



Charities Act (Northern Ireland) 1964

1964 CHAPTER 33

PART II

APPLICATION OF PROPERTY CY-PRÈS, IMPERFECT TRUSTS, ETC.

EXTENSION OF CY-PRÈS POWERS

F122 Occasions for applying property cy-près.

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Annotations:

- F1** Act repealed (24.6.2013 for the repeal of ss. 1, 5, 13, 22-24, 1.1.2016 for the repeal of s. 14) by Charities Act (Northern Ireland) 2008 (c. 12), s. 185(1), **Sch. 9**; S.R. 2013/145, art. 2, Sch.; S.R. 2015/383, art. 2(3), Sch.

Modifications etc. (not altering text)

- C1** Ss. 22, 23 savings for effect of 2008 c. 12 (N.I.) Sch. 9; S.R. 2013/145, Sch. (24.6.2013) by The Charities Act 2008 (Consequential Provision and Savings) Order (Northern Ireland) 2013 (S.R. 2013/146), arts. 1, 3

23 Application cy-près of gifts of donors unknown or disclaiming.

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Annotations:

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IMPERFECT TRUSTS

24 Gifts for mixed purposes.

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COMMON INVESTMENT FUNDS

25 Common investment schemes.

- (1) The Court or the Ministry may by order make and bring into effect schemes (in this section referred as “common investment schemes”) for the establishment of common investment funds under trusts which provide—
- (a) for property transferred to the fund by or on behalf of a charity participating in the scheme to be invested under the control of trustees appointed to manage the fund; and
 - (b) for the participating charities to be entitled (subject to the provisions of the scheme) to the capital and income of the fund in shares determined by reference to the amount or value of the property transferred to it by or on behalf of each of them and to the value of the fund at the time of the transfers.
- (2) The Court or the Ministry may make a common investment scheme on the application of any two or more charities.
- (3) A common investment scheme may be made in terms admitting any charity to participate or may restrict the right to participate in any manner.
- [^{F2}(3A) A common investment scheme may provide for appropriate bodies to be admitted to participate in the scheme (in addition to the participating charities) to such extent as the trustees appointed to manage the fund may determine.
- (3B) In this section “appropriate body” means—
- (a) a Scottish recognised body,
 - (b) an England and Wales charity, or
 - (c) any body of persons or trust that—
 - (i) is established in an EEA state other than the United Kingdom, and

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(ii) is a charity as defined by paragraph 1 of Schedule 6 to the Finance Act 2010,

and, in the application of the relevant provisions in relation to a scheme which contains provisions authorised by subsection (3A), “charity” includes an appropriate body.

“The relevant provisions” are subsections (1), (4) to (7), (11) and (in relation only to a charity within paragraph (b)) subsection (12).

(3C) In subsection (3B) “Scottish recognised body” means a body—

- (a) established under the law of Scotland, or
- (b) managed or controlled wholly or mainly in or from Scotland,

to which the Commissioners for Her Majesty’s Revenue and Customs have given intimation, which has not subsequently been withdrawn, that relief is due under Part 10 of the Income Tax Act 2007, or that qualifying relief is due under Part 11 of the Corporation Tax Act 2010, in respect of income of the body which is applicable and applied to charitable purposes only.

(3D) In that subsection “England and Wales charity” means an institution—

- (a) which is a charity under the law of England and Wales, and
- (b) to which the Commissioners for Her Majesty’s Revenue and Customs have given intimation, which has not subsequently been withdrawn, that relief is due under Part 10 of the Income Tax Act 2007, or that qualifying relief is due under Part 11 of the Corporation Tax Act 2010, in respect of income of the institution which is applicable and applied to charitable purposes only.

(3E) For purposes of this section relief under any provision of Part 11 of the Corporation Tax Act 2010 other than—

- (a) section 480 (exemption for profits of small-scale trades), and
- (b) section 481 (exemption from charges under provisions to which section 1173 applies),

is qualifying relief under that Part.]

(4) A common investment scheme may make provision for, and for all matters connected with, the establishment, investment, management and winding up of the common investment fund.

(5) A common investment scheme may in particular include provision—

- (a) for remunerating persons appointed trustees to hold or manage the fund or any part of it, with or without provision authorising a person to receive the remuneration notwithstanding that he is also a trustee of or for a participating charity;
- (b) for restricting the size of the fund;
- (c) for regulating as to time, amount or otherwise the right to transfer property to or withdraw it from the fund;
- (d) for enabling sums to be advanced out of the fund by way of loan to a participating charity pending the withdrawal of property from the fund by the charity;
- (e) for enabling income to be withheld from distributions with a view to avoiding fluctuations in the amounts distributed, and generally for regulating distributions of income;
- (f) for enabling moneys to be borrowed temporarily for the purpose of meeting payments to be made out of the fund;

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- (g) for enabling questions arising under the scheme as to the right of a charity to participate, or as to the rights of participating charities, or as to any other matter, to be conclusively determined by the decision of the trustees managing the fund or in any other manner;
 - (h) for regulating the accounts and information to be supplied to participating charities.
- (6) A common investment scheme, in addition to the provision for property to be transferred to the fund on the basis that the participating charity shall be entitled to a share in the capital and income of the fund, may include provision for enabling sums to be deposited by or on behalf of a charity on the basis that (subject to the provisions of the scheme) the charity shall be entitled to repayment of the sums deposited and to interest thereon at a rate determined by or under the scheme.
- (7) Where a common investment scheme makes any such provision as is authorised by subsection (6), the scheme shall also provide for excluding from the amount of capital and income to be shared between charities participating otherwise than by way of deposit such amounts (not exceeding the amounts properly attributable to the making of deposits) as are from time to time reasonably required in respect of the liabilities of the fund for the repayment of deposits and for the interest on deposits, including amounts required by way of reserve.
- (8) The Ministry may by a common investment scheme provide for investment of any property belonging to a charity of which the Ministry is the trustee, and the common investment fund established under this subsection shall be known as the “central investment fund” .
- (9) The Ministry, on the application of a charity, may admit the charity to participate in the central investment fund on such terms and subject to such conditions as are specified in the scheme establishing that fund.
- (10) The Ministry shall appoint a committee of persons who have special experience of investment and finance or of the administration of trusts to advise it with respect to the investment of the central investment fund.
- (11) Except in so far as a common investment scheme provides to the contrary, the rights under it of a participating charity shall not be capable of being assigned or charged, nor shall any trustee or other person concerned in the management of the common investment fund be required or entitled to take account of any trust or other equity affecting a participating charity or its property or rights.
- (12) The powers of investment of every charity shall include power to participate in common investment schemes, unless power to do so is excluded by a provision in the trusts of the charity specifically referring to common investment schemes.
- (13) A body corporate in which a common investment fund is vested may, as trustee of the fund, hold any estate in land, without restriction as to area, notwithstanding anything contained in any enactment or in any instrument under which it is incorporated.
- (14) Notwithstanding that the assets comprised in a common investment fund include any estate in land, a share in the capital and income of a fund shall not be taken to be an estate in land.
- (15) A common investment fund shall be deemed for all purposes to be a charity.

Subs. 16 rep. by 1986 c. 60

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(17) [^{F3}Subsection (15)] shall apply not only to common investment funds established under the powers conferred by this section but also to any similar fund established for the exclusive benefit of charities by or under any enactment relating to any particular charities or class of charity.

Annotations:

- F2** S. 25(3A)-(3E) inserted (22.7.2013) by [The Alternative Investment Fund Managers Regulations 2013 \(S.I. 2013/1773\)](#) , reg. 1 , [Sch. 1 para. 37](#)
- F3** 1986 c.60

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