



Charities Act 2011

2011 CHAPTER 25

PART 13

UNINCORPORATED CHARITIES

Powers of unincorporated charities to spend capital

281 Power of unincorporated charities to spend capital: general

- (1) This section applies to any available endowment fund of a charity which is not a company or other body corporate.
- (2) But this section does not apply to a fund if sections 282 to 284 (power to spend larger fund given for particular purpose) apply to it.
- (3) If the condition in subsection (4) is met in relation to the charity, the charity trustees may resolve for the purposes of this section that the fund, or a portion of it, ought to be freed from the restrictions with respect to expenditure of capital that apply to it.
- (4) The condition is that the charity trustees are satisfied that the purposes set out in the trusts to which the fund is subject could be carried out more effectively if the capital of the fund, or the relevant portion of the capital, could be expended as well as income accruing to it, rather than just such income.
- (5) Once the charity trustees have passed a resolution under subsection (3), the fund or portion may by virtue of this section be expended in carrying out the purposes set out in the trusts to which the fund is subject without regard to the restrictions mentioned in that subsection.
- (6) The fund or portion may be so expended as from such date as is specified for this purpose in the resolution.
- (7) In this section “available endowment fund”, in relation to a charity, means—
 - (a) the whole of the charity’s permanent endowment if it is all subject to the same trusts, or

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- (b) any part of its permanent endowment which is subject to any particular trusts that are different from those to which any other part is subject.

282 Resolution to spend larger fund given for particular purpose

- (1) This section applies to any available endowment fund of a charity which is not a company or other body corporate if—
 - (a) the capital of the fund consists entirely of property given—
 - (i) by a particular individual,
 - (ii) by a particular institution (by way of grant or otherwise), or
 - (iii) by two or more individuals or institutions in pursuit of a common purpose, and
 - (b) the charity’s gross income in its last financial year exceeded £1,000 and the market value of the endowment fund exceeds £10,000.
- (2) If the condition in subsection (3) is met in relation to the charity, the charity trustees may resolve for the purposes of this section that the fund, or a portion of it, ought to be freed from the restrictions with respect to expenditure of capital that apply to it.
- (3) The condition is that the charity trustees are satisfied that the purposes set out in the trusts to which the fund is subject could be carried out more effectively if the capital of the fund, or the relevant portion of the capital, could be expended as well as income accruing to it, rather than just such income.
- (4) The charity trustees—
 - (a) must send a copy of any resolution under subsection (2) to the Commission, together with a statement of their reasons for passing it, and
 - (b) may not implement the resolution except in accordance with sections 283 and 284.
- (5) In this section—
 - “available endowment fund” has the same meaning as in section 281;
 - “market value”, in relation to an endowment fund, means—
 - (a) the market value of the fund as recorded in the accounts for the last financial year of the relevant charity, or
 - (b) if no such value was so recorded, the current market value of the fund as determined on a valuation carried out for the purpose.
- (6) In subsection (1), the reference to the giving of property by an individual includes the individual’s giving it by will.

283 Notice of, and information about, s.282 resolution

- (1) Having received the copy of the resolution under section 282(4), the Commission may—
 - (a) direct the charity trustees to give public notice of the resolution in such manner as is specified in the direction, and
 - (b) if it gives such a direction, must take into account any representations made to it—
 - (i) by persons appearing to it to be interested in the charity, and

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- (ii) within the period of 28 days beginning with the date when public notice of the resolution is given by the charity trustees.
- (2) The Commission may also direct the charity trustees to provide the Commission with additional information or explanations relating to—
- (a) the circumstances in and by reference to which they have decided to act under section 282, or
 - (b) their compliance with any obligation imposed on them by or under section 282 or this section in connection with the resolution.

284 When and how s.282 resolution takes effect

- (1) When considering whether to concur with the resolution under section 282(2), the Commission must take into account—
- (a) any evidence available to it as to the wishes of the donor or donors mentioned in section 282(1)(a), and
 - (b) any changes in the circumstances relating to the charity since the making of the gift or gifts (including, in particular, its financial position, the needs of its beneficiaries, and the social, economic and legal environment in which it operates).
- (2) The Commission must not concur with the resolution unless it is satisfied—
- (a) that its implementation would accord with the spirit of the gift or gifts mentioned in section 282(1)(a) (even though it would be inconsistent with the restrictions mentioned in section 282(2)), and
 - (b) that the charity trustees have complied with the obligations imposed on them by or under section 282 or 283 in connection with the resolution.
- (3) Before the end of the period of 3 months beginning with the relevant date, the Commission must notify the charity trustees in writing—
- (a) that the Commission concurs with the resolution, or
 - (b) that it does not concur with it.
- (4) In subsection (3) “the relevant date” means—
- (a) if the Commission directs the charity trustees under section 283(1) to give public notice of the resolution, the date when that notice is given, and
 - (b) otherwise, the date on which the Commission receives the copy of the resolution in accordance with section 282(4).
- (5) Where—
- (a) the charity trustees are notified by the Commission that it concurs with the resolution, or
 - (b) the period of 3 months mentioned in subsection (3) has elapsed without the Commission notifying them that it does not concur with the resolution,
- the fund or portion may, by virtue of this section, be expended in carrying out the purposes set out in the trusts to which the fund is subject without regard to the restrictions mentioned in section 282(2).