



Charities Act 2011

2011 CHAPTER 25

PART 6

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

Powers of Commission to make schemes etc.

70 Restrictions on Commission's concurrent jurisdiction

- (1) The Commission does not have jurisdiction under section 69 to try or determine—
 - (a) the title at law or in equity to any property as between—
 - (i) a charity or trustee for a charity, and
 - (ii) a person holding or claiming the property or an interest in it adversely to the charity, or
 - (b) any question as to the existence or extent of any charge or trust.
- (2) Subject to the following subsections, the Commission must not exercise its jurisdiction under section 69 as respects any charity except—
 - (a) on the application of the charity,
 - (b) on an order of the court under section 69(3), or
 - (c) on the application of the Attorney General.
- (3) In the case of a charity whose gross income does not exceed £500 a year, the Commission may exercise its jurisdiction under section 69 on the application of—
 - (a) any one or more of the charity trustees,
 - (b) any person interested in the charity, or
 - (c) any two or more inhabitants of the area of the charity if it is a local charity.
- (4) Subsection (5) applies where in the case of a charity, other than an exempt charity, the Commission—
 - (a) is satisfied that the charity trustees—
 - (i) ought in the interests of the charity to apply for a scheme, but

Changes to legislation: Charities Act 2011, Section 70 is up to date with all changes known to be in force on or before 20 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

- (ii) have unreasonably refused or neglected to do so, and
 - (b) has given the charity trustees an opportunity to make representations to it.
- (5) The Commission—
- (a) may proceed as if an application for a scheme had been made by the charity, but
 - (b) may not, where it acts by virtue of this subsection, alter the purposes of a charity unless 40 years have elapsed from the date of the charity's foundation.
- (6) Where—
- (a) a charity cannot apply to the Commission for a scheme because of any vacancy among the charity trustees or the absence or incapacity of any of them, but
 - (b) such an application is made by such number of the charity trustees as the Commission considers appropriate in the circumstances of the case,
- the Commission may nevertheless proceed as if the application were an application made by the charity.
- (7) The Commission may on the application of any charity trustee or trustee for a charity exercise its jurisdiction under section 69 for the purpose of discharging the applicant from trusteeship.
- (8) The Commission must not exercise its jurisdiction under section 69 in any case (not referred to it by order of the court) which—
- (a) because of its contentious character, or any special question of law or of fact which it may involve, or
 - (b) for other reasons,
- the Commission may consider more fit to be adjudicated on by the court.

Modifications etc. (not altering text)

- C1** S. 70(1) applied by 1987 c. 3, s. 5(8) (as substituted (14.3.2012) by [Charities Act 2011 \(c. 25\), s. 355, Sch. 7 para. 47\(2\)](#) (with [s. 20\(2\), Sch. 8](#)))
- C2** S. 70(2) excluded by 1996 c. 14, Sch. 5 para. 6 (as substituted (14.3.2012) by [Charities Act 2011 \(c. 25\), s. 355, Sch. 7 para. 69\(3\)](#) (with [s. 20\(2\), Sch. 8](#)))

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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](#)