 Protection of expression " common good "

- (1) It shall not be lawful, without the consent of the Commissioners, to invite gifts in money or in kind to the funds of, or to any fund managed by, an institution which has the words " common good " in its name, other than a body corporate established by Royal charter, or to any fund described in or in connection with the invitation by a name which includes the words " common good " otherwise than as part of the name of such a body corporate.
- (2) The words " common good " shall not, without the consent of the Commissioners, be used in the name of any institution established in England or Wales, other than a body corporate established by Royal charter.

- (3) Any person contravening subsection (1) or (2) of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding fifty pounds.

PART IV

MISCELLANEOUS PROVISIONS AS TO CHARITIES AND THEIR AFFAIRS

32 General obligation to keep accounts

- (1) Charity trustees shall keep proper books of account with respect to the affairs of the charity, and charity trustees not required by or under the authority of any other Act to prepare periodical statements of account shall prepare consecutive statements of account consisting on each occasion of an income and expenditure account relating to a period of not more than fifteen months and a balance sheet relating to the end of that period.
- (2) The books of account and statements of account relating to any charity shall be preserved for a period of seven years at least, unless the charity ceases to exist and the Commissioners permit them to be destroyed or otherwise disposed of.
- (3) The statements of account relating to a parochial charity in a rural parish, other than an ecclesiastical charity, shall be sent annually to the parish council or, if there is no parish council, to the chairman of the parish meeting, and shall be presented by the council or chairman at the next parish meeting.

This subsection shall apply in relation to a borough included in a rural district as if the borough were a rural parish, except as regards the presentation of the accounts to the parish meeting.

33 Manner of giving notice of charity meetings, etc.

- (1) All notices which are required or authorised by the trusts of a charity to be given to a charity trustee, member or subscriber may be sent by post, and, if sent by post, may be addressed to any address given as his in the list of charity trustees, members or subscribers for the time being in use at the office or principal office of the charity.
- (2) Where any such notice required to be given as aforesaid is given by post, it shall be deemed to have been given by the time at which the letter containing it would be delivered in the ordinary course of post.
- (3) No notice required to be given as aforesaid of any meeting or election need be given to any charity trustee, member or subscriber, if in the list above mentioned he has no address in the United Kingdom.

34 Manner of executing instruments

- (1) Charity trustees may, subject to the trusts of the charity, confer on any of their body (not being less than two in number) a general authority, or an authority limited in such manner as the trustees think fit, to execute in the names and on behalf of the trustees assurances or other deeds or instruments for giving effect to transactions to which the trustees are a party; and any deed or instrument executed in pursuance of an authority so given shall be of the same effect as if executed by the whole body.

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

- (2) An authority under subsection (1) above—
 - (a) shall suffice for any deed or instrument if it is given in writing or by resolution of a meeting of the trustees, notwithstanding the want of any formality that would be required in giving an authority apart from that subsection;
 - (b) may be given so as to make the powers conferred exercisable by any of the trustees, or may be restricted to named persons or in any other way;
 - (c) subject to any such restriction, and until it is revoked, shall, notwithstanding any change in the charity trustees, have effect as a continuing authority given by and to the persons who from time to time are of their body.
- (3) In any authority under this section to execute a deed or instrument in the names and on behalf of charity trustees there shall, unless the contrary intention appears, be implied authority also to execute it for them in the name and on behalf of the official custodian for charities or of any other person, in any case in which the charity trustees could do so.
- (4) Where a deed or instrument purports to be executed in pursuance of this section, then in favour of a person who (then or afterwards) in good faith acquires for money or money's worth an interest in or charge on property or the benefit of any covenant or agreement expressed to be entered into by the charity trustees, it shall be conclusively presumed to have been duly executed by virtue of this section.
- (5) The powers conferred by this section shall be in addition to and not in derogation of any other powers.

35 Transfer and evidence of title to property vested in trustees

- (1) Where, under the trusts of a charity, trustees of property held for the purposes of the charity may be appointed or discharged by resolution of a meeting of the charity trustees, members or other persons, a memorandum declaring a trustee to have been so appointed or discharged shall be sufficient evidence of that fact, if the memorandum is signed either at the meeting by the person presiding or in some other manner directed by the meeting, and is attested by two persons present at the meeting.
- (2) A memorandum evidencing the appointment or discharge of a trustee under subsection (1) above, if executed as a deed, shall have the like operation under section forty of the Trustee Act, 1925 (which relates to vesting declarations as respects trust property in deeds appointing or discharging trustees), as if the appointment or discharge were effected by the deed.
- (3) For the purposes of this section, where a document purports to have been signed and attested as mentioned in subsection (1) above, then on proof (whether by evidence or as a matter of presumption) of the signature the document shall be presumed to have been so signed and attested, unless the contrary is shown.
- (4) This section shall apply to a memorandum made at any time, except that subsection (2) shall apply only to those made after the commencement of this Act.
- (5) This section shall apply in relation to any institution to which the Literary and Scientific Institutions Act, 1854, applies, as it applies in relation to a charity.
- (6) The Trustee Appointment Act, 1850, the Trustee Appointment Act, 1869, the Trustees Appointment Act, 1890, and in so far as it applies any of those Acts the School Sites Act, 1852, shall cease to have effect; but where, at the commencement of this Act, the

provisions of those Acts providing for the appointment of trustees apply in relation to any land, those provisions shall have effect as if contained in the conveyance or other instrument declaring the trusts on which the land is then held.

36 Miscellaneous provisions as to evidence

- (1) Where, in any proceedings to recover or compel payment of any rentcharge or other periodical payment claimed by or on behalf of a charity out of land or of the rents, profits or other income of land, otherwise than as rent incident to a reversion, it is shown that the rentcharge or other periodical payment has at any time been paid for twelve consecutive years to or for the benefit of the charity, that shall be prima facie evidence of the perpetual liability to it of the land or income, and no proof of its origin shall be necessary.
- (2) In any proceedings, the following documents, that is to say,—
 - (a) the printed copies of the reports of the Commissioners for enquiring concerning charities, 1818 to 1837, who were appointed under the Act 58 Geo. 3. c. 91 and subsequent Acts; and
 - (b) the printed copies of the reports which were made for various counties and county boroughs to the Charity Commissioners by their assistant commissioners and presented to the House of Commons as returns to orders of various dates beginning with the eighth day of December, eighteen hundred and ninety, and ending with the ninth day of September, nineteen hundred and nine;shall be admissible as evidence of the documents and facts stated in them.
- (3) Evidence of any order, certificate or other document issued by the Commissioners may be given by means of a copy retained by them, or taken from a copy so retained, and certified to be a true copy by any officer of the Commissioners generally or specially authorised by them to act for this purpose; and a document purporting to be such a copy shall be received in evidence without proof of the official position, authority or handwriting of the person certifying it.

37 Parochial charities

- (1) Where trustees hold any property for the purposes of a public recreation ground, or of allotments (whether under inclosure Acts or otherwise), for the benefit of inhabitants of a rural parish having a parish council, or for other charitable purposes connected with such a rural parish, except for an ecclesiastical charity, they may with the approval of the Commissioners and with the consent of the parish council transfer the property to the parish council or to persons appointed by the parish council; and the council or their appointees shall hold the property on the same trusts and subject to the same conditions as the trustees did.

This subsection shall apply to property held for any public purposes as it applies to property held for charitable purposes, and shall apply in relation to a borough included in a rural district as if the borough were a rural parish.

- (2) Where the charity trustees of a parochial charity in a rural parish, not being an ecclesiastical charity nor a charity founded within the preceding forty years, do not include persons elected by the local government electors, ratepayers or inhabitants of the parish or appointed by the parish council or parish meeting, the parish council or parish meeting may appoint additional charity trustees, to such number as the

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Commissioners may allow; and if there is a sole charity trustee not elected or appointed as aforesaid of any such charity, the number of the charity trustees may, with the approval of the Commissioners, be increased to three of whom one may be nominated by the person holding the office of the sole trustee and one by the parish council or parish meeting.

This subsection shall apply in relation to a borough included in a rural district as if it were a rural parish (but with the omission of references to the parish meeting).

- (3) Where, under the trusts of a charity other than an ecclesiastical charity, the inhabitants of a rural parish (whether in vestry or not) or a select vestry were formerly (in 1894) entitled to appoint charity trustees for, or trustees or beneficiaries of, the charity, then—
- (a) in a parish having a parish council, the appointment shall be made by the parish council or, in the case of beneficiaries, by persons appointed by the parish council; and
 - (b) in a parish not having a parish council, the appointment shall be made by the parish meeting.
- (4) Where overseers as such or, except in the case of an ecclesiastical charity, churchwardens as such were formerly (in 1894) charity trustees of or trustees for a parochial charity in a rural parish, either alone or jointly with other persons, then instead of the former overseer or churchwarden trustees there shall be trustees (to a number not greater than that of the former overseer or churchwarden trustees) appointed by the parish council or, if there is no parish council, by the parish meeting.
- (5) Where, outside the county of London, overseers of a parish as such were formerly (in 1927) charity trustees of or trustees for any charity, either alone or jointly with other persons, then instead of the former overseer trustees there shall be trustees (to a number not greater than that of the former overseer trustees) appointed—
- (a) where the parish is a rural parish, by the parish council or, if there is no parish council, by the parish meeting; and
 - (b) where the parish is an urban parish, but is comprised in a borough included in a rural district, by the borough council; and
 - (c) where the parish is an urban parish not so comprised, by the rating authority; but, if in the case of an urban parish the area of the council making the appointment comprises other parishes also and is divided into wards for the election of councillors, the appointment shall be made on the nomination of the councillors for the ward or wards comprising the parish.
- (6) Any appointment of a charity trustee or trustee for a charity which is made by virtue of this section shall be for a term of four years, but a retiring trustee shall be eligible for re-appointment:

Provided that—

- (a) on an appointment under subsection (2), where no previous appointments have been made by virtue of that subsection or of the corresponding provision of the Local Government Act, 1894, and more than one trustee is appointed, half of those appointed (or as nearly as may be) shall be appointed for a term of two years; and
- (b) an appointment made to fill a casual vacancy shall be for the remainder of the term of the previous appointment.

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- (7) This section shall not affect the trusteeship, control or management of any voluntary school within the meaning of the Education Act, 1944.
- (8) The provisions of this section shall not extend to the Isles of Scilly, and shall have effect subject to any order (including any future order) made under any enactment relating to local government with respect to local government areas or the powers of local authorities.
- (9) In this section the expression "formerly (in 1894)" relates to the period immediately before the passing of the Local Government Act, 1894, and the expression "formerly (in 1927)" to the period immediately before the first day of April, nineteen hundred and twenty-seven; and the word "former" shall be construed accordingly.

38 Repeal of law of mortmain

- (1) The Mortmain and Charitable Uses Act, 1888, the Mortmain and Charitable Uses Act, 1891, and the Mortmain and Charitable Uses Act Amendment Act, 1892, together with any enactments amending those Acts (and in particular section eighty-seven of the Education Act, 1944, and sections fourteen and four hundred and eight of the Companies Act, 1948) shall cease to have effect.
- (2) No right or title to any property shall be defeated or impugned, and no assurance or disposition of property shall be treated as void or voidable, by virtue of any of the enactments mentioned in the foregoing subsection, or of any other enactment relating to mortmain, if at the passing of this Act the possession is in accordance with that right or title or with that assurance or disposition, and no step has been taken to assert a claim by virtue of any such enactment :

Provided that this subsection shall not validate any assurance or disposition so as to defeat a right or title acquired by adverse possession before the passing of this Act.
- (3) The repeal by this Act of the Mortmain and Charitable Uses Act, 1891, shall have effect in relation to the wills of persons dying before the passing of this Act so as to abrogate any requirement to sell land then unsold, but not so as to enable effect to be given to a direction to lay out personal estate in land without an order under section eight of that Act or so as to affect the power to make such an order.
- (4) Any reference in any enactment or document to a charity within the meaning, purview and interpretation of the Charitable Uses Act, 1601, or of the preamble to it, shall be construed as a reference to a charity within the meaning which the word bears as a legal term according to the law of England and Wales.
- (5) No repeal made by this Act shall affect any power to hold land in Northern Ireland without licence in mortmain; but (without prejudice to the general provision made later in this Act about the powers of the Parliament of Northern Ireland) if that Parliament repeals any of the Acts relating to mortmain in Northern Ireland, then notwithstanding any enactment limiting the powers of that Parliament the repeal may extend to sections fourteen and four hundred and eight of the Companies Act, 1948, as they affect land in Northern Ireland, and to any corresponding enactments of that Parliament as those enactments affect land in Great Britain, and may also extend to any other enactment of the Parliament of the United Kingdom so far as it relates to holding land in mortmain in Northern Ireland.

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

39 Repeal of obsolete enactments

- (1) The enactments specified in the Fifth Schedule to this Act, being to the extent there specified in the third column obsolete or no longer required, shall to that extent cease to have effect and be hereby repealed.
- (2) Where the trusts of a charity are at the commencement of this Act wholly or partly comprised in an enactment specified in the Fifth Schedule to this Act, or in an instrument having effect under such an enactment, the operation of those trusts shall not be affected by the repeal of that enactment by this Act.

PART V

SUPPLEMENTARY

40 Miscellaneous provisions as to orders of Commissioners or Minister

- (1) Any order made by the Commissioners under this Act may include such incidental or supplementary provisions as the Commissioners think expedient for carrying into effect the objects of the order, and where the Commissioners exercise any jurisdiction to make such an order on an application or reference to them, they may insert any such provisions in the order notwithstanding that the application or reference does not propose their insertion.
- (2) Where the Commissioners make an order under this Act, men (without prejudice to the requirements of this Act where the order is subject to appeal) they may themselves give such public notice as they think fit of the making or contents of the order, or may require it to be given by any person on whose application the order is made or by any charity affected by the order.
- (3) The Commissioners at any time within twelve months after they have made an order under this Act, if they are satisfied that the order was made by mistake or on misrepresentation or otherwise than in conformity with this Act, may with or without any application or reference to them discharge the order in whole or in part, and subject or not to any savings or other transitional provisions.
- (4) Except for the purposes of subsection (3) above or of an appeal under this Act, an order made by the Commissioners under this Act shall be deemed to have been duly and formally made and not be called in question on the ground only of irregularity or informality, but (subject to any further order) have effect according to its tenor.
- (5) This section shall apply to orders made under any Act amended by this Act, if made by virtue of that amendment, as it applies to orders made under this Act.

41 Enforcement of orders of Commissioners or Minister

A person guilty of disobedience—

- (a) to an order of the Commissioners under subsection (3) of section six or under section seven of this Act, or to a precept under that subsection; or
- (b) to an order of the Commissioners under section eighteen or twenty of this Act requiring a transfer of property or payment to be called for or made; or
- (c) to an order of the Commissioners requiring a default under this Act to be made good ;

may on the application of the Commissioners to the High Court be dealt with as for disobedience to an order of the High Court.

42 Appeals from Commissioners or Minister

- (1) Provision shall be made by rules of court for regulating appeals to the High Court under this Act against orders or decisions of the Commissioners.
- (2) On such an appeal the Attorney General shall be entitled to appear and be heard, and such other persons as the rules allow or as the court may direct.
- (3) Subsection (1) of section sixty-three of the Supreme Court of Judicature (Consolidation) Act, 1925, shall not apply to such an appeal in so far as it requires an appeal from any person to the High Court to be heard and determined by a divisional court.

43 Regulations

- (1) Save as otherwise provided by this Act, any power to make regulations which is conferred by this Act shall be exercisable both by the Secretary of State and by the Minister of Education.
- (2) Regulations may be made for prescribing anything which is required or authorised by this Act to be prescribed.
- (3) Any power of the Treasury, the Secretary of State or the Minister of Education to make regulations under this Act shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

44 Expenses

- (1) There shall be defrayed out of monies provided by Parliament—
 - (a) the remuneration and allowances payable under this Act to the Commissioners and to their officers and servants, and any increase attributable to a person's service as a Commissioner or as such an officer or servant in the sums payable out of monies so provided under the Superannuation Acts, 1834 to 1950 ; and
 - (b) any administrative expenses incurred for the purposes of this Act by the Secretary of State, the Minister of Education or the Commissioners.
- (2) Any fees received by the Minister of Education or by the Commissioners under this Act shall be paid into the Exchequer.
- (3) There shall also be defrayed out of monies provided by Parliament any increase in the sums payable out of monies so provided by way of rate-deficiency grant or exchequer equalisation grant under the enactments relating to local government in England and Wales or in Scotland, being an increase attributable to the expenditure under this Act of any council or joint board—
 - (a) in contributing to the expenses of inquiries instituted under this Act by the Commissioners or the Minister of Education in relation to charities; or
 - (b) in or in connection with the establishment or maintenance of an index of local charities; or
 - (c) in carrying out or co-operating in a review of local charities.

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- (4) Nothing in this Act shall authorise the council of a borough which has been included in a rural district or of a rural parish to incur expenditure otherwise than in accordance with section one hundred and ninety-three of the Local Government Act, 1933, as amended.

45 Construction of references to a "charity" or to particular classes of charity

- (1) In this Act, except in so far as the context otherwise requires.—
- "charity" means any institution, corporate or not, which is established for charitable purposes and is subject to the control of the High Court in the exercise of the court's jurisdiction with respect to charities;
- "ecclesiastical charity" has the same meaning as in the Local Government Act, 1894;
- "exempt charity" means (subject to subsection (9) of section twenty-two of this Act) a charity comprised in the Second Schedule to this Act;
- "local charity" means, in relation to any area, a charity established for purposes which are by their nature or by the trusts of the charity directed wholly or mainly to the benefit of that area or of part of it;
- "parochial charity" means, in relation to any parish, a charity the benefits of which are, or the separate distribution of the benefits of which is, confined to inhabitants of the parish, or of a single ancient ecclesiastical parish which included that parish or part of it, or of an area consisting of that parish with not more than four neighbouring parishes.
- (2) The expression "charity" is not in this Act applicable—
- (a) to any ecclesiastical corporation (that is to say, any corporation in the Church of England, whether sole or aggregate, which is established for spiritual purposes) in respect of the corporate property of the corporation, except to a corporation aggregate having some purposes which are not ecclesiastical in respect of its corporate property held for those purposes; or
- (b) to any trust of property for purposes for which the property has been consecrated.
- (3) Subject to subsection (9) of section twenty-two of this Act, a charity shall be deemed for the purposes of this Act to have a permanent endowment unless all property held for the purposes of the charity may be expended for those purposes without distinction between capital and income, and in this Act "permanent endowment" means, in relation to any charity, property held subject to a restriction on its being so expended.
- (4) References in this Act to a charity not having income from property to a specified amount shall be construed by reference to the gross revenues of the charity, but without bringing into account anything for the yearly value of land occupied by the charity apart from the pecuniary income (if any) received from that land; and any question as to the application of any such reference to a charity shall be determined by the Commissioners, whose decision shall be final.
- (5) The Commissioners may direct that for all or any of the purposes of this Act an institution established for any special purposes of or in connection with a charity (being charitable purposes) shall be treated as forming part of that charity or as forming a distinct charity.

- (6) Any reference in this Act to a charity which is excepted by order or regulations shall be construed as referring to a charity which is for the time being permanently or temporarily excepted by order of the Commissioners, or is of a description permanently or temporarily excepted by regulations, and which complies with any conditions of the exception; and any order or regulation made for this purpose may limit any exception so that a charity may be excepted in respect of some matters and not in respect of others.

46 Other definitions

In this Act, except in so far as the context otherwise requires.—

" Attorney General " means, in relation to proceedings in the court of chancery of the county palatine of Lancaster, the Attorney General of the Duchy of Lancaster and, in relation to proceedings in the court of chancery of the county palatine of Durham, the Attorney General of the county palatine of Durham ;

" charitable purposes " means purposes which are exclusively charitable according to the law of England and Wales;

" charity trustees " means the persons having the general control and management of the administration of a charity;

" the Commissioners " means the Charity Commissioners for England and Wales;

" the county of London " means the administrative county of London;

" the court " means the High Court and, within the limits of its jurisdiction, any other court in England or Wales having a jurisdiction in respect of charities concurrent (within any limit of area or amount) with that of the High Court, and includes any judge or officer of the court exercising the jurisdiction of the court;

" institution " includes any trust or undertaking;

" permanent endowment " shall, subject to subsection (9) of section twenty-two of this Act, be construed in accordance with subsection (3) of the last foregoing section ;

" trusts," in relation to a charity, means the provisions establishing it as a charity and regulating its purposes and administration, whether those provisions take effect by way of trust or not, and in relation to other institutions has a corresponding meaning.

47 Powers of Parliament of Northern Ireland

- (1) Subject to the following subsections, no limitation imposed by any enactment on the powers of the Parliament of Northern Ireland shall preclude that Parliament from enacting provisions for purposes similar to any provision of this Act.
- (2) If any Act of the Parliament of Northern Ireland provides for the registration of institutions established for charitable purposes and for the determination by the High Court in Northern Ireland (on appeal or otherwise) of any question whether an institution ought to be or continue to be registered as an institution so established, the Act may provide for any purpose of the law of the United Kingdom or of any part of the United Kingdom that an institution so registered is to be treated as an institution established for charitable purposes ; but, subject to that, nothing in this section shall authorise the Parliament of Northern Ireland to amend the law as respects any reserved tax.

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

- (3) Nothing in this section shall authorise the provisions of any enactment to be altered by scheme made under an Act of the Parliament of Northern Ireland in any respect in which those provisions could not be altered by such an Act.

48 Consequential amendments, general repeal and transitional provisions

- (1) The enactments mentioned in the first column of the Sixth Schedule to this Act shall be amended as provided in the second column of that Schedule.
- (2) Subject to the following provisions of this section and to any other provision of this Act as to the effect of any repeal, the enactments mentioned in the Seventh Schedule to this Act are (in addition to the repeals in the Fifth Schedule) hereby repealed to the extent specified in the third column of the Schedule.
- (3) The Commissioners may take the like action under this Act in consequence of any application or enquiry under the Charitable Trusts Acts, 1853 to 1939, as if the application or enquiry had been made for the corresponding purpose under this Act; and subsections (3) to (5) of section twenty-five of this Act shall extend (with any necessary adaptations) to documents enrolled by the Commissioners or deposited with them under those Acts.
- (4) The repeal by this Act of the Charitable Trusts Acts, 1853 to 1939, shall not invalidate any scheme, order, certificate or other document issued under or for the purposes of those Acts, so far as the document is capable after the commencement of this Act of having effect either for its original purpose or for any corresponding purpose of this Act; but any such documents shall continue to have effect for any such purpose (except in so far as they are modified or superseded under the powers of this Act), and shall in the case of an order be appealable, enforceable and liable to be discharged as if this Act had not been passed; and any such document, and any document under the seal of the official trustees of charitable funds, may be proved as if this Act had not been passed.
- (5) The repeal by this Act of any enactment which authorises the taking of legal proceedings, or regulates any legal proceedings, shall not affect the operation of that enactment in relation to proceedings begun before the commencement of this Act, nor shall section twenty-eight of this Act apply to any proceeding so begun.
- (6) The official custodian for charities shall be treated as the successor for all purposes both functions of the said trustee or trustees had been functions of the official custodian, and as if any such trustee or trustees had been, and had discharged his or their functions as, holder of the office of the official custodian; and accordingly (but without prejudice to the generality of the foregoing provision, and subject to any express amendment or repeal made by this Act) as from the commencement of this Act—
- (a) all property vested in the said trustee or trustees shall vest in the official custodian, and shall be held by him as if vested in him under section sixteen of this Act for the purposes for which it was held by the said trustee or trustees; and
- (b) any Act, scheme, deed or other document referring or relating to the said trustee or trustees shall, in so far as the context permits, have effect as if the official custodian had been mentioned instead.
- (7) The specific provisions of this Act as to the effect of any repeal shall not be taken to exclude the general provisions contained in section thirty-eight of the Interpretation

Act, 1889, except in so far as those general provisions are inconsistent with the specific provisions in this Act.

49 Short title, extent and commencement

- (1) This Act may be cited as the Charities Act, 1960.
- (2) This Act shall extend—
 - (a) to Scotland and Northern Ireland in so far as it amends the House of Commons Disqualification Act, 1957, or extends the powers of the Parliament of Northern Ireland; and
 - (b) to Scotland in so far as Part II of the Seventh Schedule repeals any enactment having any application in Scotland; and
 - (c) to Northern Ireland in so far as it relates to the amendment of Royal Charters; but, subject to that, this Act shall not extend to Scotland or Northern Ireland.
- (3) The following provisions of this Act shall come into force on the date it is passed, that is to say, section one with the First Schedule, section thirty-eight with the repeals in Part II of the Seventh Schedule, and section forty-seven; but, save as aforesaid, this Act shall not come into force until the beginning of the year nineteen hundred and sixty-one.