



Charities Act 2011

2011 CHAPTER 25

PART 6

CY-PRÈS POWERS AND ASSISTANCE AND SUPERVISION OF CHARITIES BY COURT AND COMMISSION

[^{F1}Total return investment

[^{F1}104B Total return investment: regulations

- (1) The Commission may by regulations make provision about—
 - (a) resolutions under section [^{F2}sections 104A(2) and 104AA],
 - (b) the investment of a relevant fund without the need to maintain a balance between capital and income returns, and expenditure from such a fund, ^{F3} ...
[the use of a relevant social investment fund to make social investments (within ^{F4}(ba) the meaning of section 292A),]
 - (c) the steps that must be taken by charity trustees in respect of a fund, or portion of a fund, in the event of a resolution under section 104A(2) ceasing to have effect in respect of the fund or portion [^{F5}, 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.]
- (2) Regulations under subsection (1)(a) may, in particular—
 - (a) specify steps that must be taken by charity trustees before passing a resolution under section 104A(2) [^{F6}or 104AA(2)(2)],
 - (b) make provision about the variation and revocation of such a resolution,
 - (c) require charity trustees to notify the Commission of the passing, variation or revocation of such a resolution, and
 - (d) specify circumstances in which such a resolution is to cease to have effect.
- (3) Regulations under subsection (1)(b) may, in particular—

Changes to legislation: Charities Act 2011, Section 104B is up to date with all changes known to be in force on or before 10 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (a) make provision requiring a relevant fund to be invested, and the returns from that investment to be allocated, in such a way as to maintain (so far as practicable) the long-term capital value of the fund,
 - (b) make provision about the taking of advice by charity trustees in connection with the investment of, and expenditure from, a relevant fund,
 - (c) confer on the charity trustees of a relevant fund a power (subject to such restrictions as may be specified in the regulations) to accumulate income,
 - (d) make provision about expenditure from a relevant fund (including by imposing limits on expenditure and specifying circumstances in which expenditure requires the Commission's consent), and
 - (e) require charity trustees to report to the Commission on the investment of, and expenditure from, a relevant fund.
- (4) A power to accumulate income conferred by regulations under subsection (1)(b) or (c) is not subject to section 14(3) of the Perpetuities and Accumulations Act 2009 (which provides for certain powers to accumulate income to cease to have effect after 21 years).
- (5) Any regulations made by the Commission under this section must be published by the Commission in such manner as it thinks fit.
- (6) In this ^{F7}section—
- “relevant”] fund means a fund, or portion of a fund, in respect of which a resolution under section 104A(2) has effect, and includes the returns from the investment of the fund or portion.
- ^{F8}“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.]]

Textual Amendments

- F1** Ss. 104A, 104B inserted (6.4.2013 for specified purposes, 1.1.2014 in so far as not already in force) by [Trusts \(Capital and Income\) Act 2013 \(c. 1\), ss. 4, 5\(3\)](#); S.I. 2013/676, [art. 3](#); S.I. 2013/2461, [art. 2](#)
- F2** Words in s. 104B(1)(a) substituted (14.6.2023) by [Charities Act 2022 \(c. 6\), ss. 13\(3\)\(a\)](#), 41(4); S.I. 2023/643, [Sch. para. 5](#)
- F3** Word in s. 104B omitted (14.6.2023) by virtue of [Charities Act 2022 \(c. 6\), ss. 13\(3\)\(b\)](#), 41(4); S.I. 2023/643, [Sch. para. 5](#)
- F4** S. 104B(ba) inserted (14.6.2023) by [Charities Act 2022 \(c. 6\), ss. 13\(3\)\(c\)](#), 41(4); S.I. 2023/643, [Sch. para. 5](#)
- F5** S. 104B(d) and word inserted (14.6.2023) by [Charities Act 2022 \(c. 6\), ss. 13\(3\)\(d\)](#), 41(4); S.I. 2023/643, [Sch. para. 5](#)
- F6** Words in s. 104B(2)(a) inserted (14.6.2023) by [Charities Act 2022 \(c. 6\), ss. 13\(3\)\(e\)](#), 41(4); S.I. 2023/643, [Sch. para. 5](#)
- F7** Words in s. 104B(6) substituted (14.6.2023) by [Charities Act 2022 \(c. 6\), ss. 13\(3\)\(f\)](#), 41(4); S.I. 2023/643, [Sch. para. 5](#)
- F8** Words in s. 104B(6) inserted (14.6.2023) by [Charities Act 2022 \(c. 6\), ss. 13\(3\)\(g\)](#), 41(4); S.I. 2023/643, [Sch. para. 5](#)

Changes to legislation:

Charities Act 2011, Section 104B is up to date with all changes known to be in force on or before 10 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 106(1)-(1B) substituted for s. 106(1) by [2022 c. 6 s. 16\(a\)](#)
- s. 322(2)(ea) inserted by [2022 c. 6 Sch. 2 para. 26](#)
- s. 331A331B and cross-heading inserted by [2022 c. 6 s. 15](#)