



Charities Act 2011

2011 CHAPTER 25

PART 6 **E+W+N.I.**

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

Property vested in official custodian

90 **Entrusting charity property to official custodian, and termination of trust** **E** **+W**

- (1) The court may by order—
 - (a) vest in the official custodian any land held by or in trust for a charity,
 - (b) authorise or require the persons in whom any such land is vested to transfer it to the official custodian, or
 - (c) appoint any person to transfer any such land to the official custodian.
- (2) But subsection (1) does not apply to any interest in land by way of mortgage or other security.
- (3) Where property is vested in the official custodian in trust for a charity, the court may make an order discharging the official custodian from the trusteeship as respects all or any of that property.
- (4) Where—
 - (a) the official custodian is discharged from the trusteeship of any property, or
 - (b) the trusts on which the official custodian 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 is liable for any loss occasioned by—
 - (a) acting in conformity with an order under this section, or
 - (b) giving effect to anything done in pursuance of such an order.

Changes to legislation: Charities Act 2011, Cross Heading: Property vested in official custodian is up to date with all changes known to be in force on or before 21 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

- (6) No person is excused from—
- (a) acting in conformity with an order under this section, or
 - (b) giving effect to anything done in pursuance of such an order,
- because the order has been in any respect improperly obtained.

91 Supplementary provisions as to property vested in official custodian **E+W**

- (1) Subject to the provisions of this Act, where property is vested in the official custodian in trust for a charity, the official custodian—
- (a) must not exercise any powers of management, but
 - (b) as trustee of any property—
 - (i) has all the same powers, duties and liabilities,
 - (ii) is entitled to the same rights and immunities, and
 - (iii) is subject to the control and orders of the court in the same way,
 as a corporation appointed custodian trustee under section 4 of the Public Trustee Act 1906.
- (2) Subsection (1) does not confer on the official custodian a power to charge fees.
- (3) Subject to subsection (4), where any land is vested in the official custodian in trust for a charity, the charity trustees may, in the name and on behalf of the official custodian, execute and do all assurances and things which they could properly execute or do in their own name and on their own behalf if the land were vested in them.
- (4) If any land is so vested in the official custodian by virtue of an order under section 76(3)(c), the power conferred on the charity trustees by subsection (3) is not exercisable by them in relation to any transaction affecting the land, unless the transaction is authorised by order of the court or of the Commission.
- (5) Where any land is vested in the official custodian in trust for a charity—
- (a) the charity trustees have the same power to make obligations entered into by them binding on the land as if it were vested in them, and
 - (b) any covenant, agreement or condition which is enforceable by or against the official custodian because the land is vested in the official custodian is enforceable by or against the charity trustees as if the land were vested in them.
- (6) In relation to a corporate charity, subsections (3) to (5) apply with the substitution of references to the charity for references to the charity trustees.
- (7) Subsections (3) to (5) do not authorise any charity trustees or charity to impose any personal liability on the official custodian.
- (8) Where the official custodian is entitled as trustee for a charity to the custody of securities or documents of title relating to the trust property, the official custodian may permit them to be in the possession or under the control of the charity trustees without incurring any liability by doing so.

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](#)