

Commissioners requirements regarding Cy-Pres applications

If a Charity never existed or no longer exists the position is that the gift falls to be applied Cy-Pres.

An application to the Commissioners to settle a Cy-Pres Scheme is made under Section 29 of the Charities Act, 1961 as amended by Section 8 of the Charities Act, 1973 as amended by Part 2 of the Social Welfare (Miscellaneous Provisions) Act, 2002 and is made by way of a Statutory Declaration executed by the Executor setting out the facts and asking for an order authorising the Executor to apply the trust funds Cy-Pres.

The Declaration should set out the following averments:-

1. Full particulars of the provisions in the *Will or Deed of Gift*.
2. Details of any particular instructions relating to the gift given to the Solicitor who made the *Will or drew up the Deed of Gift*.
3. A statement to the effect that the Charity never existed or details of when it ceased to exist.
4. The funds available by virtue of the gift.
5. The Charity to which the Executor wishes to apply the funds available by virtue of the gift and particulars of any special relationship which the Deceased had with this Charity.
6. A form of Undertaking should be completed by the Trustees of the Charity who are to carry out the trusts under the new Cy-Pres Scheme.- Precedent hereunder.