
STATUTORY INSTRUMENTS

1997 No. 482

CHARITIES

The Charities (Iveagh Bequest, Kenwood) Order 1997

Made - - - - 26th February 1997

Coming into force - - 12th March 1997

Whereas the Charity Commissioners for England and Wales have, in pursuance of section 17(1) of the Charities Act 1993⁽¹⁾, settled the Scheme set out in the Appendix to this Order with a view to its being given effect under that section:

And whereas the Scheme does not alter any statutory provision contained in or having effect under any public general Act of Parliament:

And whereas a draft of this Order has been laid before Parliament, the period of forty days mentioned in section 6(1) of the Statutory Instruments Act 1946⁽²⁾ has expired and neither House of Parliament has within that period resolved that the Order not be made:

Now, therefore, in pursuance of section 17(2) of the Charities Act 1993, I hereby make the following Order:—

1. This Order may be cited as the Charities (Iveagh Bequest, Kenwood) Order 1997 and shall come into force on the fourteenth day after the day on which it is made.
2. The Scheme set out in the Appendix to this Order shall have effect.

26th February 1997

Virginia Bottomley
Secretary of State for National Heritage

(1) 1993 c. 10.
(2) 1946 c. 36.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

APPENDIX

SCHEME FOR THE ALTERATION OF THE CUSTODIAN TRUSTEESHIP OF THE CHARITY KNOWN AS THE IVEAGH BEQUEST SITUATE IN GREATER LONDON AND TO EXTEND THE POWERS OF THE ADMINISTRATIVE TRUSTEES OF THE CHARITY

Whereas the Charity known as The Iveagh Bequest (“the Charity”) is now regulated by the Iveagh Bequest (Kenwood) Act 1929(3) (“the Act”) which gives effect to a deed a copy of which is set forth in the Schedule thereto (“the Scheduled Deed”) dated the 16th April 1929;

And whereas under the Scheduled Deed the powers of administering the Charity were divided between the London County Council and a group of individuals called The Administrative Trustees;

And whereas under the Scheduled Deed, The Endowment Fund, consisting of investments, was vested in the Public Trustee as custodian trustee;

And whereas The Public Trustee is prohibited by law from acting in a charitable trust, so that it was necessary that the Act was passed in 1929 to implement the Scheduled Deed;

And whereas in accordance with the Scheduled Deed, The Administrative Trustees relinquished their powers to the London County Council shortly after the Second World War, and since that time, changes in London Government and the effect of the National Heritage Act 1983, have vested all the powers of the various trustees (except those of the custodian trustee) in the body corporate called The Historic Buildings and Monuments Commission for England (more commonly known as “English Heritage”);

And whereas English Heritage, being the Trustee of the Charity, has on behalf of the Charity made application to the Charity Commissioners for a Scheme for the administration thereof;

And whereas it appears to the Charity Commissioners that a Scheme should be established for the alteration of the custodian trusteeship of the Charity and for extending the powers of its Administrative Trustees but also that it is necessary for the Scheme to make provision which goes beyond the powers exercisable by them apart from section 17 of the Charities Act 1993;

And whereas in pursuance of section 20 of the Charities Act 1993 public notice of the Charity Commissioners' proposals for this Scheme has been given and no representations have been received in respect thereof:

Now therefore the Charity Commissioners for England and Wales in pursuance of section 17(1) of the Charities Act 1993 hereby settle the following Scheme:

Scheme

Alteration of Custodian Trusteeship

1. The Public Trustee shall take all necessary steps to transfer the funds now representing the endowment fund referred to in clause 8 of the Scheduled Deed to English Heritage (the “Administrative Trustees”). As from the completion of such transfer the Public Trustee shall be discharged from the office of Custodian Trustee under the Scheduled Deed and the Administrative Trustees shall hold those funds on trust to apply the income on the trusts declared in clause 9 of that Deed. The Administrative Trustees may defray out of the assets of the Charity any necessary and lawful costs and disbursements arising out of such cessation of Custodian Trusteeship.

Consequential amendments and repeals

- (a) (a) Section 6 of the Act (incidental powers of the Administrative Trustees and the Public Trustee) shall have effect as if the words “and the Public Trustee” were removed.

(3) [c.Ixix \(19 & 20 Geo. 5\)](#).

- (b) Section 7 of the Act (registration of the Public Trustee as holder of the securities representing the Endowment Fund) shall cease to have effect.
- (c) Clause 8 of the Scheduled Deed (vesting of the Endowment Fund) shall cease to have effect.

Repeal of Clause

3. Clause 12 of the Scheduled Deed (consent of certain persons to modification of trusts) shall cease to have effect.

Powers of the Administrative Trustees

- (a) (a) The Administrative Trustees shall have power to appoint a Custodian Trustee to hold the Charity's investments and may defray out of the Charity's assets the reasonable costs of such a Custodian Trustee.
- (b) As from the date of this Scheme the Administrative Trustees shall have power to delegate the management of the Charity's investments to an investment manager and to appoint a nominee or nominees to hold the Charity's investments but such powers shall be exercised strictly in accordance with the provisions of the Schedule to this Scheme.
- (c) The Administrative Trustees shall have power to acquire by way of purchase, gift, loan or in any other manner whatsoever (and whether subject to any conditions or not) any pictures, furniture, ornaments or items of decoration or utility ("after acquired property") which are in the opinion of the Administrative Trustees suitable for display at Kenwood House and may expend the funds of the Charity on the acquisition, maintenance, preservation, insurance and display of such items. These powers shall be in addition to and not in derogation from the powers contained in clause 3 of the Scheduled Deed but in the event of any conflict the provisions of this Scheme shall prevail.
- (d) Notwithstanding paragraph (c) above and subject to the conditions (if any) imposed at the time of the acquisition, the Administrative Trustees may permit the temporary display of after acquired property at locations other than Kenwood House for such reasonable periods and on such terms as the Administrative Trustees shall approve and they shall not be liable for any loss, damage, injury or depreciation in respect thereof.
- (e) Subject to the conditions (if any) imposed at the time of the acquisition the Administrative Trustees shall have power to dispose of any item of after acquired property by way of sale or exchange provided that the said Trustees shall take appropriate professional advice prior to such disposal. Any proceeds of sale shall be used for the purchase of other after acquired property or if not so used shall be added to the Endowment Fund.
- (f) For the avoidance of doubt it is hereby declared that the power of disposal under paragraph (e) above relates only to after acquired property and has no application whatsoever to the property comprised in the Iveagh Bequest.

Questions under the Scheme

5. Any question as to the construction of this Scheme or as to the regularity or the validity of any acts done or about to be done under this Scheme may be determined by the Commissioners by way of written advice under section 29 of the Charities Act 1993 upon written application made to them by the said Trustees for that purpose.

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The Schedule

Delegation of Investment Powers

Investment Manager

1. The Trustees may appoint as the Investment Manager for the Charity a person whom they are satisfied after inquiry is a proper and competent person to act in that capacity and who is either:
 - (a) an individual or repute with at least 15 years experience of investment management who is an authorised person within the meaning of the Financial Services Act 1986⁽⁴⁾ or
 - (b) a company or firm of repute which is an authorised or exempted person within the meaning of that Act otherwise than by virtue of section 45(1)(j) of that Act.

Delegation

2. The Trustees may delegate to an Investment Manager so appointed power at his discretion to buy and sell investments for the Charity on behalf of the Trustees in accordance with the investment policy laid down by the Trustees. The Trustees may only do so on terms consistent with this Scheme.
3. Where the Trustees make any delegation under this Scheme they shall:
 - (a) inform the Investment Manager in writing of the extent of the Charity's investment powers;
 - (b) lay down a detailed investment policy for the Charity and immediately inform the Investment Manager in writing of it and of any changes to it;
 - (c) ensure that the terms of the delegated authority are clearly set out in writing and notified to the Investment Manager;
 - (d) ensure that they are kept informed of and review on a regular basis the performance of their investment portfolio managed by the Investment Manager and on the exercise by him of his delegated authority;
 - (e) take all reasonable care to ensure that the Investment Manager complies with the terms of his delegated authority;
 - (f) review the appointment of the Investment Manager at such intervals not exceeding 24 months as they think fit;
 - (g) pay such reasonable and proper remuneration to the Investment Manager and agree such proper terms as to notice and other matters as the Trustees shall decide and as are consistent with this Scheme provided that such remuneration may include commission fees and/or expenses earned by the Investment Manager if and only to the extent that such commission fees and/or expenses are disclosed to the Trustees.
4. Where the Trustees make any delegation under this Scheme they shall do so on terms that:
 - (a) the Investment Manager shall comply with the terms of his delegated authority;
 - (b) the Investment Manager shall not do anything which the Trustees do not have power to do;
 - (c) the Trustees may with reasonable notice revoke the delegation or vary any of its terms in a way which is consistent with the terms of this Scheme; and
 - (d) the Trustees shall give directions to the Investment Manager as to the manner in which he is to report to them all sales and purchases of investments made on their behalf.

(4) 1986 c. 60.

Holding of Investments

5. The Trustees may:

- (a) make such arrangements as they think fit for any investments of the Charity or income from those investments to be held by a corporate body as custodian trustee or as the Trustee's nominee; and
- (b) pay reasonable and proper remuneration to any corporate body acting as custodian trustee or the Trustees' nominee in pursuance of this clause.

Sealed by Order of the Commissioners this

L.S.

8th day of January 1997

EXPLANATORY NOTE

(This note is not part of the Order)

This Order gives effect to a scheme of the Charity Commissioners for the Charity known as the Iveagh bequest, which is regulated by the Iveagh Bequest (Kenwood) Act 1929.

The Scheme alters some of the statutory provisions governing the Charity. The Scheme continues the existing trusteeship of English Heritage but provides for the removal of the present Custodian Trustee (the Public Trustee) and gives English Heritage the discretion to hold the investments or to appoint a new Custodian Trustee. The Scheme empowers English Heritage to delegate its investment management powers and also to acquire and otherwise deal with additional property for display primarily at Kenwood House, Hampstead, London.