



Charitable Trusts (Validation) Act 1954

1954 CHAPTER 58

An Act to validate under the law of England and Wales, and restrict to charitable objects, certain instruments taking effect before the sixteenth day of December, nineteen hundred and fifty-two, and providing for property to be held or applied for objects partly but not exclusively charitable, and to enable corresponding provision to be made by the Parliament of Northern Ireland. [30th July 1954]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Validation and modification of imperfect trust instruments.

- (1) In this Act, " imperfect trust provision " means any provision declaring the objects for which property is to be held or applied, and so describing those objects that, consistently with the terms of the provision, the property could be used exclusively for charitable purposes, but could nevertheless be used for purposes which are not charitable.
- (2) Subject to the following provisions of this Act, any imperfect trust provision contained in an instrument taking effect before the sixteenth day of December, nineteen hundred and fifty-two, shall have, and be deemed to have had, effect in relation to any disposition or covenant to which this Act applies—
 - (a) as respects the period before the commencement of this Act, as if the whole of the declared objects were charitable; and
 - (b) as respects the period after that commencement as if the provision had required the property to be held or applied for the declared objects in so far only as they authorise use for charitable purposes.
- (3) A document inviting gifts of property to be held or applied for objects declared by the document shall be treated for the purposes of this section as an instrument taking effect when it is first issued.

- (4) In this Act, " covenant " includes any agreement, whether under seal or not, and " covenantor" is to be construed accordingly.

2 Dispositions and covenants to which the Act applies.

- (1) Subject to the next following subsection, this Act applies to any disposition of property to be held or applied for objects declared by an imperfect trust provision, and to any covenant to make such a disposition, where apart from this Act the disposition or covenant is invalid under the law of England and Wales, but would be valid if the objects were exclusively charitable.
- (2) This Act does not apply to a disposition if before the sixteenth day of December, nineteen hundred and fifty-two, property comprised in, or representing that comprised in, the disposition in question or another disposition made for the objects declared by the same imperfect trust provision, or income arising from any such property, has been paid or conveyed to, or applied for the benefit of, the persons entitled by reason of the invalidity of the disposition in question or of such other disposition as aforesaid, as the case may be.
- (3) A disposition in settlement or other disposition creating more than one interest in the same property shall be treated for the purposes of this Act as a separate disposition in relation to each of the interests created.

3 Savings for adverse claims, etc.

- (1) Subject to the next following subsection, where a disposition to which this Act applies was made before, and is not confirmed after, the commencement of this Act, the foregoing sections shall not prejudice a person's right, by reason of the invalidity of the disposition, to property comprised in, or representing that comprised in, the disposition as against the persons administering the imperfect trust provision or the persons on whose behalf they do so, unless the right accrued to him or some person through whom he claims more than six years before the sixteenth day of December, nineteen hundred and fifty-two; but the persons administering the imperfect trust provision, and any trustee for them or for the persons on whose behalf they do so, shall be entitled, as against a person whose right to the property is saved by this subsection, to deal with the property as if this subsection had not been passed, unless they have express notice of a claim by him to enforce his right to the property.
- (2) No proceedings shall be begun by any person to enforce his right to any property by virtue of the foregoing subsection after the expiration of one year beginning with the date of the passing of this Act or the date when the right first accrues to him or to some person through whom he claims, whichever is the later, unless the right (before or after its accrual) either—
- (a) has been concealed by the fraud of some person administering the imperfect trust provision or his agent; or
 - (b) has been acknowledged by some such person or his agent by means of a written acknowledgment given to the person having the right or his agent and signed by the person making it, or by means of a payment or transfer of property in respect of the right;

and if the period prescribed by this subsection for any person to bring proceedings to recover any property expires without his having recovered the property or begun proceedings to do so, his title to the property shall be extinguished.

This subsection shall not be taken as extending the time for bringing any proceedings beyond the period of limitation prescribed by any other enactment.

- (3) For the purposes of the foregoing subsections, a right by reason of the invalidity of a disposition to property comprised in, or representing that comprised in, the disposition shall not be deemed to accrue to anyone so long as he is under a disability or has a future interest only, or so long as the disposition is subject to another disposition made by the same person, and the whole of the property or the income arising from it is held or applied for the purposes of that other disposition.
- (4) Subsections (2) to (4) of section thirty-one of the Limitation Act, 1939 (which define the circumstances in which, for the purposes of that Act, a person is to be deemed to be under a disability or to claim through another person), shall apply for the purposes of the foregoing subsections as they apply for the purposes of that Act.
- (5) Where subsection (1) of this section applies to save a person's right to property comprised in, or representing that comprised in, a disposition, or would have so applied but for some dealing with the property by persons administering the imperfect trust provision, or by any trustee for them or for the persons on whose behalf they do so, the foregoing sections shall not prejudice the first-mentioned person's right by virtue of his interest in the property to damages or other relief in respect of any dealing with the property by any person administering the imperfect trust provision or by any such trustee as aforesaid, if the person dealing with the property had at the time express notice of a claim by him to enforce his right to the property.
- (6) A covenant entered into before the commencement of this Act shall not be enforceable by virtue of this Act unless confirmed by the covenantor after that commencement, but a disposition made in accordance with such a covenant shall be treated for the purposes of this Act as confirming the covenant and any previous disposition made in accordance with it.

4 Provisions as to pending proceedings and past decisions and tax payments.

- (1) Subject to the next following subsection, effect shall be given to the provisions of this Act in legal proceedings begun before its commencement, as well as in those begun afterwards.
- (2) This Act shall not affect any order or judgment made or given before its commencement in legal proceedings begun before the sixteenth day of December, nineteen hundred and fifty-two, or any appeal or other proceedings consequent on any such order or judgment.
- (3) Where in legal proceedings begun on or after the said sixteenth day of December, any order or judgment has been made or given before the commencement of this Act which would not have been made or given after that commencement, the court by which the order or judgment was made or given shall, on the application of any person aggrieved thereby, set it aside in whole or in part and make such further order as the court thinks equitable with a view to placing those concerned as nearly as may be in the position they ought to be in having regard to this Act:

Provided that proceedings to have an order or judgment set aside under this subsection shall not be instituted more than six months after the commencement of this Act.

- (4) This Act shall not, by its operation on any instrument as respects the period before the commencement of the Act, impose or increase any liability to tax nor entitle any person

to reclaim any tax paid or borne before that commencement, nor (save as respects taxation) require the objects declared by the instrument to be treated for the purposes of any enactment as having been charitable so as to invalidate anything done or any determination given before that commencement.

5 Provisions as to Northern Ireland.

Notwithstanding anything in the Government of Ireland Act, 1920, the Parliament of Northern Ireland shall have power to make laws for purposes similar to the purposes of this Act:

Provided that no such law shall, by its operation as respects any period before its commencement, impose or increase any liability to a reserved tax or entitle any person to reclaim any reserved tax paid or borne before that commencement.

6 Application to Crown.

This Act, and (except in so far as the contrary intention appears) any enactment of the Parliament of Northern Ireland passed for purposes similar to the purposes of this Act, shall bind the Crown.

7 Short title.

This Act may be cited as the Charitable Trusts (Validation) Act, 1954.