



Charities Act 1960

1960 CHAPTER 58

PART III

APPLICATION OF PROPERTY CY-PRÈS, AND ASSISTANCE AND SUPERVISION OF CHARITIES BY COURT AND CENTRAL AUTHORITIES

Establishment of common investment funds

22 Schemes to establish common investment funds

- (1) The court or the Commissioners may by order make and bring into effect schemes (in this section referred to 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 Commissioners 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 the scheme may restrict the right to participate in any manner.
- (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, and 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 charity trustee of or trustee for a participating charity;

- (b) for restricting the size of the fund, and for regulating as to time, amount or otherwise the right to transfer property to or withdraw it from the fund, and 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;
 - (c) for enabling income to be withheld from distribution with a view to avoiding fluctuations in the amounts distributed, and generally for regulating distributions of income;
 - (d) for enabling moneys to be borrowed temporarily for the purpose of meeting payments to be made out of the fund;
 - (e) 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;
 - (f) for regulating the accounts and information to be supplied to participating charities.
- (5) A common investment scheme, in addition to the provision for property to be transferred to the fund on the basis that the 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; and where a scheme makes any such provision it 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.
- (6) A common investment scheme may provide for the assets of the common investment fund or any of them to be vested in the official custodian for charities, and, if made by the Commissioners or if they consent, may also appoint him or authorise him to be appointed trustee to manage the fund or any part of it, and as managing trustee he shall, subject to section three of this Act, have the same powers, duties and liabilities as other managing trustees; but where a common investment scheme provides for the official custodian for charities to exercise any discretion with respect to the investment of the fund it shall make provision for him to be advised by a committee of persons who have special experience of investment and finance or of the administration of trusts, or who represent or are nominated by bodies having that experience.
- (7) 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.
- (8) The powers of investment of every charity shall include power to participate in common investment schemes, unless the power is excluded by a provision specifically referring to common investment schemes in the trusts of the charity.
- (9) A common investment fund shall be deemed for all purposes to be a charity, and the assets of the fund shall be treated for the purposes of this Act as a permanent endowment, except that if the scheme establishing the fund admits to participation only charities not having a permanent endowment, the fund shall be treated as a charity

not having a permanent endowment; and if the scheme admits only exempt charities, the fund shall be an exempt charity for the purposes of this Act.

- (10) The persons managing a common investment fund shall not be treated for the purposes of the Prevention of Fraud (Investments) Act, 1958, as carrying on the business of dealing in securities within the meaning of that Act, nor shall subsection (1) of section fourteen of that Act (which restricts the distribution of circulars relating to investments) prohibit the distribution or possession of any document by reason only that it contains an invitation or information relating to a common investment fund.
- (11) Subsections (9) and (10) above shall apply not only to common investment funds established under the powers of 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.
- (12) Notwithstanding subsection (8) of section three of this Act, subsection (6) above shall apply to schemes made by the Minister of Education as it applies to those made by the court.