

## **Commissioners' requirements for the appointment of New Trustees**

An application for the appointment of new trustees is made under Section 43 of the Charities Act, 1961, as amended by Section 14 of the Charities Act, 1973, and is made by a person having an interest by way of a Statutory Declaration which should contain the following averments:-

- (1) The area and geographical situation of the property to be described in the Schedule to such declaration. The description should be in accordance with the parcels clause/Schedule of the relevant Deed. Where no deed exists such description and address should be as full as possible.
- (2) The Charitable Trusts attaching thereto.
- (3) The history of the property and a statement of the title thereto. In the case of an application for their consent in relation to the appointment of new trustees the Commissioners have decided in cases of unregistered land that such consent shall vest the land for such estate and interest as the previous trustees held without identifying the nature of the estate or interest. Particulars of drafts approved wording are enclosed. Please note that all vesting orders in relation to unregistered land are treated on this basis.
- (4)(a) A statement confirming the death of the old Trustees accompanied by death certificates, or if applicable a statement confirming the intention of such old trustees to retire from the Trust accompanied by letters of retirement.
- (4)(b) The names, addresses and descriptions of the proposed new trustees (the Commissioners require at least three) or in any instance where the proposed new trustee is a Charitable Trust Company the name and address of the Registered Office of that Company.
- (5) A statement confirming that there is no restriction on alienation which would prevent the appointment of new trustees.
- (6) The trusts upon which it is desired that the property be vested by the Board in the said trustees.

When replying please furnish a written statement of willingness to act signed by the proposed new trustees, (in the case of a Charitable Trust Company the statement should be signed by a Director and Secretary and the Seal of the Company affixed) together with a copy of the Deed under which the property is held, a copy of the Deed vesting the property in the Charity and a copy of the Trust Deed, if any.

Section 43 of the Charities Act, 1961 as amended by Section 14 of the Charities Act, 1973 prescribes certain procedures which must be followed by the Board. They must give Public Notice both of the proposal to make the Order and again once the Order is made. The obligation is to have the proposed Order advertised not less than 14 days before the date and 10 days after the making of the Order. There is a right of appeal.

It would also be of assistance and would facilitate earlier presentation to the Commissioners if you would describe the property in the Schedule to the Statutory Declaration. The description should be in accordance with the terms of the

parcels clause/schedule of the relevant deed. Where no deed exists such description and address should be as full as possible.

Photocopies of documents submitted with applications will not be returned when the application has been processed unless a specific request to return them is received.

It should be understood that the Commissioners will not deal with incomplete applications.

### **VESTING ORDERS – UNREGISTERED LAND**

(A) Where the Charity's title is based on documentary evidence of title and the documentary evidence indicates that the Charity has a fee simple and/or leasehold interest....." to vest the property for all such estate and interest as prior to the making of the appointment hereinbefore contained was vested in any person who was the trustee of the Charity, or if, there was no such person for all such estate and interest as would have been vested in such persons if he had existed at that time and held the said land subject to such if any easements, rights, privileges, covenants or other incumbrances as affect the Charity's interest in the said land upon trust....."

(B) If the Charity's title is based on possession and it is not possible to identify the nature of the title of the person against whom the Charity and/or its predecessor has been in adverse possession....." to vest the land in the New Trustees for all such possessory estate, right, title and interest as the Charity has in the said lands subject to such if any easements, rights, privileges, covenants or other incumbrances as affect the Charity's interest in the said lands upon trust...."