



# Charities Act 2011

## 2011 CHAPTER 25

### PART 6

#### CY-PRÈS POWERS AND ASSISTANCE AND SUPERVISION OF CHARITIES BY COURT AND COMMISSION

*Power to authorise dealings with charity property, ex gratia payments etc.*

#### **106 Power to authorise ex gratia payments etc.**

- (1) Subject to subsection (5), the Commission may by order exercise the same power as is exercisable by the Attorney General to authorise the charity trustees of a charity to take any action falling within subsection (2)(a) or (b) in a case where the charity trustees—
  - (a) (apart from this section) have no power to take the action, but
  - (b) in all the circumstances regard themselves as being under a moral obligation to take it.
- (2) The actions are—
  - (a) making any application of property of the charity, or
  - (b) waiving to any extent, on behalf of the charity, its entitlement to receive any property.
- (3) The power conferred on the Commission by subsection (1) is exercisable by the Commission under the supervision of, and in accordance with such directions as may be given by, the Attorney General.
- (4) Any such directions may in particular require the Commission, in such circumstances as are specified in the directions—
  - (a) to refrain from exercising the power conferred by subsection (1), or
  - (b) to consult the Attorney General before exercising it.
- (5) Where—

*Status: This is the original version (as it was originally enacted).*

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- (a) an application is made to the Commission for it to exercise the power conferred by subsection (1) in a case where it is not precluded from doing so by any such directions, but
- (b) the Commission considers that it would nevertheless be desirable for the application to be entertained by the Attorney General rather than by the Commission,

the Commission must refer the application to the Attorney General.

(6) It is hereby declared that where—

- (a) an application is made to the Commission as mentioned in subsection (5)(a), and
- (b) the Commission determines the application by refusing to authorise charity trustees to take any action falling within subsection (2)(a) or (b),

that refusal does not preclude the Attorney General, on an application subsequently made to the Attorney General by the charity trustees, from authorising them to take that action.