



Charities Act 1992

1992 CHAPTER 41

PART I

CHARITIES

Powers of investment

38 Relaxation of restrictions on wider-range investments

- (1) The Secretary of State may by order made with the consent of the Treasury—
 - (a) direct that, in the case of a trust fund consisting of property held by or in trust for a charity, any division of the fund in pursuance of section 2(1) of the Trustee Investments Act 1961 (trust funds to be divided so that wider-range and narrower-range investments are equal in value) shall be made so that the value of the wider-range part at the time of the division bears to the then value of the narrower-range part such proportion as is specified in the order;
 - (b) provide that, in its application in relation to such a trust fund, that Act shall have effect subject to such modifications so specified as the Secretary of State considers appropriate in consequence of, or in connection with, any such direction.
- (2) Where, before the coming into force of an order under this section, a trust fund consisting of property held by or in trust for a charity has already been divided in pursuance of section 2(1) of that Act, the fund may, notwithstanding anything in that provision, be again divided (once only) in pursuance of that provision during the continuance in force of the order.
- (3) No order shall be made under this section unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.
- (4) Expressions used in this section which are also used in the Trustee Investments Act 1961 have the same meaning as in that Act.

Status: This is the original version (as it was originally enacted).

- (5) In the application of this section to Scotland, “charity” means a recognised body within the meaning of section 1(7) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990.

39 Extension of powers of investment

- (1) The Secretary of State may by regulations made with the consent of the Treasury make, with respect to property held by or in trust for a charity, provision authorising a trustee to invest such property in any manner specified in the regulations, being a manner of investment not for the time being included in any Part of Schedule 1 to the Trustee Investments Act 1961.
- (2) Regulations under this section may make such provision—
- (a) regulating the investment of property in any manner authorised by virtue of subsection (1), and
 - (b) with respect to the variation and retention of investments so made, as the Secretary of State considers appropriate.
- (3) Such regulations may, in particular, make provision—
- (a) imposing restrictions with respect to the proportion of the property held by or in trust for a charity which may be invested in any manner authorised by virtue of subsection (1), being either restrictions applying to investment in any such manner generally or restrictions applying to investment in any particular such manner;
 - (b) imposing the like requirements with respect to the obtaining and consideration of advice as are imposed by any of the provisions of section 6 of the Trustee Investments Act 1961 (duty of trustees in choosing investments).
- (4) Any power of investment conferred by any regulations under this section—
- (a) shall be in addition to, and not in derogation from, any power conferred otherwise than by such regulations; and
 - (b) shall not be limited by the trusts of a charity (in so far as they are not contained in any Act or instrument made under an enactment) unless it is excluded by those trusts in express terms;
- but any such power shall only be exercisable by a trustee in so far as a contrary intention is not expressed in any Act or in any instrument made under an enactment and relating to the powers of the trustee.
- (5) No regulations shall be made under this section unless a draft of the regulations has been laid before and approved by a resolution of each House of Parliament.
- (6) In this section “property”—
- (a) in England and Wales, means real or personal property of any description, including money and things in action, but does not include an interest in expectancy; and
 - (b) in Scotland, means property of any description (whether heritable or moveable, corporeal or incorporeal) which is presently enjoyable, but does not include a future interest, whether vested or contingent;
- and any reference to property held by or in trust for a charity is a reference to property so held, whether it is for the time being in a state of investment or not.

- (7) In the application of this section to Scotland, “charity” means a recognised body within the meaning of section 1(7) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990.