



Charities Act 2011

2011 CHAPTER 25

PART 6

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

Cy-près powers and variation of charters

61 Duty of trustees in relation to application of property cy-près

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.

62 Occasions for applying property cy-près

- (1) Subject to subsection (3), 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 are—
 - (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,
 - (b) where the original purposes provide a use for part only of the property available by virtue of the gift,
 - (c) where—
 - (i) the property available by virtue of the gift, and
 - (ii) other property applicable for similar purposes,can be more effectively used in conjunction, and to that end can suitably, regard being had to the appropriate considerations, be made applicable to common purposes,
 - (d) where the original purposes were laid down by reference to—

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- (i) an area which then was but has since ceased to be a unit for some other purpose, or
- (ii) a class of persons or an area which has for any reason since ceased to be suitable, regard being had to the appropriate considerations, 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,
 - (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 appropriate considerations.
- (2) In subsection (1) “the appropriate considerations” means—
 - (a) (on the one hand) the spirit of the gift concerned, and
 - (b) (on the other) the social and economic circumstances prevailing at the time of the proposed alteration of the original purposes.
- (3) Subsection (1) does 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.
- (4) References in subsections (1) to (3) to the original purposes of a gift are to be read, 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.
- (5) 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 column 1 in Schedule 4, provide for enlarging the area to any such area as is mentioned in column 2 in the same entry in that Schedule.
- (6) Subsection (5) does not affect the power to make schemes in circumstances falling within subsection (1).

[F163A Failure of specific charitable purposes: application cy-près

- (1) Property given for specific charitable purposes which fail is applicable cy-près as if given for charitable purposes generally, if—
 - (a) the court or the Commission by order so direct, or
 - (b) the condition specified in subsection (3), (4) or (6) is met.
- (2) An order may be made under subsection (1)(a) if it appears to the court or the Commission—
 - (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 amounts of the gifts, and to the lapse of time since the gifts were made, for the donors to expect the property to be returned.

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- (3) The condition in this subsection is met if—
- (a) the property is a single gift of £120 or less, and
 - (b) the charity trustees reasonably believe that during the financial year of the charity in which it is given the total amount given by the donor to the charity for the specific charitable purposes is £120 or less,
- unless at the time of giving the gift the donor states in writing that the gift must be returned if the specific charitable purposes fail.
- (4) The condition in this subsection is met if the property is given by a donor who, after the agreed actions are taken, is not identified or is not found.
- (5) The “agreed actions” are those agreed in writing between the charity trustees and the Commission as being reasonable in all the circumstances of the case to identify and find donors.
- (6) The condition in this subsection is met if the property consists of—
- (a) the proceeds of cash collections made—
 - (i) by means of collecting boxes, or
 - (ii) by other means not adapted for distinguishing one gift from another,
 or
 - (b) 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.
- (7) The Secretary of State may by regulations amend subsection (3)(a) or (b) by substituting a different sum for the time being specified there.]

Textual Amendments

- F1** S. 63A substituted for ss. 63-65 (31.10.2022) by [Charities Act 2022 \(c. 6\), ss. 6\(1\), 41\(4\)](#) (with s. 6(3)); [S.I. 2022/1109, Sch. para. 3](#) (with reg. 5)

66 [F2Section 63A: supplementary]

- (1) For the purposes of [F3section 63A], charitable purposes are to be treated as failing if 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.

[F4(1A) Where property is applied cy-près by virtue of section 63A, all the donor’s interest in it is treated as having been relinquished when the gift was made.]

- (2) In [F5section 63A] and this section—
- (a) references to a donor include persons claiming through or under the original donor, and
 - (b) references to property given include the property for the time being representing the property originally given or property derived from it.

- (3) Subsection (2) applies except in so far as the context otherwise requires.

[F6(4)]

[F6(5)]

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F6(6)

Textual Amendments

- F2** S. 66 heading substituted (31.10.2022) by Charities Act 2022 (c. 6), s. 41(4), **Sch. 2 para. 13(a)**; S.I. 2022/1109, **Sch. para. 11(d)** (with reg. 5)
- F3** Words in s. 66(1) substituted (31.10.2022) by Charities Act 2022 (c. 6), s. 41(4), **Sch. 2 para. 13(b)**; S.I. 2022/1109, **Sch. para. 11(d)** (with reg. 5)
- F4** S. 66(1A) inserted (31.10.2022) by Charities Act 2022 (c. 6), s. 41(4), **Sch. 2 para. 13(c)**; S.I. 2022/1109, **Sch. para. 11(d)** (with reg. 5)
- F5** Words in s. 66(2) substituted (31.10.2022) by Charities Act 2022 (c. 6), s. 41(4), **Sch. 2 para. 13(d)**; S.I. 2022/1109, **Sch. para. 11(d)** (with reg. 5)
- F6** S. 66(4)-(6) omitted (31.10.2022) by virtue of Charities Act 2022 (c. 6), s. 41(4), **Sch. 2 para. 13(e)**; S.I. 2022/1109, **Sch. para. 11(d)** (with reg. 5)

67 Cy-près schemes

- (1) The power of the court or the Commission to make schemes for the application of property cy-près must be exercised in accordance with this section.
- (2) Where any property given for charitable purposes is applicable cy-près, the court or the Commission may make a scheme providing for the property to be applied—
 - (a) for such charitable purposes, and
 - (b) (if the scheme provides for the property to be transferred to another charity) by or on trust for such other charity,
 as it considers appropriate, having regard to the matters set out in subsection (3).
- (3) The matters are—
 - (a) the spirit of the original gift,
 - (b) the desirability of securing that the property is applied for charitable purposes which are close to the original purposes, and
 - (c) the need for the relevant charity to have purposes which are suitable and effective in the light of current social and economic circumstances.
 The “relevant charity” means the charity by or on behalf of which the property is to be applied under the scheme.
- (4) If a scheme provides for the property to be transferred to another charity, the scheme may impose on the charity trustees of that charity a duty to secure that the property is applied for purposes which are, so far as is reasonably practicable, similar in character to the original purposes.
- (5) In this section references to property given include the property for the time being representing the property originally given or property derived from it.
- (6) In this section references to the transfer of property to a charity are references to its transfer—
 - (a) to the charity,
 - (b) to the charity trustees,
 - (c) to any trustee for the charity, or
 - (d) to a person nominated by the charity trustees to hold it in trust for the charity, as the scheme may provide.

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- (7) In this section references to the original purposes of a gift are to be read, 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.

[^{F7}67A Proceeds of fund-raising: power of charity trustees to apply cy-près

- (1) Subsection (2) applies if—
- (a) money or other property is solicited to enable a charity to further specific charitable purposes,
 - (b) money or other property is given as a result of that solicitation, and
 - (c) some or all of that money or other property (or the property for the time being representing it or derived from it) is applicable cy-près by virtue of section 62(1)(a) or (b) or 63A.
- (2) The charity trustees of the charity may resolve that all the money or other property which is applicable cy-près by virtue of section 62(1)(a) or (b) or 63A be applied for such charitable purposes specified in the resolution as they consider appropriate, having regard to—
- (a) the desirability of securing that the purposes are, so far as reasonably practicable, similar to the specific charitable purposes for which the money or other property was given;
 - (b) the need for the purposes to be suitable and effective in the light of current social and economic circumstances.
- (3) A resolution under this section must be passed by a majority of the charity trustees.
- (4) If a resolution passed under this section concerns money or other property with a value exceeding £1,000—
- (a) the charity trustees must send a copy of the resolution to the Commission, together with a statement of their reasons for passing it, and
 - (b) the resolution does not have effect until the date on which the Commission consents to it in writing.
- (5) The Secretary of State may by regulations amend subsection (4) by substituting a different sum for the sum for the time being specified there.]

Textual Amendments

F7 S. 67A inserted (31.10.2022) by [Charities Act 2022 \(c. 6\)](#), ss. 7, 41(4); S.I. 2022/1109, Sch. para. 4

68 Charities governed by charter, or by or under statute

- (1) Subsection (2) applies where a Royal charter establishing or regulating a body corporate is amendable by the grant and acceptance of a further charter.
- (2) 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)—
- (a) may be made by the court under the court's jurisdiction with respect to charities even though the scheme cannot take effect without the alteration of the charter, but

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- (b) must 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.
- (3) Subsection (4) applies where, under—
 - (a) the court's jurisdiction with respect to charities or the corresponding jurisdiction of a court in Northern Ireland, or
 - (b) powers conferred by this Act or by any Northern Ireland legislation relating to charities,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.
- (4) Her Majesty may, on the application of the body corporate, 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 the same manner as the charter it amends.
- (5) The jurisdiction of the court with respect to charities is not excluded or restricted in the case of a charity of a description mentioned in Schedule 5 by the operation of the enactments or instruments there mentioned in relation to that description.
- (6) A scheme established for a charity of a description mentioned in Schedule 5—
 - (a) 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
 - (b) may also make any such provision as is authorised by that Schedule.

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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](#)