



Charities (Protection and Social Investment) Act 2016

2016 CHAPTER 4

15 Power to make social investments

(1) In the Charities Act 2011, after section 292 insert—

“PART 14A

SOCIAL INVESTMENTS

292A Meaning of “social investment”

- (1) This section applies for the purposes of this Part.
- (2) A social investment is made when a relevant act of a charity is carried out with a view to both—
 - (a) directly furthering the charity’s purposes; and
 - (b) achieving a financial return for the charity.
- (3) References to an act of a charity are, in the case of an unincorporated charity, to an act of the charity trustees.
- (4) A relevant act of a charity is—
 - (a) an application or use of funds or other property; or
 - (b) taking on a commitment in relation to a liability of another person (such as a guarantee) that puts the charity’s funds or other property at risk of being applied or used.
- (5) An act mentioned in subsection (4)(a) is to be regarded as achieving a financial return if its outcome is better for the charity in financial terms than expending the whole of the funds or other property in question.

Status: This is the original version (as it was originally enacted).

- (6) A commitment mentioned in subsection (4)(b) is to be regarded as achieving a financial return if—
- (a) it is not called upon; or
 - (b) it is called upon without resulting in the expenditure of the whole of the funds or other property put at risk.
- (7) The fact that a relevant act may also have results other than those mentioned in subsection (2)(a) and (b) does not prevent the carrying out of that act being regarded as the making of a social investment.
- (8) The fact that carrying out a relevant act of a charity is regarded as the making of a social investment for the purposes of this Part does not of itself make the act an investment for any other purpose.

292B General power to make social investments

- (1) An incorporated charity has, and the charity trustees of an unincorporated charity have, power to make social investments.
- (2) The power conferred by this section may not be used to make a social investment involving—
- (a) the application or use of permanent endowment, or
 - (b) taking on a commitment mentioned in section 292A(4)(b) that puts permanent endowment at risk of being applied or used,
- unless the charity trustees expect that making the social investment will not contravene any restriction with respect to expenditure that applies to the permanent endowment in question.
- (3) The power conferred by this section—
- (a) may be restricted or excluded by the trusts of the charity;
 - (b) is (subject to paragraph (a)) in addition to any other power to make social investments that the charity or charity trustees may have.
- (4) This section and section 292C do not apply in relation to—
- (a) charities established by, or whose purposes and functions are set out in, legislation;
 - (b) charities established by Royal Charter;
- but they apply in relation to all other charities, whether established before or after this section comes into force.
- (5) In subsection (4) “legislation” means—
- (a) an Act of Parliament or an Act or Measure of the National Assembly for Wales; or
 - (b) subordinate legislation (within the meaning of the Interpretation Act 1978) made under such an Act or Measure.

292C Charity trustees’ duties in relation to social investments

- (1) This section applies in relation to social investments that are made after section 292B comes into force, whether or not made by the exercise of the power conferred by section 292B.

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

- (2) The charity trustees of a charity must, before exercising a power to make a social investment—
 - (a) consider whether in all the circumstances any advice about the proposed social investment ought to be obtained;
 - (b) obtain and consider any advice they conclude ought to be obtained; and
 - (c) satisfy themselves that it is in the interests of the charity to make the social investment, having regard to the benefit they expect it to achieve for the charity (by directly furthering the charity’s purposes and achieving a financial return).
 - (3) The charity trustees of a charity must from time to time review the charity’s social investments.
 - (4) When carrying out a review the charity trustees must—
 - (a) consider whether any advice about the social investments (or any particular social investment) ought to be obtained; and
 - (b) obtain and consider any advice they conclude ought to be obtained.
 - (5) The duties under this section may not be restricted or excluded by the charity’s trusts.
 - (6) In the case of an unincorporated charity, the duties under this section apply in relation to relevant social investments in place of any duties under sections 4 and 5 of the Trustee Act 2000 that would otherwise apply.
 - (7) In subsection (6) “relevant social investments” means social investments that are investments for the purposes of Part 2 of the Trustee Act 2000.”
- (2) The Trustee Act 2000 is amended as follows.
- (3) In section 4 (standard investment criteria), after subsection (3) insert—
- “(4) This section has effect subject to section 292C(6) of the Charities Act 2011 (which disapplies the duties under this section in cases where they would otherwise apply in relation to a social investment within the meaning of Part 14A of that Act).”
- (4) In section 5 (advice), after subsection (4) insert—
- “(5) This section has effect subject to section 292C(6) of the Charities Act 2011 (which disapplies the duties under this section in cases where they would otherwise apply in relation to a social investment within the meaning of Part 14A of that Act).”