



# Charities Act 1960

## 1960 CHAPTER 58

### PART IV

#### MISCELLANEOUS PROVISIONS AS TO CHARITIES AND THEIR AFFAIRS

#### **32 General obligation to keep accounts**

- (1) Charity trustees shall keep proper books of account with respect to the affairs of the charity, and charity trustees not required by or under the authority of any other Act to prepare periodical statements of account shall prepare consecutive statements of account consisting on each occasion of an income and expenditure account relating to a period of not more than fifteen months and a balance sheet relating to the end of that period.
- (2) The books of account and statements of account relating to any charity shall be preserved for a period of seven years at least, unless the charity ceases to exist and the Commissioners permit them to be destroyed or otherwise disposed of.
- (3) The statements of account relating to a parochial charity in a rural parish, other than an ecclesiastical charity, shall be sent annually to the parish council or, if there is no parish council, to the chairman of the parish meeting, and shall be presented by the council or chairman at the next parish meeting.

This subsection shall apply in relation to a borough included in a rural district as if the borough were a rural parish, except as regards the presentation of the accounts to the parish meeting.

#### **33 Manner of giving notice of charity meetings, etc.**

- (1) All notices which are required or authorised by the trusts of a charity to be given to a charity trustee, member or subscriber may be sent by post, and, if sent by post, may be addressed to any address given as his in the list of charity trustees, members or subscribers for the time being in use at the office or principal office of the charity.

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- (2) Where any such notice required to be given as aforesaid is given by post, it shall be deemed to have been given by the time at which the letter containing it would be delivered in the ordinary course of post.
- (3) No notice required to be given as aforesaid of any meeting or election need be given to any charity trustee, member or subscriber, if in the list above mentioned he has no address in the United Kingdom.

### **34 Manner of executing instruments**

- (1) Charity trustees may, subject to the trusts of the charity, confer on any of their body (not being less than two in number) a general authority, or an authority limited in such manner as the trustees think fit, to execute in the names and on behalf of the trustees assurances or other deeds or instruments for giving effect to transactions to which the trustees are a party; and any deed or instrument executed in pursuance of an authority so given shall be of the same effect as if executed by the whole body.
- (2) An authority under subsection (1) above—
  - (a) shall suffice for any deed or instrument if it is given in writing or by resolution of a meeting of the trustees, notwithstanding the want of any formality that would be required in giving an authority apart from that subsection;
  - (b) may be given so as to make the powers conferred exercisable by any of the trustees, or may be restricted to named persons or in any other way;
  - (c) subject to any such restriction, and until it is revoked, shall, notwithstanding any change in the charity trustees, have effect as a continuing authority given by and to the persons who from time to time are of their body.
- (3) In any authority under this section to execute a deed or instrument in the names and on behalf of charity trustees there shall, unless the contrary intention appears, be implied authority also to execute it for them in the name and on behalf of the official custodian for charities or of any other person, in any case in which the charity trustees could do so.
- (4) Where a deed or instrument purports to be executed in pursuance of this section, then in favour of a person who (then or afterwards) in good faith acquires for money or money's worth an interest in or charge on property or the benefit of any covenant or agreement expressed to be entered into by the charity trustees, it shall be conclusively presumed to have been duly executed by virtue of this section.
- (5) The powers conferred by this section shall be in addition to and not in derogation of any other powers.

### **35 Transfer and evidence of title to property vested in trustees**

- (1) Where, under the trusts of a charity, trustees of property held for the purposes of the charity may be appointed or discharged by resolution of a meeting of the charity trustees, members or other persons, a memorandum declaring a trustee to have been so appointed or discharged shall be sufficient evidence of that fact, if the memorandum is signed either at the meeting by the person presiding or in some other manner directed by the meeting, and is attested by two persons present at the meeting.
- (2) A memorandum evidencing the appointment or discharge of a trustee under subsection (1) above, if executed as a deed, shall have the like operation under

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section forty of the Trustee Act, 1925 (which relates to vesting declarations as respects trust property in deeds appointing or discharging trustees), as if the appointment or discharge were effected by the deed.

- (3) For the purposes of this section, where a document purports to have been signed and attested as mentioned in subsection (1) above, then on proof (whether by evidence or as a matter of presumption) of the signature the document shall be presumed to have been so signed and attested, unless the contrary is shown.
- (4) This section shall apply to a memorandum made at any time, except that subsection (2) shall apply only to those made after the commencement of this Act.
- (5) This section shall apply in relation to any institution to which the Literary and Scientific Institutions Act, 1854, applies, as it applies in relation to a charity.
- (6) The Trustee Appointment Act, 1850, the Trustee Appointment Act, 1869, the Trustees Appointment Act, 1890, and in so far as it applies any of those Acts the School Sites Act, 1852, shall cease to have effect; but where, at the commencement of this Act, the provisions of those Acts providing for the appointment of trustees apply in relation to any land, those provisions shall have effect as if contained in the conveyance or other instrument declaring the trusts on which the land is then held.

### **36 Miscellaneous provisions as to evidence**

- (1) Where, in any proceedings to recover or compel payment of any rentcharge or other periodical payment claimed by or on behalf of a charity out of land or of the rents, profits or other income of land, otherwise than as rent incident to a reversion, it is shown that the rentcharge or other periodical payment has at any time been paid for twelve consecutive years to or for the benefit of the charity, that shall be prima facie evidence of the perpetual liability to it of the land or income, and no proof of its origin shall be necessary.
- (2) In any proceedings, the following documents, that is to say,—
  - (a) the printed copies of the reports of the Commissioners for enquiring concerning charities, 1818 to 1837, who were appointed under the Act 58 Geo. 3. c. 91 and subsequent Acts; and
  - (b) the printed copies of the reports which were made for various counties and county boroughs to the Charity Commissioners by their assistant commissioners and presented to the House of Commons as returns to orders of various dates beginning with the eighth day of December, eighteen hundred and ninety, and ending with the ninth day of September, nineteen hundred and nine;shall be admissible as evidence of the documents and facts stated in them.
- (3) Evidence of any order, certificate or other document issued by the Commissioners may be given by means of a copy retained by them, or taken from a copy so retained, and certified to be a true copy by any officer of the Commissioners generally or specially authorised by them to act for this purpose; and a document purporting to be such a copy shall be received in evidence without proof of the official position, authority or handwriting of the person certifying it.

### 37 Parochial charities

- (1) Where trustees hold any property for the purposes of a public recreation ground, or of allotments (whether under inclosure Acts or otherwise), for the benefit of inhabitants of a rural parish having a parish council, or for other charitable purposes connected with such a rural parish, except for an ecclesiastical charity, they may with the approval of the Commissioners and with the consent of the parish council transfer the property to the parish council or to persons appointed by the parish council; and the council or their appointees shall hold the property on the same trusts and subject to the same conditions as the trustees did.

This subsection shall apply to property held for any public purposes as it applies to property held for charitable purposes, and shall apply in relation to a borough included in a rural district as if the borough were a rural parish.

- (2) Where the charity trustees of a parochial charity in a rural parish, not being an ecclesiastical charity nor a charity founded within the preceding forty years, do not include persons elected by the local government electors, ratepayers or inhabitants of the parish or appointed by the parish council or parish meeting, the parish council or parish meeting may appoint additional charity trustees, to such number as the Commissioners may allow; and if there is a sole charity trustee not elected or appointed as aforesaid of any such charity, the number of the charity trustees may, with the approval of the Commissioners, be increased to three of whom one may be nominated by the person holding the office of the sole trustee and one by the parish council or parish meeting.

This subsection shall apply in relation to a borough included in a rural district as if it were a rural parish (but with the omission of references to the parish meeting).

- (3) Where, under the trusts of a charity other than an ecclesiastical charity, the inhabitants of a rural parish (whether in vestry or not) or a select vestry were formerly (in 1894) entitled to appoint charity trustees for, or trustees or beneficiaries of, the charity, then—
- (a) in a parish having a parish council, the appointment shall be made by the parish council or, in the case of beneficiaries, by persons appointed by the parish council; and
  - (b) in a parish not having a parish council, the appointment shall be made by the parish meeting.
- (4) Where overseers as such or, except in the case of an ecclesiastical charity, churchwardens as such were formerly (in 1894) charity trustees of or trustees for a parochial charity in a rural parish, either alone or jointly with other persons, then instead of the former overseer or churchwarden trustees there shall be trustees (to a number not greater than that of the former overseer or churchwarden trustees) appointed by the parish council or, if there is no parish council, by the parish meeting.
- (5) Where, outside the county of London, overseers of a parish as such were formerly (in 1927) charity trustees of or trustees for any charity, either alone or jointly with other persons, then instead of the former overseer trustees there shall be trustees (to a number not greater than that of the former overseer trustees) appointed—
- (a) where the parish is a rural parish, by the parish council or, if there is no parish council, by the parish meeting; and
  - (b) where the parish is an urban parish, but is comprised in a borough included in a rural district, by the borough council; and

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- (c) where the parish is an urban parish not so comprised, by the rating authority; but, if in the case of an urban parish the area of the council making the appointment comprises other parishes also and is divided into wards for the election of councillors, the appointment shall be made on the nomination of the councillors for the ward or wards comprising the parish.
- (6) Any appointment of a charity trustee or trustee for a charity which is made by virtue of this section shall be for a term of four years, but a retiring trustee shall be eligible for re-appointment:
- Provided that—
- (a) on an appointment under subsection (2), where no previous appointments have been made by virtue of that subsection or of the corresponding provision of the Local Government Act, 1894, and more than one trustee is appointed, half of those appointed (or as nearly as may be) shall be appointed for a term of two years; and
- (b) an appointment made to fill a casual vacancy shall be for the remainder of the term of the previous appointment.
- (7) This section shall not affect the trusteeship, control or management of any voluntary school within the meaning of the Education Act, 1944.
- (8) The provisions of this section shall not extend to the Isles of Scilly, and shall have effect subject to any order (including any future order) made under any enactment relating to local government with respect to local government areas or the powers of local authorities.
- (9) In this section the expression "formerly (in 1894)" relates to the period immediately before the passing of the Local Government Act, 1894, and the expression "formerly (in 1927)" to the period immediately before the first day of April, nineteen hundred and twenty-seven; and the word "former" shall be construed accordingly.

### **38 Repeal of law of mortmain**

- (1) The Mortmain and Charitable Uses Act, 1888, the Mortmain and Charitable Uses Act, 1891, and the Mortmain and Charitable Uses Act Amendment Act, 1892, together with any enactments amending those Acts (and in particular section eighty-seven of the Education Act, 1944, and sections fourteen and four hundred and eight of the Companies Act, 1948) shall cease to have effect.
- (2) No right or title to any property shall be defeated or impugned, and no assurance or disposition of property shall be treated as void or voidable, by virtue of any of the enactments mentioned in the foregoing subsection, or of any other enactment relating to mortmain, if at the passing of this Act the possession is in accordance with that right or title or with that assurance or disposition, and no step has been taken to assert a claim by virtue of any such enactment :
- Provided that this subsection shall not validate any assurance or disposition so as to defeat a right or title acquired by adverse possession before the passing of this Act.
- (3) The repeal by this Act of the Mortmain and Charitable Uses Act, 1891, shall have effect in relation to the wills of persons dying before the passing of this Act so as to abrogate any requirement to sell land then unsold, but not so as to enable effect to be given to a direction to lay out personal estate in land without an order under section eight of that Act or so as to affect the power to make such an order.

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- (4) Any reference in any enactment or document to a charity within the meaning, purview and interpretation of the Charitable Uses Act, 1601, or of the preamble to it, shall be construed as a reference to a charity within the meaning which the word bears as a legal term according to the law of England and Wales.
- (5) No repeal made by this Act shall affect any power to hold land in Northern Ireland without licence in mortmain; but (without prejudice to the general provision made later in this Act about the powers of the Parliament of Northern Ireland) if that Parliament repeals any of the Acts relating to mortmain in Northern Ireland, then notwithstanding any enactment limiting the powers of that Parliament the repeal may extend to sections fourteen and four hundred and eight of the Companies Act, 1948, as they affect land in Northern Ireland, and to any corresponding enactments of that Parliament as those enactments affect land in Great Britain, and may also extend to any other enactment of the Parliament of the United Kingdom so far as it relates to holding land in mortmain in Northern Ireland.

### **39 Repeal of obsolete enactments**

- (1) The enactments specified in the Fifth Schedule to this Act, being to the extent there specified in the third column obsolete or no longer required, shall to that extent cease to have effect and be hereby repealed.
- (2) Where the trusts of a charity are at the commencement of this Act wholly or partly comprised in an enactment specified in the Fifth Schedule to this Act, or in an instrument having effect under such an enactment, the operation of those trusts shall not be affected by the repeal of that enactment by this Act.