



Charities Act 2022

2022 CHAPTER 6

PART 1

PURPOSES, POWERS AND GOVERNING DOCUMENTS

Charitable companies

1 Alteration of charitable company's purposes

- (1) Section 198 of the Charities Act 2011 (alteration of objects by companies and Commission's consent) is amended as follows.
- (2) In subsection (2)(a), for the words from "adding" to the end of the paragraph substitute "which alters the charitable purposes of the company,".
- (3) After subsection (2) insert—
 - “(2A) In considering whether to consent to an alteration falling within subsection (2)
 - (a) the Commission must have regard to—
 - (a) the purposes of the company when it was established, if and so far as they are reasonably ascertainable,
 - (b) the desirability of securing that the purposes of the company are, so far as reasonably practicable, similar to the purposes being altered, and
 - (c) the need for the company to have purposes which are suitable and effective in the light of current social and economic circumstances.”

Charitable incorporated organisations

2 Amendments to constitution of CIOs

- (1) The Charities Act 2011 is amended as follows.
- (2) In section 226 (amendment of constitution and Commission's consent)—

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- (a) for subsection (1) substitute—
 - “(1) An amendment to a CIO’s constitution which would make a regulated alteration—
 - (a) requires the prior written consent of the Commission, and
 - (b) cannot take effect if such consent has not been obtained.”;
 - (b) after subsection (2) insert—
 - “(2A) In considering whether to consent to an alteration falling within subsection (2)(a) the Commission must have regard to—
 - (a) the purposes of the CIO when it was established, if and so far as they are reasonably ascertainable,
 - (b) the desirability of securing that the purposes of the CIO are, so far as reasonably practicable, similar to the purposes being altered, and
 - (c) the need for the CIO to have purposes which are suitable and effective in the light of current social and economic circumstances.”
- (3) In section 227 (registration and coming into effect of amendments)—
- (a) after subsection (1) insert—
 - “(1A) An amendment to a CIO’s constitution that makes a regulated alteration falling within section 226(2)(a) takes effect—
 - (a) when it is registered by the Commission, or
 - (b) if later, on the date specified for that purpose in the resolution containing the amendment.
 - (1B) Any other amendment to a CIO’s constitution takes effect (whatever the date on which the amendment is registered by the Commission)—
 - (a) on the date the resolution containing it is passed, or
 - (b) if a later date is specified for that purpose in the resolution containing the amendment, on that later date.
 - (1C) Subsections (1A) and (1B) are subject to section 226(1).”;
 - (b) omit subsections (2) to (5).

Unincorporated charities

3 Powers of unincorporated charities

- (1) Omit sections 267 to 280 of the Charities Act 2011 (which together deal with powers to transfer the property of, and alter the purposes or powers of, an unincorporated charity).
- (2) Before the italic heading preceding section 281 of that Act insert—

“Unincorporated charity’s general power to amend

280A Amendment of the trusts of an unincorporated charity

- (1) This section applies to any charity which is not a company or other body corporate.
- (2) The charity trustees of such a charity may, if they are satisfied that it is expedient in the interests of the charity, resolve that the trusts of the charity should be amended in such manner as is specified in the resolution.
- (3) The power under subsection (2) is not exercisable in any way which would result in the institution ceasing to be a charity.
- (4) Subsection (5) applies in the case of a charity which has a body of members distinct from the charity trustees, any of whom are entitled under the trusts of the charity to attend and vote at a general meeting of the body.
- (5) In the case of a charity to which this subsection applies, a resolution under subsection (2) is effective only if—
 - (a) it is passed by a majority of the charity trustees of the charity, and
 - (b) it is approved by a further resolution which is passed—
 - (i) at a general meeting, by not less than 75% of the members entitled to attend and vote at the meeting who vote on the resolution,
 - (ii) at a general meeting, by a decision taken without a vote and without any expression of dissent in response to the question put to the meeting, or
 - (iii) otherwise than at a general meeting, by the agreement of all the members entitled to attend and vote at a general meeting.
- (6) In the case of a charity other than one to which subsection (5) applies, a resolution under subsection (2) is effective only if it is passed by not less than 75% of the charity trustees of the charity.
- (7) An amendment to which subsection (8) applies—
 - (a) requires the written consent of the Commission, and
 - (b) is ineffective if such consent has not been obtained.
- (8) This subsection applies to an amendment—
 - (a) which would alter the purposes of the charity;
 - (b) which would alter a provision directing the application of property of the charity on its dissolution;
 - (c) which would provide authorisation for any benefit to be obtained by charity trustees or members of the charity, or persons connected with them;
 - (d) which would alter a restriction making property permanent endowment;
 - (e) which would require the consent of a person other than—
 - (i) a charity trustee of, or trustee for, the charity, or
 - (ii) a member of the charity,

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- if made otherwise than by virtue of this section;
- (f) which would affect any right directly conferred by the trusts of the charity on a person who—
 - (i) is named in the trusts of the charity, or
 - (ii) holds an office or other position specified in the trusts of the charity (other than that of charity trustee or member of, or trustee for, the charity); or
 - (g) which would confer power on any person or persons to make an amendment falling within any of paragraphs (a) to (f).
- (9) But paragraphs (e) and (f) of subsection (8) do not apply where the person concerned consents to the amendment or is no longer in existence.
- (10) In considering whether to consent to an alteration falling within subsection (8)(a), or to the conferral of a power which would enable a person or persons to make such an alteration, the Commission must have regard to—
- (a) the purposes of the charity when it was established, if and so far as they are reasonably ascertainable,
 - (b) the desirability of securing that the purposes of the charity are, so far as reasonably practicable, similar to the purposes being altered, and
 - (c) the need for the charity to have purposes which are suitable and effective in the light of current social and economic circumstances.

280B S. 280A: supplementary provision

- (1) A resolution under section 280A(2) takes effect on the latest of—
- (a) the date the resolution is passed,
 - (b) the date specified in the resolution for it to take effect,
 - (c) if relevant, the date on which the resolution required by virtue of section 280A(5)(b) is passed, and
 - (d) if relevant, the date on which the Commission gives any consent required by virtue of section 280A(7).
- (2) For the purposes of section 280A(8)(c) “benefit” means a direct or indirect benefit of any nature, except that it does not include—
- (a) any remuneration whose receipt may be authorised under section 185, or
 - (b) the purchase of any insurance which may be authorised under section 189.
- (3) For the purposes of section 280A(8)(c) the following persons are connected with a charity trustee or a member of a charity—
- (a) a child, parent, grandchild, grandparent, brother or sister of the trustee or member;
 - (b) the spouse or civil partner of the trustee or member or of any person falling within paragraph (a);
 - (c) a person carrying on business in partnership with the trustee or member or with any person falling within paragraph (a) or (b);
 - (d) an institution which is controlled—
 - (i) by the trustee or member or by any person falling within paragraph (a), (b) or (c), or

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- (ii) by two or more persons falling within sub-paragraph (i), when taken together;
- (e) a body corporate in which—
 - (i) the trustee or member or any connected person falling within any of paragraphs (a) to (c) has a substantial interest, or
 - (ii) two or more persons falling within sub-paragraph (i), when taken together, have a substantial interest.
- (4) Sections 350 to 352 (meaning of child, spouse, civil partner, controlled institution and substantial interest) apply for the purposes of subsection (3).”
- (3) The amendments made by this section do not have effect in respect of a resolution passed under section 268(1), 275(2) or 280(2) of the Charities Act 2011 before the commencement of this section.

Charities established etc by Royal charter or Act

4 Power to amend Royal charter

After section 280B of the Charities Act 2011 (as inserted by section 3) insert—

“Charity established etc by Royal charter: general power to amend

280C Power to amend Royal charter

- (1) This section applies to any charity which is established or regulated by Royal charter.
- (2) The charity trustees of such a charity may resolve that the Royal charter should be amended in such manner as is specified in the resolution if—
 - (a) they are satisfied that it is expedient in the interests of the charity to do so, and
 - (b) there is no power under the Royal charter to make the proposed amendment.
- (3) Subsection (4) applies in the case of a charity which has a body of members distinct from the charity trustees, any of whom are entitled under the Royal charter to attend and vote at a general meeting of the body.
- (4) In the case of a charity to which this subsection applies, a resolution under subsection (2) may not be approved under subsection (6) unless—
 - (a) it is passed by a majority of the charity trustees of the charity, and
 - (b) it is approved by a further resolution which is passed—
 - (i) at a general meeting, by not less than 75% of the members entitled to attend and vote at the meeting who vote on the resolution,
 - (ii) at a general meeting, by a decision taken without a vote and without any expression of dissent in response to the question put to the meeting, or
 - (iii) otherwise than at a general meeting, by the agreement of all the members entitled to attend and vote at a general meeting.

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- (5) In the case of any other charity to which this section applies, a resolution under subsection (2) may not be approved under subsection (6) unless it is passed by not less than 75% of the charity trustees of the charity.
- (6) A resolution under this section takes effect when it is approved by Her Majesty by Order in Council.”

5 Orders under section 73 of the Charities Act 2011: parliamentary procedure

In section 73 of the Charities Act 2011 (powers to make schemes altering provision made by Acts, etc)—

- (a) omit subsections (3) and (4);
- (b) in subsection (5), omit “Subject to subsection (6),”;
- (c) omit subsection (6).

Cy-près and schemes

6 Cy-près powers

- (1) For sections 63 to 65 of the Charities Act 2011 (which deal with the application of property cy-près) substitute—

“63A Failure of specific charitable purposes: application cy-près

- (1) Property given for specific charitable purposes which fail is applicable cy-près as if given for charitable purposes generally, if—
 - (a) the court or the Commission by order so direct, or
 - (b) the condition specified in subsection (3), (4) or (6) is met.
- (2) An order may be made under subsection (1)(a) if it appears to the court or the Commission—
 - (a) that it would be unreasonable, having regard to the amounts likely to be returned to the donors, to incur expense with a view to returning the property, or
 - (b) that it would be unreasonable, having regard to the nature, circumstances and amounts of the gifts, and to the lapse of time since the gifts were made, for the donors to expect the property to be returned.
- (3) The condition in this subsection is met if—
 - (a) the property is a single gift of £120 or less, and
 - (b) the charity trustees reasonably believe that during the financial year of the charity in which it is given the total amount given by the donor to the charity for the specific charitable purposes is £120 or less,
 unless at the time of giving the gift the donor states in writing that the gift must be returned if the specific charitable purposes fail.
- (4) The condition in this subsection is met if the property is given by a donor who, after the agreed actions are taken, is not identified or is not found.

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- (5) The “agreed actions” are those agreed in writing between the charity trustees and the Commission as being reasonable in all the circumstances of the case to identify and find donors.
- (6) The condition in this subsection is met if the property consists of—
- (a) the proceeds of cash collections made—
 - (i) by means of collecting boxes, or
 - (ii) by other means not adapted for distinguishing one gift from another, or
 - (b) the proceeds of any lottery, competition, entertainment, sale or similar money-raising activity, after allowing for property given to provide prizes or articles for sale or otherwise to enable the activity to be undertaken.
- (7) The Secretary of State may by regulations amend subsection (3)(a) or (b) by substituting a different sum for the time being specified there.”
- (2) The Charities (Failed Appeals) Regulations 2008 are revoked.
- (3) The amendments made by this section apply to property given for charitable purposes whenever given.

7 Proceeds of fund-raising: power of charity trustees to apply cy-près

After section 67 of the Charities Act 2011 insert—

“67A Proceeds of fund-raising: power of charity trustees to apply cy-près

- (1) Subsection (2) applies if—
- (a) money or other property is solicited to enable a charity to further specific charitable purposes,
 - (b) money or other property is given as a result of that solicitation, and
 - (c) some or all of that money or other property (or the property for the time being representing it or derived from it) is applicable cy-près by virtue of section 62(1)(a) or (b) or 63A.
- (2) The charity trustees of the charity may resolve that all the money or other property which is applicable cy-près by virtue of section 62(1)(a) or (b) or 63A be applied for such charitable purposes specified in the resolution as they consider appropriate, having regard to—
- (a) the desirability of securing that the purposes are, so far as reasonably practicable, similar to the specific charitable purposes for which the money or other property was given;
 - (b) the need for the purposes to be suitable and effective in the light of current social and economic circumstances.
- (3) A resolution under this section must be passed by a majority of the charity trustees.
- (4) If a resolution passed under this section concerns money or other property with a value exceeding £1,000—

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- (a) the charity trustees must send a copy of the resolution to the Commission, together with a statement of their reasons for passing it, and
- (b) the resolution does not have effect until the date on which the Commission consents to it in writing.

(5) The Secretary of State may by regulations amend subsection (4) by substituting a different sum for the sum for the time being specified there.”

8 Power of the court and the Commission to make schemes

Before the italic heading preceding section 75A of the Charities Act 2011 insert—

“Power of the court and the Commission to make schemes

75ZA Power of the court and the Commission to make schemes

- (1) Any power of the court or the Commission to make a scheme in relation to a charity that is a charitable trust is also exercisable in relation to any other institution which is a charity.
- (2) Subsection (1)—
 - (a) is subject to the provisions of this Act;
 - (b) is to be treated as always having had effect.”

Permanent endowment

9 Definition of “permanent endowment”

In section 353 of the Charities Act 2011 (minor definitions), for subsection (3) substitute—

“(3) For the purposes of this Act, property is “permanent endowment” if it is subject to a restriction on being expended which distinguishes between income and capital.”

10 Amendment of powers to release restrictions on spending capital

- (1) The Charities Act 2011 is amended as follows.
- (2) In section 281 (power of unincorporated charities to spend capital: general)—
 - (a) in subsection (1), omit “which is not a company or other body corporate”;
 - (b) after subsection (6) insert—
 - “(6A) If—
 - (a) an amount falls to be repaid to or paid into the fund by the charity trustees because the charity trustees have borrowed an amount from the fund,
 - (b) the amount when repaid or paid would fall to be added to the fund and to be subject to the same restrictions as to expenditure as apply to the other capital in the fund, and

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- (c) the condition in subsection (6B) is met in relation to the charity,
the charity trustees may resolve for the purposes of this section that the obligation to repay or pay the amount ought to cease to have effect either wholly or in part.
- (6B) The condition is that the charity trustees are satisfied that the purposes set out in the trusts to which the fund is subject could be carried out more effectively if the obligation ceased to have effect to that extent.
- (6C) Once the charity trustees have passed a resolution under subsection (6A), the obligation ceases to have effect to that extent.
- (6D) Where a resolution passed under subsection (6A) relates to all outstanding obligations to repay amounts to or pay amounts into the fund in respect of the amount borrowed from the fund, any other obligation which falls to be carried out by the charity trustees because the charity trustees have borrowed that amount from the fund also ceases to have effect once the resolution has been passed.”
- (3) In section 282 (resolution to spend larger fund given for particular purpose)—
- (a) in the heading, omit “given for particular purpose”;
- (b) in subsection (1), for the words from “which is not” to the end of the subsection substitute “if—
- (a) in a case where subsection (1A) applies, the adjusted market value of the fund exceeds £25,000, or
- (b) in any other case, the market value of the fund exceeds that sum.”;
- (c) after subsection (1) insert—
- “(1A) This subsection applies where the charity trustees of the charity have borrowed from the fund and all or part of that borrowing is outstanding.”;
- (d) after subsection (3) insert—
- “(3A) If—
- (a) an amount falls to be repaid to or paid into the fund by the charity trustees because the charity trustees have borrowed an amount from the fund,
- (b) the amount when repaid or paid would fall to be added to the fund and to be subject to the same restrictions as to expenditure as apply to the other capital in the fund, and
- (c) the condition in subsection (3B) is met in relation to the charity,
- the charity trustees may resolve for the purposes of this section that the obligation to repay or pay the amount ought to cease to have effect either wholly or in part.
- (3B) The condition is that the charity trustees are satisfied that the purposes set out in the trusts to which the fund is subject could be carried out more effectively if the obligation ceased to have effect to that extent.”;
- (e) in subsection (4)(a), after “(2)” insert “or (3A)”;
- (f) in subsection (5), at the appropriate place insert—

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“adjusted market value”, in relation to an endowment fund, means the current market value of the fund as determined on a valuation carried out for the purpose—

- (a) reduced by the value, if any, of the benefit of the debt owed by the charity trustees representing outstanding borrowing from the fund on the date of that valuation, and
- (b) increased by the amount of the charity trustees’ outstanding borrowing from the fund on that date;”;

“outstanding borrowing” means outstanding borrowing by virtue of section 284A or otherwise.”;

- (g) omit subsection (6).

(4) In section 284 (when and how a section 282 resolution takes effect)—

- (a) in subsection (5), after “282(2)” insert “or (as the case may be) the obligation to repay or pay the amount to the fund ceases to have effect, by virtue of this section, to the extent resolved by the trustees under section 282(3A)”;
- (b) after subsection (5) insert—

“(6) Where the resolution passed under section 282(3A) relates to all outstanding obligations to repay amounts to or pay amounts into the fund in respect of the amount borrowed from the fund, any other obligation which falls to be carried out by the charity trustees because the charity trustees have borrowed that amount from the fund ceases to have effect when the obligations to repay or pay amounts cease to have effect.”

11 Taking effect of resolution under section 282 of the Charities Act 2011

(1) Section 284 of the Charities Act 2011 (when and how a resolution under section 282 takes effect) is amended as follows.

(2) In subsection (3), for “period of 3 months beginning with the relevant date” substitute “relevant period”.

(3) For subsection (4) substitute—

“(4) The “relevant period” means—

- (a) the period of 60 days beginning with the date on which the Commission receives the copy of the resolution in accordance with section 282(4), or
- (b) that period as modified by subsection (4A) or (4B).

(4A) If under section 283(1) the Commission directs the charity trustees to give public notice of a resolution, the running of the relevant period is suspended from the date on which the direction is given to the charity trustees until the end of the period of 42 days beginning with the date on which public notice of the resolution is given by the charity trustees.

(4B) If under section 283(2) the Commission directs the charity trustees to provide any information or explanations, the running of the relevant period is suspended from the date on which the direction is given to the charity trustees until the date on which the information or explanations is or are provided to the Commission.”

12 Power to borrow from permanent endowment

- (1) The Charities Act 2011 is amended as follows.
- (2) After section 284 insert—

“Power to borrow from permanent endowment

284A Power to borrow from permanent endowment: general

- (1) This section applies to any available endowment fund of a charity.
- (2) The charity trustees may resolve to borrow an amount, not exceeding the permitted amount, from the available endowment fund if they are satisfied—
 - (a) that it is expedient for the amount to be borrowed, in the light of the purposes set out in the trusts to which the fund is subject and the purposes of the charity, and
 - (b) that arrangements are in place for the amount to be repaid within 20 years of being borrowed.
- (3) Any amount borrowed in accordance with subsection (2) no longer forms part of the available endowment fund and, as a result, is freed from the restrictions with respect to the expenditure of capital that applied to it when it was comprised in that fund.
- (4) An amount borrowed in accordance with subsection (2) may not be used to repay (in whole or in part) any amount previously borrowed from permanent endowment (whether the previous borrowing was by virtue of this section or otherwise).
- (5) When repaying an amount borrowed (whether in whole or in part), the charity trustees may resolve to pay an additional amount not exceeding the maximum estimated capital appreciation.
- (6) Any—
 - (a) repayment of an amount borrowed, and
 - (b) payment of an additional amount by virtue of a resolution under subsection (5),is to be added to the available endowment fund and is to be subject to the same restrictions as to expenditure as apply to the other capital in the fund.
- (7) The powers conferred by this section—
 - (a) may be restricted or excluded by the trusts of the charity;
 - (b) are (subject to paragraph (a)) in addition to any other power to borrow that the charity or charity trustees may have.
- (8) If, and in so far as, the power conferred by subsection (5) confers power to accumulate income, it is not subject to section 14(3) of the Perpetuities and Accumulations Act 2009 (which provides for certain powers to accumulate income to cease after 21 years).
- (9) In this section “available endowment fund”, in relation to a charity, means—
 - (a) the whole of the charity’s permanent endowment if it is all subject to the same trusts, or

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- (b) any part of its permanent endowment which is subject to any particular trusts that are different from those to which any other part is subject.
- (10) If a resolution under section 104A(2) has effect in respect of an available endowment fund (or portion of such a fund), references in this section to an “available endowment fund” include that fund (or portion) but do not include any returns from the investment of the fund (or portion) which have not been accumulated.
- (11) For the meaning of “permitted amount” and “maximum estimated capital appreciation” see sections 284B and 284C respectively.

284B Calculation of the “permitted amount”

- (1) The “permitted amount” for the purposes of section 284A(2) is given by the formula—

$$(0.25 \times (V + B)) - B$$

where—

V is the value of the available endowment fund on the relevant date (ignoring the value, if any, of the benefit of the debt owed by the charity trustees representing outstanding borrowing from the fund), and

B is the amount of the charity trustees’ outstanding borrowing from the available endowment fund on that date.

- (2) In subsection (1)—
- “outstanding borrowing” means outstanding borrowing by virtue of section 284A or otherwise;
- the “relevant date” is the date on which the trustees resolve to borrow from the available endowment fund (see section 284A(2)).
- (3) If a resolution under section 104A(2) has effect in respect of the available endowment fund (or any part of it), for the purposes of subsection (1) the value of the available endowment fund does not include any returns from the investment of the fund (or part) which have not been accumulated.

284C Calculation of the “maximum estimated capital appreciation”

- (1) The “maximum estimated capital appreciation” for the purposes of section 284A(5) is given by the formula—

$$R \times I$$

where—

R is the amount of borrowing being repaid, and

I is the percentage increase in the relevant index between the month in which the amount was borrowed and the month preceding the month in which the repayment is made (or if there is no increase is nil).

- (2) The “relevant index” is whichever of the following is selected by the charity trustees from time to time—
- (a) the retail prices index;
 - (b) the consumer prices index;
 - (c) any similar general index of prices published by the Statistics Board.
- (3) In this section—
- “consumer prices index” means the general index for consumer prices published by the Statistics Board;
 - “retail prices index” means the general index of retail prices (for all items) published by the Statistics Board.

284D Inability to repay

- (1) If (at any time) it appears to the charity trustees that—
- (a) they will not be able to fulfil the arrangements put in place to repay an amount borrowed under section 284A, or
 - (b) those arrangements are not sufficient to ensure that the amount is repaid,
- the trustees must apply to the Commission for an order under this section directing them how to proceed.
- (2) An order under this section may give such directions as the Commission thinks fit, including—
- (a) that the relevant amount may be repaid over a longer period,
 - (b) that the charity trustees put in place arrangements specified in the order, or
 - (c) that the charity trustees need not repay an amount borrowed.”
- (3) In section 285 (power to alter sums specified in Part 13), after subsection (2) insert—
- “(3) The Secretary of State may by regulations amend—
- (a) the period of time specified in section 284A(2)(b), or
 - (b) the multiplier in the formula set out in section 284B(1),
- so as to substitute a different time period or multiplier (as the case may be) for the period or multiplier for the time being specified in that provision.”
- (4) In section 348 (regulations subject to affirmative procedure etc)—
- (a) in subsection (1), after paragraph (c) insert—
 - “(d) regulations under section 285(3) (power to amend period or multiplier specified);”;
 - (b) in subsection (2), for “or (c)” substitute “, (c), (d)”.

13 Total return investment

- (1) The Charities Act 2011 is amended as follows.
- (2) After section 104A insert—

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“104AA Total return investment: social investments

- (1) This section applies to a fund, or a portion of a fund, in respect of which a resolution under section 104A(2) has effect.
- (2) The charity trustees may resolve that—
 - (a) the fund or portion, and
 - (b) any returns from the investment of the fund or portion,
 may be used to make social investments (within the meaning of section 292A) which they could not otherwise make.
- (3) While a resolution under subsection (2) has effect, regulations under section 104B(1)(b) and (ba) apply to—
 - (a) the fund or portion, and
 - (b) any returns from the investment of the fund or portion.”
- (3) In section 104B (total return investment: regulations)—
 - (a) in subsection (1)(a), for “section 104A(2)” substitute “sections 104A(2) and 104AA(2)”;
 - (b) omit the “and” following subsection (1)(b);
 - (c) after subsection (1)(b) insert—
 - “(ba) the use of a relevant social investment fund to make social investments (within the meaning of section 292A),”;
 - (d) after subsection (1)(c) insert “, and
 - (d) any steps that must be taken by charity trustees in respect of a relevant social investment fund in the event of a resolution under section 104AA(2) ceasing to have effect.”;
 - (e) in subsection (2)(a), after “104A(2)” insert “or 104AA(2)”;
 - (f) in subsection (6), for “section “relevant” substitute “section— “relevant””;
 - (g) in subsection (6), at the end insert—

““relevant social investment fund” means a fund, or a portion of a fund, and any returns from the investment of the fund, or portion, in respect of which a resolution under section 104AA(2) has effect.”

Special trusts

14 Special trusts

- (1) Omit Part 14 of the Charities Act 2011 (special trusts).
- (2) In section 353 of that Act (minor definitions), after subsection (3) insert—
 - “(4) In this Act, “special trust” means property which—
 - (a) is held and administered by or on behalf of a charity for any special purposes of the charity, and
 - (b) is so held and administered on separate trusts relating only to that property.

But a special trust does not, by itself, constitute a charity for the purposes of Part 8 (charity accounts, reports and returns).”

Ex gratia payments etc

15 Small ex gratia payments

In Part 18 of the Charities Act 2011 (miscellaneous and supplementary), before the italic heading preceding section 332 insert—

“Limited power to make ex gratia payments

331A Limited power for charity trustees to make ex gratia payments etc

- (1) The charity trustees of a charity may take any action falling within subsection (2)(a) or (b) if the conditions in subsection (3) are met.
- (2) The actions are—
 - (a) making any application of property of the charity, or
 - (b) waiving to any extent, on behalf of the charity, its entitlement to receive any property.
- (3) The conditions are—
 - (a) that the value of the property does not exceed the relevant threshold,
 - (b) that the charity trustees have no power to take the action apart from this section or by virtue of section 106, and
 - (c) that in all the circumstances the charity trustees could reasonably be regarded as being under a moral obligation to take the action.
- (4) The power conferred by this section may be restricted or excluded by the trusts of the charity.
- (5) In relation to a charity established by (or whose purposes or functions are set out in) legislation, the power conferred by this section is not disapplied only because the legislation concerned prohibits application of property of the charity otherwise than as set out in the legislation.
- (6) For the purposes of subsection (3)(a)—
 - (a) if the charity’s gross income in its last financial year did not exceed £25,000, the relevant threshold is £1,000;
 - (b) if the charity’s gross income in its last financial year exceeded £25,000 but not £250,000, the relevant threshold is £2,500;
 - (c) if the charity’s gross income in its last financial year exceeded £250,000 but not £1 million, the relevant threshold is £10,000;
 - (d) if the charity’s gross income in its last financial year exceeded £1 million, the relevant threshold is £20,000.
- (7) In subsection (5) “legislation” means—
 - (a) an Act of Parliament;
 - (b) an Act or Measure of Senedd Cymru;

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

- (c) subordinate legislation (within the meaning of the Interpretation Act 1978) made under an Act of Parliament;
- (d) an instrument made under an Act or Measure of Senedd Cymru; or
- (e) a Measure of the Church Assembly or of the General Synod of the Church of England.

331B Power to alter sums specified in s.331A

The Secretary of State may by regulations amend section 331A(6) (relevant income thresholds) by substituting a different sum for any sum for the time being specified in that provision.”

16 Power of Commission etc to authorise ex gratia payments etc

In section 106 of the Charities Act 2011 (power of Commission to authorise ex gratia payments etc)—

- (a) for subsection (1) substitute—

“(1) The Commission, the Attorney General or the court may authorise the charity trustees of a charity to take any action falling within subsection (2)(a) or (b) in a case where the charity trustees—

- (a) (apart from by virtue of this section or section 331A) have no power to take the action, but
- (b) in all the circumstances could reasonably be regarded as being under a moral obligation to take it.

(1A) In relation to a charity established by (or whose purposes or functions are set out in) legislation, subsection (1) is not disapplied only because the legislation concerned prohibits application of property of the charity otherwise than as set out in the legislation.

(1B) In subsection (1A) “legislation” means—

- (a) an Act of Parliament;
- (b) an Act or Measure of Senedd Cymru;
- (c) subordinate legislation (within the meaning of the Interpretation Act 1978) made under an Act of Parliament;
- (d) an instrument made under an Act or Measure of Senedd Cymru; or
- (e) a Measure of the Church Assembly or of the General Synod of the Church of England.”;

- (b) in subsection (3), after second “Commission” insert “by order and”.