



# Charities and Trustee Investment (Scotland) Act 2005

2005 asp 10

## PART 3

### INVESTMENT POWERS OF TRUSTEES

#### **93 Extension of general powers of trustees**

- (1) Section 4 (general powers of trustees) of the Trusts (Scotland) Act 1921 (c. 58) is amended as follows.
- (2) In subsection (1)—
- (a) after paragraph (e) insert—
    - “(ea) To make any kind of investment of the trust estate (including an investment in heritable property).
    - (eb) To acquire heritable property for any other reason.”,
  - (b) paragraph (ee) is repealed.
- (3) After subsection (1) insert—
- “(1A) The power to act under subsection (1)(ea) or (eb) above is subject to any restriction or exclusion imposed by or under any enactment.
  - (1B) The power to act under subsection (1)(ea) or (eb) above is not conferred on any trustees who are—
    - (a) the trustees of a pension scheme,
    - (b) the trustees of an authorised unit trust, or
    - (c) trustees under any other trust who are entitled by or under any other enactment to make investments of the trust estate.
  - (1C) No term relating to the powers of a trustee contained in a trust deed executed before 3rd August 1961 is to be treated as restricting or excluding the power to act under subsection (1)(ea) above.
  - (1D) No term restricting the powers of investment of a trustee to those conferred by the Trustee Investments Act 1961 (c. 62) contained in a trust deed executed on

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*Changes to legislation: There are currently no known outstanding effects for the Charities and Trustee Investment (Scotland) Act 2005, Section 93. (See end of Document for details)*

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or after 3rd August 1961 is to be treated as restricting or excluding the power to act under subsection (1)(ea) above.

(1E) The reference in subsection (1D) above to a trustee does not include a reference to a trustee under a trust constituted by a private or local Act of Parliament or a private Act of the Scottish Parliament; and “trust deed” shall be construed accordingly.

(1F) In this section—

“authorised unit trust” means a unit trust scheme in the case of which an order under section 243 of the Financial Services and Markets Act 2000 (c. 8) is in force,

“enactment” has the same meaning as in the Scotland Act 1998 (c. 46),

“pension scheme” means an occupational pension scheme (within the meaning of the Pension Schemes Act 1993 (c. 48)) established under a trust and subject to the law of Scotland.”

**Annotations:**

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**Commencement Information**

**II** S. 93 in force at 1.1.2006 by [S.S.I. 2005/644](#), art. 2(1), [Sch. 1](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Charities and Trustee Investment (Scotland) Act 2005, Section 93.