



Charities Act 2011

2011 CHAPTER 25

PART 13

[^{F1}POWERS TO AMEND TRUSTS AND USE CAPITAL]

Textual Amendments

- F1** Pt. 13 heading substituted (14.6.2023) by [Charities Act 2022 \(c. 6\)](#), s. 41(4), [Sch. 2 para. 19](#); S.I. 2023/643, [Sch. para. 20\(e\)](#)

Power to transfer all property of unincorporated charity

^{F2}267 Introduction

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Textual Amendments

- F2** Ss. 267-280 omitted (7.3.2024) by virtue of [Charities Act 2022 \(c. 6\)](#), [ss. 3\(1\)](#), 41(4); S.I. 2024/265, [reg. 3](#), [Sch. 1 para. 3](#) (with [reg. 8](#))

^{F2}268 Resolution to transfer all property

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Textual Amendments

- F2** Ss. 267-280 omitted (7.3.2024) by virtue of [Charities Act 2022 \(c. 6\)](#), [ss. 3\(1\)](#), 41(4); S.I. 2024/265, [reg. 3](#), [Sch. 1 para. 3](#) (with [reg. 8](#))

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F2269 Notice of, and information about, resolution to transfer property

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Textual Amendments
F2 Ss. 267-280 omitted (7.3.2024) by virtue of [Charities Act 2022 \(c. 6\)](#), **ss. 3(1)**, 41(4); S.I. 2024/265, reg. 3, Sch. 1 para. 3 (with reg. 8)

F2270 General rule as to when s.268 resolution takes effect

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Textual Amendments
F2 Ss. 267-280 omitted (7.3.2024) by virtue of [Charities Act 2022 \(c. 6\)](#), **ss. 3(1)**, 41(4); S.I. 2024/265, reg. 3, Sch. 1 para. 3 (with reg. 8)

F2271 S.268 resolution not to take effect or to take effect at later date

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Textual Amendments
F2 Ss. 267-280 omitted (7.3.2024) by virtue of [Charities Act 2022 \(c. 6\)](#), **ss. 3(1)**, 41(4); S.I. 2024/265, reg. 3, Sch. 1 para. 3 (with reg. 8)

F2272 Transfer of property in accordance with s.268 resolution

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Textual Amendments
F2 Ss. 267-280 omitted (7.3.2024) by virtue of [Charities Act 2022 \(c. 6\)](#), **ss. 3(1)**, 41(4); S.I. 2024/265, reg. 3, Sch. 1 para. 3 (with reg. 8)

F2273 Transfer where charity has permanent endowment: general

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Textual Amendments
F2 Ss. 267-280 omitted (7.3.2024) by virtue of [Charities Act 2022 \(c. 6\)](#), **ss. 3(1)**, 41(4); S.I. 2024/265, reg. 3, Sch. 1 para. 3 (with reg. 8)

F2274 Requirements relating to permanent endowment

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Textual Amendments

F2 Ss. 267-280 omitted (7.3.2024) by virtue of [Charities Act 2022 \(c. 6\)](#), **ss. 3(1)**, 41(4); S.I. 2024/265, [reg. 3](#), [Sch. 1 para. 3](#) (with [reg. 8](#))

Powers to alter purposes or powers etc. of unincorporated charity

F2 275 Resolution to replace purposes of unincorporated charity

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Textual Amendments

F2 Ss. 267-280 omitted (7.3.2024) by virtue of [Charities Act 2022 \(c. 6\)](#), **ss. 3(1)**, 41(4); S.I. 2024/265, [reg. 3](#), [Sch. 1 para. 3](#) (with [reg. 8](#))

F2 276 Notice of, and information about, s.275 resolution

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Textual Amendments

F2 Ss. 267-280 omitted (7.3.2024) by virtue of [Charities Act 2022 \(c. 6\)](#), **ss. 3(1)**, 41(4); S.I. 2024/265, [reg. 3](#), [Sch. 1 para. 3](#) (with [reg. 8](#))

F2 277 General rule as to when s.275 resolution takes effect

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Textual Amendments

F2 Ss. 267-280 omitted (7.3.2024) by virtue of [Charities Act 2022 \(c. 6\)](#), **ss. 3(1)**, 41(4); S.I. 2024/265, [reg. 3](#), [Sch. 1 para. 3](#) (with [reg. 8](#))

F2 278 S.275 resolution not to take effect or to take effect at a later date

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Textual Amendments

F2 Ss. 267-280 omitted (7.3.2024) by virtue of [Charities Act 2022 \(c. 6\)](#), **ss. 3(1)**, 41(4); S.I. 2024/265, [reg. 3](#), [Sch. 1 para. 3](#) (with [reg. 8](#))

F2 279 Replacement of purposes in accordance with s.275

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Textual Amendments

F2 Ss. 267-280 omitted (7.3.2024) by virtue of Charities Act 2022 (c. 6), ss. 3(1), 41(4); S.I. 2024/265, reg. 3, Sch. 1 para. 3 (with reg. 8)

F2 280 Power to modify powers or procedures of unincorporated charity

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Textual Amendments

F2 Ss. 267-280 omitted (7.3.2024) by virtue of Charities Act 2022 (c. 6), ss. 3(1), 41(4); S.I. 2024/265, reg. 3, Sch. 1 para. 3 (with reg. 8)

[F3] Unincorporated charity's general power to amend

Textual Amendments

F3 Ss. 280A, 280B and cross-heading inserted (7.3.2024) by Charities Act 2022 (c. 6), ss. 3(2), 41(4) (with s. 3(3)); S.I. 2024/265, reg. 3, Sch. 1 para. 3 (with reg. 8)

280A Amendment of the trusts of an unincorporated charity

- (1) This section applies to any charity which is not a company or other body corporate.
- (2) The charity trustees of such a charity may, if they are satisfied that it is expedient in the interests of the charity, resolve that the trusts of the charity should be amended in such manner as is specified in the resolution.
- (3) The power under subsection (2) is not exercisable in any way which would result in the institution ceasing to be a charity.
- (4) Subsection (5) applies in the case of a charity which has a body of members distinct from the charity trustees, any of whom are entitled under the trusts of the charity to attend and vote at a general meeting of the body.
- (5) In the case of a charity to which this subsection applies, a resolution under subsection (2) is effective only if—
 - (a) it is passed by a majority of the charity trustees of the charity, and
 - (b) it is approved by a further resolution which is passed—
 - (i) at a general meeting, by not less than 75% of the members entitled to attend and vote at the meeting who vote on the resolution,
 - (ii) at a general meeting, by a decision taken without a vote and without any expression of dissent in response to the question put to the meeting, or
 - (iii) otherwise than at a general meeting, by the agreement of all the members entitled to attend and vote at a general meeting.

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- (6) In the case of a charity other than one to which subsection (5) applies, a resolution under subsection (2) is effective only if it is passed by not less than 75% of the charity trustees of the charity.
- (7) An amendment to which subsection (8) applies—
- (a) requires the written consent of the Commission, and
 - (b) is ineffective if such consent has not been obtained.
- (8) This subsection applies to an amendment—
- (a) which would alter the purposes of the charity;
 - (b) which would alter a provision directing the application of property of the charity on its dissolution;
 - (c) which would provide authorisation for any benefit to be obtained by charity trustees or members of the charity, or persons connected with them;
 - (d) which would alter a restriction making property permanent endowment;
 - (e) which would require the consent of a person other than—
 - (i) a charity trustee of, or trustee for, the charity, or
 - (ii) a member of the charity,if made otherwise than by virtue of this section;
 - (f) which would affect any right directly conferred by the trusts of the charity on a person who—
 - (i) is named in the trusts of the charity, or
 - (ii) holds an office or other position specified in the trusts of the charity (other than that of charity trustee or member of, or trustee for, the charity); or
 - (g) which would confer power on any person or persons to make an amendment falling within any of paragraphs (a) to (f).
- (9) But paragraphs (e) and (f) of subsection (8) do not apply where the person concerned consents to the amendment or is no longer in existence.
- (10) In considering whether to consent to an alteration falling within subsection (8)(a), or to the conferral of a power which would enable a person or persons to make such an alteration, the Commission must have regard to—
- (a) the purposes of the charity when it was established, if and so far as they are reasonably ascertainable,
 - (b) the desirability of securing that the purposes of the charity are, so far as reasonably practicable, similar to the purposes being altered, and
 - (c) the need for the charity to have purposes which are suitable and effective in the light of current social and economic circumstances.

280B S. 280A: supplementary provision

- (1) A resolution under section 280A(2) takes effect on the latest of—
- (a) the date the resolution is passed,
 - (b) the date specified in the resolution for it to take effect,
 - (c) if relevant, the date on which the resolution required by virtue of section 280A(5)(b) is passed, and
 - (d) if relevant, the date on which the Commission gives any consent required by virtue of section 280A(7).

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- (2) For the purposes of section 280A(8)(c) “benefit” means a direct or indirect benefit of any nature, except that it does not include—
- (a) any remuneration whose receipt may be authorised under section 185, or
 - (b) the purchase of any insurance which may be authorised under section 189.
- (3) For the purposes of section 280A(8)(c) the following persons are connected with a charity trustee or a member of a charity—
- (a) a child, parent, grandchild, grandparent, brother or sister of the trustee or member;
 - (b) the spouse or civil partner of the trustee or member or of any person falling within paragraph (a);
 - (c) a person carrying on business in partnership with the trustee or member or with any person falling within paragraph (a) or (b);
 - (d) an institution which is controlled—
 - (i) by the trustee or member or by any person falling within paragraph (a), (b) or (c), or
 - (ii) by two or more persons falling within sub-paragraph (i), when taken together;
 - (e) a body corporate in which—
 - (i) the trustee or member or any connected person falling within any of paragraphs (a) to (c) has a substantial interest, or
 - (ii) two or more persons falling within sub-paragraph (i), when taken together, have a substantial interest.
- (4) Sections 350 to 352 (meaning of child, spouse, civil partner, controlled institution and substantial interest) apply for the purposes of subsection (3).]

[^{F4}Charity established etc by Royal charter: general power to amend

Textual Amendments

- F4** S. 280C and cross-heading inserted (31.10.2022) by [Charities Act 2022 \(c. 6\)](#), **ss. 4, 41(4)**; S.I. [2022/1109](#), Sch. para. 1

280C Power to amend Royal charter

- (1) This section applies to any charity which is established or regulated by Royal charter.
- (2) The charity trustees of such a charity may resolve that the Royal charter should be amended in such manner as is specified in the resolution if—
- (a) they are satisfied that it is expedient in the interests of the charity to do so, and
 - (b) there is no power under the Royal charter to make the proposed amendment.
- (3) Subsection (4) applies in the case of a charity which has a body of members distinct from the charity trustees, any of whom are entitled under the Royal charter to attend and vote at a general meeting of the body.
- (4) In the case of a charity to which this subsection applies, a resolution under subsection (2) may not be approved under subsection (6) unless—
- (a) it is passed by a majority of the charity trustees of the charity, and

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- (b) it is approved by a further resolution which is passed—
- (i) at a general meeting, by not less than 75% of the members entitled to attend and vote at the meeting who vote on the resolution,
 - (ii) at a general meeting, by a decision taken without a vote and without any expression of dissent in response to the question put to the meeting, or
 - (iii) otherwise than at a general meeting, by the agreement of all the members entitled to attend and vote at a general meeting.
- (5) In the case of any other charity to which this section applies, a resolution under subsection (2) may not be approved under subsection (6) unless it is passed by not less than 75% of the charity trustees of the charity.
- (6) A resolution under this section takes effect when it is approved by Her Majesty by Order in Council.]

Powers of^{F5}... charities to spend capital

Textual Amendments

F5 Word in s. 281 cross-heading omitted (14.6.2023) by virtue of [Charities Act 2022 \(c. 6\), s. 41\(4\), Sch. 2 para. 16\(2\)](#); S.I. 2023/643, Sch. para. 20(b)

281 Power of^{F6}... charities to spend capital: general

- (1) This section applies to any available endowment fund of a charity^{F7}....
- (2) But this section does not apply to a fund if sections 282 to 284 (power to spend larger fund^{F8}...) 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.

[^{F9}(6A) If—

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

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- (c) the condition in subsection (6B) is met in relation to the charity, the charity trustees may resolve for the purposes of this section that the obligation to repay or pay the amount ought to cease to have effect either wholly or in part.
- (6B) The condition is that the charity trustees are satisfied that the purposes set out in the trusts to which the fund is subject could be carried out more effectively if the obligation ceased to have effect to that extent.
- (6C) Once the charity trustees have passed a resolution under subsection (6A), the obligation ceases to have effect to that extent.
- (6D) Where a resolution passed under subsection (6A) relates to all outstanding obligations to repay amounts to or pay amounts into the fund in respect of the amount borrowed from the fund, any other obligation which falls to be carried out by the charity trustees because the charity trustees have borrowed that amount from the fund also ceases to have effect once the resolution has been passed.]
- (7) In this section “available endowment fund”, in relation to a charity, means—
- the whole of the charity's permanent endowment if it is all subject to the same trusts, or
 - 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.

Textual Amendments

- F6** Word in s. 281 heading omitted (14.6.2023) by virtue of Charities Act 2022 (c. 6), s. 41(4), **Sch. 2 para. 16(1)(b)**; S.I. 2023/643, Sch. para. 20(b)
- F7** Words in s. 281(1) omitted (14.6.2023) by virtue of Charities Act 2022 (c. 6), **ss. 10(2)(a)**, 41(4); S.I. 2023/643, Sch. para. 2 (with reg. 4)
- F8** Words in s. 281(2) omitted (14.6.2023) by virtue of Charities Act 2022 (c. 6), s. 41(4), **Sch. 2 para. 16(1)(a)**; S.I. 2023/643, Sch. para. 20(b)
- F9** S. 281(6A)-(6D) inserted (14.6.2023) by Charities Act 2022 (c. 6), **ss. 10(2)(b)**, 41(4); S.I. 2023/643, Sch. para. 2 (with reg. 4)

282 Resolution to spend larger fund ^{F10}...

- (1) This section applies to any available endowment fund of a charity [^{F11}if—
- in a case where subsection (1A) applies, the adjusted market value of the fund exceeds £25,000, or
 - in any other case, the market value of the fund exceeds that sum.]
- [^{F12}(1A) This subsection applies where the charity trustees of the charity have borrowed from the fund and all or part of that borrowing is outstanding.]
- (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.

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[^{F13}(3A) If—

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

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

(3B) The condition is that the charity trustees are satisfied that the purposes set out in the trusts to which the fund is subject could be carried out more effectively if the obligation ceased to have effect to that extent.]

(4) The charity trustees—

- (a) must send a copy of any resolution under subsection (2) [^{F14}or (3A)] 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—

[^{F15}“adjusted market value”, in relation to an endowment fund, means the current market value of the fund as determined on a valuation carried out for the purpose—

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

“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.

[^{F15}“outstanding borrowing” means outstanding borrowing by virtue of section 284A or otherwise.]

^{F16}(6)

Textual Amendments

- F10** Words in s. 282 heading omitted (14.6.2023) by virtue of Charities Act 2022 (c. 6), ss. 10(3)(a), 41(4); S.I. 2023/643, Sch. para. 2 (with reg. 4)
- F11** Words in s. 282(1) substituted (14.6.2023) by Charities Act 2022 (c. 6), ss. 10(3)(b), 41(4); S.I. 2023/643, Sch. para. 2 (with reg. 4)
- F12** S. 282(1A) inserted (14.6.2023) by Charities Act 2022 (c. 6), ss. 10(3)(c), 41(4); S.I. 2023/643, Sch. para. 2 (with reg. 4)
- F13** S. 282(3A)(3B) inserted (14.6.2023) by Charities Act 2022 (c. 6), ss. 10(3)(d), 41(4); S.I. 2023/643, Sch. para. 2 (with reg. 4)

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- F14** Words in s. 282(4)(a) inserted (14.6.2023) by Charities Act 2022 (c. 6), ss. 10(3)(e), 41(4); S.I. 2023/643, Sch. para. 2 (with reg. 4)
- F15** Words in s. 282(5) inserted (14.6.2023) by Charities Act 2022 (c. 6), ss. 10(3)(f), 41(4); S.I. 2023/643, Sch. para. 2 (with reg. 4)
- F16** S. 282(6) omitted (14.6.2023) by virtue of Charities Act 2022 (c. 6), ss. 10(3)(g), 41(4); S.I. 2023/643, Sch. para. 2 (with reg. 4)

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
 - (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) [^{F17}or (3A)], the Commission must take into account—
- (a) any evidence [^{F18}made] available to it as to the wishes of [^{F19}any donor or donors to the available endowment fund], and
 - ^{F20}(b) any changes in circumstances relating to the available endowment fund since it was established (including, in particular, the financial position of the fund, the needs of those who can benefit from the fund, and the social, economic and legal environment).]
- (2) The Commission must not concur with the resolution unless it is satisfied—
- (a) that its implementation would accord with the spirit of [^{F21}any gift or gifts to the available endowment fund] (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 [^{F22}relevant period], 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.

^{F23}(4) The “relevant period” means—

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- (a) the period of 60 days beginning with the date on which the Commission receives the copy of the resolution in accordance with section 282(4), or
- (b) that period as modified by subsection (4A) or (4B).

(4A) If under section 283(1) the Commission directs the charity trustees to give public notice of a resolution, the running of the relevant period is suspended from the date on which the direction is given to the charity trustees until the end of the period of 42 days beginning with the date on which public notice of the resolution is given by the charity trustees.

(4B) If under section 283(2) the Commission directs the charity trustees to provide any information or explanations, the running of the relevant period is suspended from the date on which the direction is given to the charity trustees until the date on which the information or explanations is or are provided to the Commission.]

(5) Where—

- (a) the charity trustees are notified by the Commission that it concurs with the resolution, or
- (b) the [^{F24}relevant period] has elapsed without the Commission notifying them that it does not concur with the resolution,

[^{F25}(6) Where the resolution passed under section 282(3A) relates to all outstanding obligations to repay amounts to or pay amounts into the fund in respect of the amount borrowed from the fund, any other obligation which falls to be carried out by the charity trustees because the charity trustees have borrowed that amount from the fund ceases to have effect when the obligations to repay or pay amounts cease to have effect.]

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) [^{F26}or (as the case may be) the obligation to repay or pay the amount to the fund ceases to have effect, by virtue of this section, to the extent resolved by the trustees under section 282(3A)] .

Textual Amendments

- F17** Words in s. 284(1) inserted (14.6.2023) by Charities Act 2022 (c. 6), s. 41(4), **Sch. 2 para. 17(2)**; S.I. 2023/643, Sch. para. 20(c) (with reg. 4)
- F18** Word in s. 284(1)(a) inserted (14.6.2023) by Charities Act 2022 (c. 6), s. 41(4), **Sch. 2 para. 17(3)(a)**; S.I. 2023/643, Sch. para. 20(c) (with reg. 4)
- F19** Words in s. 284(1)(a) substituted (14.6.2023) by Charities Act 2022 (c. 6), s. 41(4), **Sch. 2 para. 17(3)(b)**; S.I. 2023/643, Sch. para. 20(c) (with reg. 4)
- F20** S. 284(1)(b) substituted (14.6.2023) by Charities Act 2022 (c. 6), s. 41(4), **Sch. 2 para. 17(4)**; S.I. 2023/643, Sch. para. 20(c) (with reg. 4)
- F21** Words in s. 284(2)(a) substituted (14.6.2023) by Charities Act 2022 (c. 6), s. 41(4), **Sch. 2 para. 17(5)**; S.I. 2023/643, Sch. para. 20(c) (with reg. 4)
- F22** Words in s. 284(3) substituted (14.6.2023) by Charities Act 2022 (c. 6), **ss. 11(2)**, 41(4); S.I. 2023/643, Sch. para. 3 (with reg. 4)
- F23** S. 284(4)-(4B) substituted for s. 284(4) (14.6.2023) by Charities Act 2022 (c. 6), **ss. 11(3)**, 41(4); S.I. 2023/643, Sch. para. 3 (with reg. 4)
- F24** Words in s. 284(5)(b) substituted (14.6.2023) by Charities Act 2022 (c. 6), s. 41(4), **Sch. 2 para. 17(6)**; S.I. 2023/643, Sch. para. 20(c) (with reg. 4)
- F25** S. 284(6) inserted (14.6.2023) by Charities Act 2022 (c. 6), **ss. 10(4)(b)**, 41(4); S.I. 2023/643, Sch. para. 2 (with reg. 4)

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F26 Words in s. 284 inserted (14.6.2023) by Charities Act 2022 (c. 6), ss. 10(4)(a), 41(4); S.I. 2023/643, Sch. para. 2 (with reg. 4)

^{F27}Power to borrow from permanent endowment

Textual Amendments

F27 Ss. 284A-284D and cross-heading inserted (14.6.2023) by Charities Act 2022 (c. 6), ss. 12(2), 41(4); S.I. 2023/643, Sch. para. 4

284A Power to borrow from permanent endowment: general

- (1) This section applies to any available endowment fund of a charity.
- (2) The charity trustees may resolve to borrow an amount, not exceeding the permitted amount, from the available endowment fund if they are satisfied—
 - (a) that it is expedient for the amount to be borrowed, in the light of the purposes set out in the trusts to which the fund is subject and the purposes of the charity, and
 - (b) that arrangements are in place for the amount to be repaid within 20 years of being borrowed.
- (3) Any amount borrowed in accordance with subsection (2) no longer forms part of the available endowment fund and, as a result, is freed from the restrictions with respect to the expenditure of capital that applied to it when it was comprised in that fund.
- (4) An amount borrowed in accordance with subsection (2) may not be used to repay (in whole or in part) any amount previously borrowed from permanent endowment (whether the previous borrowing was by virtue of this section or otherwise).
- (5) When repaying an amount borrowed (whether in whole or in part), the charity trustees may resolve to pay an additional amount not exceeding the maximum estimated capital appreciation.
- (6) Any—
 - (a) repayment of an amount borrowed, and
 - (b) payment of an additional amount by virtue of a resolution under subsection (5),
 is to be added to the available endowment fund and is to be subject to the same restrictions as to expenditure as apply to the other capital in the fund.
- (7) The powers conferred by this section—
 - (a) may be restricted or excluded by the trusts of the charity;
 - (b) are (subject to paragraph (a)) in addition to any other power to borrow that the charity or charity trustees may have.
- (8) If, and in so far as, the power conferred by subsection (5) confers power to accumulate income, it is not subject to section 14(3) of the Perpetuities and Accumulations Act 2009 (which provides for certain powers to accumulate income to cease after 21 years).
- (9) In this section “available endowment fund”, in relation to a charity, means—

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- (a) the whole of the charity’s permanent endowment if it is all subject to the same trusts, or
 - (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.
- (10) If a resolution under section 104A(2) has effect in respect of an available endowment fund (or portion of such a fund), references in this section to an “available endowment fund” include that fund (or portion) but do not include any returns from the investment of the fund (or portion) which have not been accumulated.
- (11) For the meaning of “permitted amount” and “maximum estimated capital appreciation” see sections 284B and 284C respectively.

284B Calculation of the “permitted amount”

- (1) The “permitted amount” for the purposes of section 284A(2) is given by the formula—

$$(0.25 \times (V+B))B$$

where—

V is the value of the available endowment fund on the relevant date (ignoring the value, if any, of the benefit of the debt owed by the charity trustees representing outstanding borrowing from the fund), and

B is the amount of the charity trustees’ outstanding borrowing from the available endowment fund on that date.

- (2) In subsection (1)—
- “outstanding borrowing” means outstanding borrowing by virtue of section 284A or otherwise;
 - the “relevant date” is the date on which the trustees resolve to borrow from the available endowment fund (see section 284A(2)).
- (3) If a resolution under section 104A(2) has effect in respect of the available endowment fund (or any part of it), for the purposes of subsection (1) the value of the available endowment fund does not include any returns from the investment of the fund (or part) which have not been accumulated.

284C Calculation of the “maximum estimated capital appreciation”

- (1) The “maximum estimated capital appreciation” for the purposes of section 284A(5) is given by the formula—

$$R \times I$$

where—

R is the amount of borrowing being repaid, and

I is the percentage increase in the relevant index between the month in which the amount was borrowed and the month preceding the month in which the repayment is made (or if there is no increase is nil).

- (2) The “relevant index” is whichever of the following is selected by the charity trustees from time to time—
- (a) the retail prices index;
 - (b) the consumer prices index;

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(c) any similar general index of prices published by the Statistics Board.

(3) In this section—

“consumer prices index” means the general index for consumer prices published by the Statistics Board;

“retail prices index” means the general index of retail prices (for all items) published by the Statistics Board.

284D Inability to repay

(1) If (at any time) it appears to the charity trustees that—

(a) they will not be able to fulfil the arrangements put in place to repay an amount borrowed under section 284A, or

(b) those arrangements are not sufficient to ensure that the amount is repaid, the trustees must apply to the Commission for an order under this section directing them how to proceed.

(2) An order under this section may give such directions as the Commission thinks fit, including—

(a) that the relevant amount may be repaid over a longer period,

(b) that the charity trustees put in place arrangements specified in the order, or

(c) that the charity trustees need not repay an amount borrowed.]

Supplementary

285 Power to alter sums [^{F28}etc] specified in this Part

(1) The [^{F29}Secretary of State] may by order amend any provision listed in subsection (2)

(a) by substituting a different sum for the sum for the time being specified in that provision, ^{F30}...

^{F30}(b)

(2) The provisions are—

^{F31}...

^{F32}...

section 282(1) ([^{F33}adjusted market value] and market value of fund for purposes of resolution to spend larger fund ^{F34}...).

[^{F35}(3) The Secretary of State may by regulations amend—

(a) the period of time specified in section 284A(2)(b), or

(b) the multiplier in the formula set out in section 284B(1),

so as to substitute a different time period or multiplier (as the case may be) for the period or multiplier for the time being specified in that provision.]

Textual Amendments

F28 Word in s. 285 heading inserted (14.6.2023) by Charities Act 2022 (c. 6), s. 41(4), Sch. 2 para. 21; S.I. 2023/643, Sch. para. 20(g)

Changes to legislation: Charities Act 2011, Part 13 is up to date with all changes known to be in force on or before 05 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- F29** Words in s. 285(1) substituted (9.11.2016) by [The Transfer of Functions \(Elections, Referendums, Third Sector and Information\) Order 2016 \(S.I. 2016/997\)](#), art. 1(2), **Sch. 2 para. 25(2)(hh)** (with art. 12)
- F30** S. 285(1)(b) and word omitted (14.6.2023) by virtue of [Charities Act 2022 \(c. 6\)](#), s. 41(4), **Sch. 2 para. 18(2)**; S.I. 2023/643, Sch. para. 20(d)
- F31** Words in s. 285(2) omitted (7.3.2024) by virtue of [Charities Act 2022 \(c. 6\)](#), s. 41(4), **Sch. 2 para. 3(a)**; S.I. 2024/265, reg. 3, Sch. 1 para. 13(c)
- F32** Words in s. 285(2) omitted (7.3.2024) by virtue of [Charities Act 2022 \(c. 6\)](#), s. 41(4), **Sch. 2 para. 3(b)**; S.I. 2024/265, reg. 3, Sch. 1 para. 13(c)
- F33** Words in s. 285(2) substituted (14.6.2023) by [Charities Act 2022 \(c. 6\)](#), s. 41(4), **Sch. 2 para. 18(3)(a)**; S.I. 2023/643, Sch. para. 20(d)
- F34** Words in s. 285(2) omitted (14.6.2023) by virtue of [Charities Act 2022 \(c. 6\)](#), s. 41(4), **Sch. 2 para. 18(3)(b)**; S.I. 2023/643, Sch. para. 20(d)
- F35** S. 285(3) inserted (14.6.2023) by [Charities Act 2022 \(c. 6\)](#), **ss. 12(3)**, 41(4); S.I. 2023/643, Sch. para. 4

286 Effect of provisions relating to vesting or transfer of property

No vesting or transfer of any property in pursuance of any provision of this Part operates as a breach of a covenant or condition against alienation or gives rise to a forfeiture.

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 106(1)-(1B) substituted for s. 106(1) by [2022 c. 6 s. 16\(a\)](#)
- s. 322(2)(ea) inserted by [2022 c. 6 Sch. 2 para. 26](#)
- s. 331A331B and cross-heading inserted by [2022 c. 6 s. 15](#)