



Church of Scotland (Properties and Investments) Order Confirmation Act 1994

1994 CHAPTER v

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1936, relating to Church of Scotland (Properties and Investments). [26th May 1994]

WHEREAS the Provisional Order set forth in the Schedule hereunto annexed has been made by the Secretary of State under the provisions of the Private Legislation Procedure (Scotland) Act 1936, and it is requisite that the said Order should be confirmed by Parliament:

Be it therefore 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 Confirmation of Order in Schedule

The Provisional Order contained in the Schedule hereunto annexed is hereby confirmed.

2 Short title

This Act may be cited as the Church of Scotland (Properties and Investments) Order Confirmation Act 1994.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

SCHEDULE

CHURCH OF SCOTLAND (PROPERTIES AND INVESTMENTS)

Provisional Order to alter the constitution of and to confer further powers on the Church of Scotland Trust; to incorporate the Church of Scotland Investors Trust and to transfer certain moveable property and to authorise the transfer of other property to such trust; to transfer certain heritable property and to authorise the transfer of other property to the Church of Scotland General Trustees; to confer further powers on the Church of Scotland General Trustees; and for other purposes.

Whereas the general work of the Church of Scotland (hereinafter referred to as “the Church”) beyond the local spheres of kirk sessions and presbyteries is directed and controlled by the General Assembly of the Church:

And whereas The Church of Scotland General Trustees (hereinafter referred to as “the General Trustees”) were incorporated by the Church of Scotland (General Trustees) Order 1921 to hold the properties belonging to the Church and described in the Schedule thereto for the same ends, uses and purposes as those for which they were held by the several trustees or persons by whom they were held previously:

And whereas The Church of Scotland Trust (hereinafter referred to as “the Trust”) was incorporated by the Church of Scotland Trust Order 1932 (hereinafter referred to as “the Order of 1932”) to hold the properties belonging to the Church and described in the Schedule thereto for the same ends, uses and purposes as those for which they were held by the several trustees or persons by whom they were held previously:

And whereas by the Order of 1932 the Trust was also authorised to accept and hold such other properties as any organisation or minister of any congregation of the Church might desire to transfer to the Trust:

And whereas the Trust holds assets which fall broadly into three categories, that is to say:—

- (1) moveable property which largely comprises the assets of funds known as the general investment fund, the income fund, the deposit fund, the main pension fund, the contributors’ pension fund and the special investment account of the Church;
- (2) heritable or real property in the United Kingdom being mainly the functional properties and superiorities of the boards and committees of the General Assembly of the Church; and
- (3) heritable or real property outside the United Kingdom being mainly churches in Europe and in the Americas and foreign mission properties in Asia, Africa and elsewhere:

And whereas the arrangements whereby some assets of the Church are held by the General Trustees and other assets are held by the Trust have become anomalous and inconvenient for the good management and efficient administration of the heritable property and moveable property belonging to the Church:

And whereas it is expedient to alter the constitution of and to confer further powers on the Trust:

And whereas it is expedient to establish a new statutory body with modern and appropriate powers of management and administration to hold all the moveable property (as in this Order defined) now held by the Trust and any other property which it is authorised by this Order to hold:

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And whereas it is expedient to transfer to the General Trustees the heritable properties in Scotland now vested in the Trust and to authorise other property to be transferred to the General Trustees:

And whereas it is expedient for the new body to provide investment services to the Church and to bodies within or connected with the Church:

And whereas it is expedient that the new body should be able to act as trustee of certain church property and that other trustees should be authorised to transfer their trusteeships to the new body:

And whereas it is expedient to confer further powers on the General Trustees:

And whereas for the benefit of the Church and with the support and approval of the General Assembly of the Church, the Trust has resolved to promote legislation to give effect to the proposed changes aforesaid:

And whereas the purposes aforesaid cannot be effected without an Order confirmed by Parliament under the provisions of the Private Legislation Procedure (Scotland) Act 1936:

Now, therefore, in pursuance of the powers contained in the said Act, the Secretary of State hereby orders as follows:—

PART I

PRELIMINARY

Short title

- 1 This Order may be cited as the Church of Scotland (Properties and Investments) Order 1994.

Interpretation

- 2 In this Order, unless the context otherwise requires—
 - “the appointed day” means such day as may, under section 3 (Appointed day) of this Order, be appointed for the purposes of this Order;
 - “the Church” means the Church of Scotland as constituted by the union of the Church of Scotland and the United Free Church of Scotland on 2nd October 1929;
 - “the General Assembly” means the General Assembly of the Church;
 - “the General Trustees” means The Church of Scotland General Trustees incorporated by the Church of Scotland (General Trustees) Order 1921;
 - “heritable property” means an interest in land which conforms to the definition of an interest in land in section 28 of the Land Registration (Scotland) Act 1979 and wheresoever situated;
 - “the Investors Trust” means the body incorporated by section 13 (Incorporation) of this Order;
 - “moveable property” means personal property, investments, rights and interests of any nature whatever and wheresoever situated not included in the term “heritable property” and not a right or interest of any nature in corporeal moveable property, or in heritable property, in Asia or Africa vested in the Trust on the appointed day;

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“the Order of 1932” means the Church of Scotland Trust Order 1932; and
 “the Trust” means The Church of Scotland Trust incorporated by the Order of 1932.

Appointed day

- 3 (1) The Trust may appoint a day to be the appointed day for the purposes of this Order.
- (2) Before the day so appointed the Trust shall publish in the Edinburgh Gazette notice of the day appointed, stating that it is the appointed day for the purposes of this Order.

PART II

CHURCH OF SCOTLAND TRUST

Constitution

- 4 On the appointed day the members of the Trust other than those named below shall go out of office and subject to the provisions of this Order the following 10 members of the Church shall be members of the Trust, viz:

Ronald Stanton Blakey M.A., B.D., M.Th.
 Robert Bow M.A., LL.B.
 William Donald Bruce Cameron C.A.
 William Steven Carswell M.A., LL.B.
 George Fraser Davidson C.A.
 David Douglas McKinnon B.Sc., F.F.A., F.I.M.A.
 David Mackay Nicolson C.A.
 James Alan Walker Somerville W.S.
 James Leslie Weatherhead M.A., LL.B., D.D.
 John Christopher Wigglesworth M.B.E., B.Sc., Ph.D., B.D.

and they and the survivors of them and their successors in office and any additional members to be appointed as hereinafter provided (all hereinafter referred to as “members of the Trust”) shall continue to be a body corporate by the name of “The Church of Scotland Trust”.

Qualification of members

- 5 From the appointed day only a member of the Church shall be eligible to be a member of the Trust and if a person who is a member of the Trust ceases to be a member of the Church he shall thereupon cease to be a member of the Trust.

Roll of members

- 6 (1) The secretary and clerk of the Trust shall keep a roll of the members of the Trust and shall enter in it the names of the members of the Trust stated in section 4 (Constitution) of this Order in the same order as they appear in that section and the names of all persons who are appointed or co-opted as members of the Trust in terms of this Order in the order in which they are appointed or co-opted.

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- (2) When a person ceases to be a member of the Trust the secretary and clerk of the Trust shall amend the roll accordingly and when a person is re-appointed as a member of the Trust the secretary and clerk shall re-enter his name in the roll after the names of the other members of the Trust.

Retirement of members

- 7 (1) After the appointed day two members of the Trust other than the chairman and vice-chairman shall retire annually on 31st May each year but shall be eligible for re-appointment by the General Assembly as hereinafter provided.
- (2) The order in which the members of the Trust shall retire shall be the order in which their names appear in the roll of members of the Trust.

Appointment and removal of members

- 8 (1) The Trust shall report to the General Assembly all vacancies in the membership of the Trust and may nominate persons for appointment by the General Assembly to fill any vacancies.
- (2) The General Assembly shall appoint or re-appoint two persons to be members of the Trust in place of the two members of the Trust retiring in terms of this Order.
- (3) If a member of the Trust dies, resigns or becomes disqualified or is removed from office, the General Assembly shall have power to appoint another member of the Trust.
- (4) Subject to the provisions of subsection (6) of this section the General Assembly shall have power to appoint persons to be additional members of the Trust beyond the number specified in section 4 (Constitution) of this Order.
- (5) Subject to the provisions of subsection (6) of this section the Trust may at any time co-opt persons to be additional members of the Trust provided that any person so co-opted shall not remain a member of the Trust after the next meeting of the General Assembly unless his co-option is then ratified by the General Assembly.
- (6) The number of members of the Trust shall not exceed 20.
- (7) The General Assembly shall have power to remove any member of the Trust from office.

Appointment of chairman and vice-chairman

- 9 (1) The Trust shall whenever necessary appoint from among the members of the Trust a chairman and vice-chairman who shall hold office for a period of four years from the date of such appointment subject to such conditions as the General Assembly may from time to time determine and provided that the chairman and vice-chairman shall not remain chairman and vice-chairman respectively after the meeting of the General Assembly next following their appointment unless their appointment is then ratified by the General Assembly.
- (2) The General Assembly shall have power to renew or extend such appointments or either of them for a period not exceeding four years.