



AN BILLE CARTHANAS, 1957
CHARITIES BILL, 1957

Mar a ritheadh ag dhá Theach an Oireachtais
As passed by both Houses of the Oireachtas

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MARGINAL ABBREVIATIONS

- 1812 (c. 101)=The Charities Procedure Act, 1812 (52 Geo. 3. c. 101) (Romilly's Act)
- 1844 (c. 97)=The Charitable Donations and Bequests (Ireland) Act, 1844 (7 & 8 Vic. c. 97)
- 1861 (c. 111)=The Court of Probate (Ireland) Act, 1861 (24 & 25 Vic. c. 111)
- 1867 (c. 54)=The Charitable Donations and Bequests (Ireland) Act, 1867 (30 & 31 Vic. c. 54)
- 1871 (c. 102)=The Charitable Donations and Bequests Act (Ireland), 1871 (34 & 35 Vic. c. 102)
- 1877 (c. 49)=The General Prisons (Ireland) Act, 1877 (40 & 41 Vic. c. 49)
- 1877 (c. 57)=The Supreme Court of Judicature Act (Ireland), 1877 (40 & 41 Vic. c. 57)
- 1955 (No. 18)=The Charitable Donations and Bequests (Amendment) Act, 1955.



AN BILLE CARTHANAS, 1957
CHARITIES BILL, 1957

BILL

entitled

AN ACT TO AMEND THE LAW RELATING TO CHARITIES. 5

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS :—

PART I

PRELIMINARY AND GENERAL

Short title and
commencement.

1.—(1) This Act may be cited as the Charities Act, 1961.

(2) This Act shall come into operation on the 1st day of July, 10
1961.

Interpretation.

2.—In this Act—

“the Board ” means the Commissioners of Charitable Donations and
Bequests for Ireland;

“charitable gift ” means a gift for charitable purposes; 15

“fund ” includes any interest, present or future, in any stock,
shares, annuities or other securities or choses in action, and also
includes money;

“gift ” means a donation, devise or bequest;

“the Secretary ” means the Secretary of the Board; 20

references to the trustee of a charity shall be construed as including
references to a person acting in the administration or manage-
ment of a charity;

“will ” includes codicil.

Expenses.
[1867 (c. 54) s. 24]

3.—All expenses incurred by the Board in the administration 25
of this Act and not otherwise provided for shall, to such extent
as may be sanctioned by the Minister for Finance, be paid out of
moneys provided by the Oireachtas.

Repeals.

4.—(1) The enactments mentioned in the Schedule are hereby
repealed to the extent specified in the third column. 30

(2) Every scheme or order made, notice, decision, opinion or
advice given or thing done by the Board under a repealed enactment
shall remain valid notwithstanding such repeal as if made, given
or done under this Act.

1937, No. 38

(3) *Subsection (2)* is without prejudice to section 21 of the Inter- 35
pretation Act, 1937.

PART II

THE COMMISSIONERS OF CHARITABLE DONATIONS AND BEQUESTS FOR IRELAND AND THEIR JURISDICTION

CHAPTER I

The Board

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5.—The Commissioners of Charitable Donations and Bequests for Ireland (in this Act referred to as the Board) shall continue in being, notwithstanding the repeals effected by this Act, as a body corporate with perpetual succession and a common seal and may in their corporate name sue and be sued.

Continuance of Board.
[1844 (c. 97) s. 2 (part)]

6.—The Board shall in their corporate name have and be deemed always to have had power to acquire, hold and dispose of land.

Power to hold land.
[New]

7.—The Board shall consist of not more than eleven members.

Constitution.
[1844 (c. 97) s. 2 (part); 1861 (c. 111) s. 1]

8.—(1) The Government shall appoint persons to be members of the Board from time to time as occasion requires.

Membership.
[1844 (c. 97) ss. 2, 3]

(2) Each member of the Board shall hold office until his death, resignation or removal from office.

(3) The Government may remove from office any member of the Board.

(4) The appointment or removal of a member of the Board shall be published in *Iris Oifigiúil*.

(5) As soon as may be after the commencement of this Act, and thereafter as occasion requires, the Board shall appoint a member of the Board to be the Chairman of the Board and the Chairman shall hold office for such period as the Board determine when appointing him.

[New]

(6) The persons who are members of the Board immediately before the commencement of this Act shall continue in office as if appointed under this section.

9.—(1) At a meeting of the Board, if the Chairman of the Board is absent, the senior member in order of appointment or such other member as the Board may select shall be chairman.

Procedure.
[1844 (c. 97) s. 5]

(2) A member who continues in office on the commencement of this Act shall take rank according to the date of his original appointment.

(3) Every question at a meeting of the Board shall be determined by a majority of the votes of the members present and voting and, in the case of an equal division of votes, the chairman of the meeting shall have a second or casting vote.

(4) At a meeting of the Board three members shall form a quorum, if due notice of that meeting was given to all the members.

[1871 (c. 102) s. 4]

10.—(1) The Minister for Justice, with the consent of the Minister for Finance, shall from time to time as occasion requires appoint a secretary of the Board and may, with the like consent, appoint such other officers and such servants as may be necessary for the purposes of this Act.

Officers and servants.
[1844 (c. 97) s. 7]

(2) The Secretary and the other officers and servants of the Board shall hold office on such terms and receive such remuneration as the Minister for Finance determines.

(3) The Secretary and the other officers and servants of the Board holding office immediately before the commencement of this Act shall continue in office as if appointed under this section.

Seal.

[New]

11.—(1) The seal of the Board shall be affixed only by order of the Board and its affixation shall be attested by the signatures of two members of the Board or of a member of the Board and the Secretary. 5

(2) The seal of the Board shall be judicially noticed and every document purporting to be sealed with the seal of the Board and to be attested in accordance with this section shall, unless the contrary is shown, be received in evidence without further proof. 10

Minutes of proceedings.

[1844 (c. 97) s. 9]

12.—(1) The Secretary or some other officer of the Board shall make minutes of the proceedings of the Board at each meeting and shall keep a book (in this section referred to as the Minute Book) in which he shall enter— 15

(a) a fair copy of those minutes, and

(b) the names of the members present at that meeting.

(2) The minutes of the proceedings at a meeting of the Board, as entered in the Minute Book, shall be read at the next meeting of the Board and, if approved as correct, shall be signed by the chairman of the meeting at which they are so read. 20

Membership of Board not to disqualify Judge from hearing charity cases.

[1867 (c. 54) s. 23]

13.—A Judge of any Court shall not be prevented or disabled by reason solely of his being a member of the Board from hearing and determining any case relating to a charity or any case arising under this Act, but may hear and determine it as if he were not a member of the Board. 25

Audit of Accounts.

[Privy Council Order,* dated 20/9/1917, made under s. 75 of 1877 (c. 57)]

14.—(1) In this section—

“the Minister” means the Minister for Local Government;

“the auditor” means, in relation to an audit under this section, the auditor appointed by the Minister to hold that audit; 30

“the accounts” means the accounts of the Board.

* The Order supersedes 1844 (c. 97) s. 20, as amended by s. 75 of 1877 (c. 57), and applies 1844 (c. 97) s. 20 as so amended.

(2) The accounts shall be made up to the 31st day of December in each year in such form as the Minister may from time to time approve.

(3) The accounts shall once in each year be audited by such auditor of the Minister as the Minister may from time to time appoint. 35

(4) The following provisions shall apply in relation to an audit under this section—

(a) for the purposes of the audit, the Board shall furnish to the Minister, before the end of the month of June in each year, an abstract of the accounts of the Board in such form as shall be approved by the Minister from time to time; 40

(b) the auditor shall give to the Secretary six days' notice prior to the holding of the audit at the office of the Board; 45

(c) the auditor may, by giving notice in that behalf in writing to any person, require that person to attend at the office of the Board at such time as is specified in the notice to give evidence on oath in relation to any matter in question at the audit and to produce any books, deeds, accounts, vouchers or other documents in his possession, custody or control which relate to any such matter, and— 50 55

(i) any person to whom a notice has been given under this paragraph who refuses or wilfully neglects to attend in accordance with the notice or who wilfully alters, suppresses, conceals or destroys any document to which the notice relates, or who, having so attended, refuses to give evidence or refuses or

wilfully fails to produce any document to which the notice relates shall be guilty of an offence and shall be liable on summary conviction thereof to a fine not exceeding twenty pounds, and

- 5 (ii) any person who in giving such evidence on oath wilfully makes a statement which is to his knowledge false or misleading in any material respect shall be guilty of an offence and shall be liable on summary conviction thereof to a fine not exceeding twenty-five pounds or, at the discretion of the Court, to imprisonment for any term not exceeding six months or to both such fine and such imprisonment;

15 (d) on the completion of the audit, the auditor shall certify the said abstract;

(e) the auditor shall, within fourteen days after certifying the said abstract, send it to the Minister together with a report upon the accounts;

20 (f) the Minister shall transmit a copy of the auditor's report and the said abstract to the Secretary and shall transmit a copy of the said report to the Minister for Justice.

15.—(1) The Board shall, once at least in every year and also whenever the Government so require, report to the Government their proceedings under this Act. Report. [1844 (c. 97) s. 10]

25 (2) A copy of each report made under this section shall be laid before each House of the Oireachtas as soon as may be after it is made.

16.—The Board shall not pay any sum to a solicitor employed by them as and for costs or expenses to be defrayed out of moneys provided by the Oireachtas unless the amount thereof has been approved by the Minister for Finance, who shall before approving thereof have particulars of the costs and expenses laid before him. Restriction on payment by Board of solicitor's costs. [1844 (c. 97) s. 14]

17.—No matter or thing done by the Board or by any person acting under their direction shall, if done *bona fide* in the execution of this Act, render any member of the Board or person acting under their direction personally liable to any proceedings. Indemnity of Board and persons acting under their direction. [1867 (c. 54) s. 22 (first part)]

18.—A notice may be served on the Board—

- (a) by leaving a copy thereof with the Secretary at the office of the Board, or Service of notices on Board. [1871 (c. 102) s. 17]
- 40 (b) by sending a copy thereof by registered post in an envelope addressed to the Board at that office.

19.—Any costs or expenses incurred by the Board in the management or administration or for the preservation or recovery of any property vested in the Board or otherwise in the execution of this Act may be borne by and deducted by the Board from the estate and funds of the charity in respect of which those costs and expenses were incurred. Costs of Board to be borne by charity. [1867 (c. 54) s. 22 (second part)]

CHAPTER II

Jurisdiction and powers of the Board

50 20.—The Board may, in their discretion, having regard to the amount of any charitable devise or bequest or other special circumstances, exempt any person from the obligation imposed on him by section 52 either wholly or to such extent and upon such terms as they think fit. Power to grant exemption from obligation to publish advertisements of charitable devises and bequests. [1871 (c. 102) s. 16 (proviso)]

55 21.—(1) Where the trustees of a charity apply to the Board for their opinion or advice respecting the charity or the administration thereof or the property thereof or the application of the property Power to advise charity trustees as to administration of trusts.

[1867 (c. 54) s. 2
(first part);
1871 (c. 102) s. 5]

or any question or dispute relating thereto or where the executors of a will containing a charitable devise or bequest apply to the Board for their opinion or advice respecting the devise or bequest or the administration thereof or the application thereof or any question or dispute relating thereto, the Board shall consider the application and may, if they think fit, give such opinion or advice as they think expedient.

(2) The opinion or advice of the Board shall be given under the seal of the Board.

[1867 (c. 54) s. 2
(second part)]

(3) Where the Board give their opinion or advice in relation to any matter, a trustee, executor or any other person who during any period (not being a period after the making of an order in relation to the matter by a Court of competent jurisdiction) acts on or in accordance with the opinion or advice shall, in respect of his so acting during that period, be deemed, so far as respects his own responsibility, to have acted in accordance with his trust.

[1867 (c. 54) s. 2
(third part)]

(4) No order made subsequently by a Court shall have any such retrospective effect as to interfere with or impair the indemnity given by this section to a trustee, executor or other person who has acted on or in accordance with such opinion or advice.

[1867 (c. 54) s. 2
(proviso)]

(5) This section shall not indemnify a trustee or other person for any act done in accordance with an opinion or advice of the Board, if he has been guilty of fraud, wilful concealment or misrepresentation in obtaining the opinion or advice.

Compromise of
claims by or
against a charity.
[1867 (c. 54) s. 3
(first part, so far
as it relates to
claim by a
charity)]

22.—(1) If it appears to the trustees of a charity that any claim against a person in relation to the charity may, with advantage to the charity, or should, in the special circumstances of the case, be compromised, the trustees or that person, with the consent of the trustees, may submit to the Board a statement and proposal for a compromise.

[1867 (c. 54) s. 3
(first part, so far
as it relates to
claim against a
charity)]

(2) If it appears to the trustees of a charity that any claim by any person against the charity or them may, with advantage to the charity, or should, in the special circumstances of the case, be compromised, the trustees or that person, with the consent of the trustees, may submit to the Board a statement and proposal for a compromise.

[1867 (c. 54) s. 3
(second part)]

(3) Where the Board, after such inquiry as they think necessary, are of opinion that the proposal, with or without modification, is fit and proper and for the benefit of the charity, the Board may make such order in relation to the compromise as they think fit.

[1867 (c. 54)
(third part)]

(4) If it appears to the Board that any claim by or against them in respect of any property of which they are trustees may, with advantage to the charity, or should, in the special circumstances of the case, be compromised, the Board may compromise the claim.

[1867 (c. 54)
(fourth part)]

(5) Where a claim is authorised to be or is compromised under this section, then, upon due performance of the terms and conditions of the compromise, no action shall lie in respect of the claim.

Power to sue for
recovery of
charitable gifts
improperly
withheld,
concealed, or
misapplied.

[1844 (c. 97) s. 12]

23.—(1) The Board may, with the previous consent of the Attorney General, sue for the recovery of any charitable gift intended to be applied in the State which is improperly withheld, concealed or misapplied.

(2) The Board shall apply every charitable gift recovered by them under this section to charitable purposes according to the intention of the donor.

(3) The Board may deduct from any charitable gift recovered by them under this section all costs, charges and expenses incurred by them in such recovery.

24.—Whenever any sum is payable to or for any charitable purposes, the Board or the trustees of the charity, with the consent of the Board, may sue for and recover it, from the person for the time being liable therefor or whose duty it is to pay it, as a simple contract debt in any Court of competent jurisdiction without obtaining the consent of the Attorney General.

Recovery of charitable gifts. [1871 (c. 102) ss. 8, 9]

25.—If it appears to the Board desirable that legal proceedings should be instituted with respect to any charity by any person, other than the Attorney General, the Board may authorise or direct those legal proceedings to be instituted and give such directions in relation thereto as they think proper, and thereupon such legal proceedings may be instituted.

Power of Board to authorise or direct institution of legal proceedings in a charity matter. [1867 (c. 54) s. 5 (first part)]

26.—(1) If in any case it appears to the Board desirable that legal proceedings with respect to any charity should be instituted by the Attorney General, the Board may certify the case, in writing under the hand of the Secretary, to the Attorney General, with such statements and particulars as may in their opinion be required for the explanation of the case.

Power of Board to certify certain charity cases to the Attorney General [1867 (c. 54) s. 5. (second part)]

(2) Where a case is so certified to the Attorney General, he may, if he thinks fit, institute such legal proceedings as he considers proper in the circumstances of the case.

27.—Where—

- (a) a person has by will devised or bequeathed any property for charitable purposes, and
- (b) a suit for the administration of the assets or carrying out the trusts of the will has been instituted by the personal representative of that person,

Power of Board to apply for conduct of administration suits and suits for carrying out trusts of wills in case of delay. [1871 (c. 102) s. 14]

the Board (though not parties to the suit) may, on the ground of delay, apply to the Court in which the suit is pending to have the conduct of the suit transferred to the Board, and thereupon the Court, if of opinion that there has been undue or improper delay in proceeding with the suit, may—

- (a) give the conduct of the suit to the Board, or
- (b) impose on the party having conduct of the suit such terms as it deems necessary for bringing the suit to a speedy termination,

and may make such orders on the application as the Court thinks fit.

28.—Where any fund, standing to a separate credit in any matter within the jurisdiction of a Court, for the benefit of a charity or impressed with a charitable trust remains unapplied, the Board may apply to that Court for the transfer to them of the fund, to be held by them upon the charitable trust affecting the fund, and thereupon the Court may make such order as to the transfer of the fund to the Board or otherwise (including the payment of costs out of the fund) as the Court thinks fit.

Power of Board to apply for transfer of unapplied charity fund in Court. [1871 (c. 102) s. 13]

29.—(1) For the purposes of this section—

- (a) the value of land shall be taken to be fifty times the rateable valuation thereof,
- (b) the value of any periodical payment to which land is sub-

Power of Board to frame schemes applying property *cy-près*.

ject shall be taken to be fifteen times the annual amount thereof, and

- (c) the value of any other periodical payment shall be taken to be twenty times the annual amount thereof.

[1871 (c. 102)
s. 6 as
replaced by
1955 (No. 18)
s. 1]

(2) Whenever—

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- (a) any of the circumstances specified in *subsection (1)* of *section 47* exist in relation to any charitable gift, and

- (b) the charitable gift does not exceed five thousand pounds in value,

the Board, if they think fit, may by order frame a scheme for the application *cy-près* of the property comprised in the charitable gift. 10

(3) Where—

[1877 (c. 49)
s. 58]

- (a) a charitable gift of any value has been made for the benefit of poor debtors formerly imprisoned in Ireland, and

- (b) any of the circumstances specified in *subsection (1)* of *section 47* exist in relation to the charitable gift, 15

the Board, if they think fit, may by order frame a scheme for the application *cy-près* of the property comprised in the charitable gift.

(4) Where—

[New]

- (a) a scheme for the application of a charitable gift has been framed by order of a Court, and 20

- (b) circumstances exist in relation to the scheme, being circumstances whose existence in relation to a charitable gift would enable the property comprised in the gift to be applied *cy-près*, and 25

- (c) the charitable gift does not exceed five thousand pounds in value,

the Board, if they think fit, may by order revoke the scheme and frame, in lieu thereof, a new scheme for the application *cy-près* of the property comprised in the charitable gift. 30

(5) Where—

[New]

- (a) a scheme for the application of a charitable gift has been framed by the Board under—

1871, c. 102.

- (i) section 6 of the Charitable Donations and Bequests Act (Ireland), 1871, 35

1955, No. 18.

- (ii) the said section 6, as replaced by section 1 of the Charitable Donations and Bequests (Amendment) Act, 1955,

1877, c. 49.

- (iii) section 58 of the General Prisons (Ireland) Act, 1877, or 40

- (iv) this section (including this subsection), and

- (b) circumstances exist in relation to the scheme, being circumstances whose existence in relation to a charitable gift would enable the property comprised in the gift to be applied *cy-près*, 45

the Board, if they think fit, may by order revoke the scheme and frame, in lieu thereof, a new scheme for the application *cy-près* of the property comprised in the charitable gift.

(6) An order framing a scheme under this section shall not be made until the expiration of one month after public notice of the proposal to make it has been given in such manner as the Board 50

consider most effectual for ensuring publicity thereof and for bringing the proposal to the attention of persons interested.

(7) The notice shall—

- 5 (a) contain (so far as conveniently may be) sufficient particulars of the proposed order, and
- (b) prescribe a reasonable time within which any objection thereto or suggestions thereon may be made to the Board,

10 and the Board shall consider any objections and suggestions so made to them and may act in reference thereto as they think expedient.

 (8) If the Board modify any proposed order, it shall not be necessary for them to give notice of such modified order in accordance with *subsections* (6) and (7), unless the Board think further

15 notice desirable.

30.—(1) In this section—

“the Act” means the Educational Endowments (Ireland) Act, 1885;

“scheme” means a scheme framed and approved under the Act;

20 “the enabling clause” means, in relation to a scheme, the clause (which empowers the Board to alter the scheme) inserted in the scheme in exercise of the powers conferred by section 18 of the Act;

 references to a scheme shall, where the scheme has been altered under the enabling clause, be construed as references to the scheme

25 as so altered.

Alteration
of schemes
under
Educational
Endowments
(Ireland)
Act, 1885.

1885, c. 18.

[New]

(2) For the avoidance of doubt, it is hereby declared that, subject to *subsection* (3),—

30 (a) the power of altering a scheme in any matter or manner conferred on the Board by the enabling clause includes power to make in the scheme all such alterations as may be requested by the person or persons upon whose application the Board are, under the enabling clause, empowered to make alterations in that matter or manner;

35 (b) the alterations in the scheme may include—

 (i) provision for any of the matters mentioned in section 6 of the Act, and

40 (ii) where the endowment consists in whole or in part of school premises, provisions authorising the sale of the premises and the application of the moneys arising therefrom for any purpose which in the opinion of the Board is in furtherance of education;

 (c) any alterations so made shall be deemed not to be contrary to anything contained in the Act.

45 (3) The Board shall not under the enabling clause of a scheme so alter the scheme that any endowment applicable under the scheme would become applicable for any purposes other than such as are, in the opinion of the Board, in furtherance of education.

50 (4) Any alterations made in a scheme before the commencement of this Act in purported exercise of the powers conferred by the enabling clause shall, if made at the request of the person or persons upon whose application the Board are under the enabling clause empowered to make alterations, be deemed to have been duly made.

(5) Alterations of a scheme under the enabling clause shall, unless the Board are of opinion that the alterations are of a formal or minor nature, not be made until the expiration of one month after public notice of the proposal to make the alterations has been given in such manner as the Board consider most effectual for ensuring publicity thereof and for bringing the proposal to the attention of persons interested. 5

(6) The notice shall—

(a) contain (so far as conveniently may be) sufficient particulars of the proposed alterations, and 10

(b) prescribe a reasonable time within which any objection thereto or suggestions thereon may be made to the Board,

and the Board shall consider any objections and suggestions so made to them and may, subject to *subsection (7)*, act in reference thereto as they think expedient. 15

(7) The Board shall not, as the result of any objections or suggestions made to them, modify the proposed alterations of a scheme except with the consent of the person or persons upon whose application the Board are under the enabling clause empowered to make alterations of the scheme. 20

(8) If the Board modify any proposed alterations, it shall not be necessary to give notice of such modified alterations in accordance with *subsections (5) and (6)*, unless the Board think further notice desirable. 25

Acceptance by
Board of gift for
charitable
purposes.
[1867 (c. 54) s. 9
(part);
1871 (c. 102) s. 11
(reference to rent-
charge or
annuity)]

31.—(1) In this section “land ” includes any periodical payment to which land is subject.

(2) The Board may, if they think fit, accept a gift of any land or fund in trust for any charitable purpose.

[1867 (c. 54) s. 9
(third part);
1871 (c. 102),
s. 11)]

(3) (a) Subject to *paragraphs (b) and (c)*, any person in whom any land or fund is vested in trust for any charitable purpose may, with the previous consent in writing of the Board, transfer all or any part thereof to the Board to be held by them for that purpose. 30

[1867 (c. 54) s. 10
(first part)]

(b) Where a charitable gift was originally vested in more than one trustee and not more than six trustees, a transfer shall not be made under this subsection so long as there are fewer trustees than the original number appointed to act in the trusts or execution of the charitable gift or without the consent of all the trustees having first been signified in writing signed by them, such writing to be deposited with the Board. 35 40

[1867 (c. 54) s. 10
(second part)]

(c) Where a charitable gift was originally vested in more than six trustees, a transfer shall not be made under this subsection without the consent of two-thirds of the trustees (not being less than six in number) having been first signified in writing signed by them, such writing to be deposited with the Board. 45

[1867 (c. 54) s. 9
(fourth part);
1871 (c. 102) s. 11
(part)]

(4) Any land or fund vested in the Board in accordance with this section shall thenceforth be held by the Board upon and for the trusts and purposes upon and for which the land or fund was so vested or such of those trusts and purposes as are for the time being subsisting or capable of taking effect. 50

(5) The Board may by order from time to time nominate such persons as they think proper to administer, distribute or apply the land or fund or the profits or income thereof under their directions and from time to time by order remove any such persons and nominate others in their place. [1867 (c. 54) s. 9 (fifth part); 1871 (c. 102) s. 11]

32.—(1) The Board may, in their discretion, invest any fund held by them upon any charitable trust in such manner as they think proper. Investment of charity fund. [New]

(2) The Board may, if they think fit, on the application of the trustees of any fund held upon any charitable trust, by order confer upon the trustees, either generally or in any particular instance, power to invest the fund in such manner, on such terms and subject to such conditions as the Board may think proper.

(3) (a) Notwithstanding anything contained in any enactment (including this Act) or rule of law, a Court or the Board shall not invest or order, empower, consent to or approve of the investment of any fund held upon any charitable trust in manner other than the following, that is to say :

(i) in investments authorised by the terms of the trust or for the time being authorised by law as investments for trust funds,

(ii) in any debentures, debenture stock or guaranteed or preference or ordinary stock or shares of any industrial or commercial company incorporated in the State or maintaining in the State at the time of the proposed investment a register of its shareholders resident in the State, provided the ordinary stock or shares of any such company are quoted on the Dublin Stock Exchange or the Cork Stock Exchange,

(iii) in the purchase of freehold or leasehold land in the State.

(b) Notwithstanding anything contained in *paragraph (a)*, the whole or any part of a fund held upon any charitable trust which immediately before the commencement of this Act stood invested in a manner other than that specified in *paragraph (a)* may continue to stand so invested and, where the investment is in any securities to the holders of which other securities of the same kind are offered on advantageous terms, the fund may, whether at the time in a state of investment or not, be invested, to the extent of the offer made in respect of the fund's holding of such securities, in the other securities.

(c) A fund held upon any charitable trust shall not by virtue of *paragraph (a)* be invested in any manner expressly forbidden by the terms of the trust.

(d) A Court or the Board may from time to time vary or order, empower, consent to or approve of the variation of an investment made in the manner specified in *paragraph (a)*.

(e) This subsection does not restrict the power of the Board to grant authorisations in relation to land under the subsequent provisions of this Part.

(4) *Subsection (2)* does not apply to a fund to which *section 33* for the time being applies.

Leave to invest
charity fund held
subject to prior
limited interest.

[1867 (c. 54)
s. 12]

33.—Where—

- (1) any fund is held upon trust, after the determination of or subject to any prior life interest or other limited interest, for any charitable purposes, and
- (2) the trustees desire to invest the fund, or vary the investment of the fund by investing it, in investments specified in *subparagraph (ii) or (iii) of paragraph (a) of subsection (3) of section 32* but not authorised by the terms of the trust and not for the time being authorised by law as investments for trust funds,

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the following provisions shall have effect—

- (a) the trustees shall, before doing so, give notice in writing to the Board of their proposal;
- (b) the Board shall consider the proposal and inform the trustees in writing whether or not they object to the proposal;
- (c) if the Board inform the trustees that they object to the proposal, the trustees may apply to the High Court for leave to make or vary the investment and shall give notice of the application to the Board and to such other persons as the Court may direct, and the Court may make such order thereon as the Court thinks fit;
- (d) if the Board inform the trustees that they do not object to the proposal, it shall be lawful for the trustees to make or vary the investment in the manner specified in the proposal.

Power of Board
to authorise or
make sale,
exchange or
surrender lease of
charity land.
[1867 (c. 54) s. 14]

34.—(1) In this section “disposition”, in relation to land, means a disposition of the land by—

- (a) selling it, or
- (b) exchanging it for other land, or
- (c) surrendering a lease of it.

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(2) Where an application is made to the Board by the trustees of any charity comprising land representing that a specified disposition of the land can be effected on terms which would be advantageous to the charity, the Board may, if they think fit, inquire into the circumstances, and if, after inquiry, they are satisfied that the proposed disposition would be advantageous to the charity, they may authorise the applicants to make that disposition and give such directions in relation thereto and for securing the due investment of the money arising therefrom, for the benefit of the charity, as they think fit.

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(3) The Board may, if they think proper, authorise, with retrospective effect, a specific disposition made without such authority.

(4) If it appears to the Board in respect of any charity comprising land of which they are trustees that any disposition of the land would be beneficial to the charity, they may make that disposition of the land and the money arising therefrom shall be invested for the benefit of the charity in such manner as the Board think fit.

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Power of Board
to authorise sale
of periodical
payment
belonging to a
charity and
payable out of
land.
[1867 (c. 54) s. 15
(first part.)]

35.—(1) Where—

- (a) any land is subject to a periodical payment payable to or for the benefit of a charity or applicable to charitable purposes, and
- (b) an application is made to the Board by the trustees of the charity representing that a sale of the periodical payment to the owner of the land would be advantageous to the charity,

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the Board may, if they think fit, inquire into the circumstances, and if, after inquiry, they are satisfied that the proposed sale can be effected on terms which would be advantageous to the charity, they may authorise the applicants to sell the periodical payment
5 to the owner of the land on such terms and conditions as they deem beneficial to the charity and give such directions for securing the due investment of the money arising from such sale for the benefit of the charity or for securing the due application thereof to such charitable purposes as they think fit.

- 10 (2) If it appears to the Board in respect of any charity comprising land of which they are trustees to be advantageous to the charity to make a sale to the owner of the land of any periodical payment charged upon the land and payable to or for the benefit of the charity or applicable to charitable purposes, the
15 Board may sell the periodical payment to the said owner upon such terms and conditions as they deem beneficial to the charity, and give such directions for securing the due investment of the money arising from such sale for the benefit of the charity or for securing the due application thereof to such charitable purposes as they
20 think fit.

36.—(1) Where—

- (a) any land belonging to a charity is subject to a periodical payment, and
(b) an application is made to the Board by the trustees of the
25 charity representing that a purchase by the applicants of the periodical payment would be advantageous to the charity,

Power of Board to authorise purchase of periodical payment payable out of charity land.

[1867 (c. 54) s. 15 (second part)]

the Board may, if they think fit, inquire into the circumstances, and if, after inquiry, they are satisfied that the proposed purchase
30 would be advantageous to the charity, they may authorise the trustees to purchase the periodical payment on such terms and conditions as the Board deem beneficial to the charity.

(2) Where—

- (a) a charity comprising land of which the Board are trustees
35 is subject to a periodical payment, and
(b) the Board are of opinion that the purchase of the periodical payment would be advantageous to the charity,

the Board may purchase, out of any funds belonging to the charity, the periodical payment.

- 40 37.—(1) In this section “act to which this section applies” means, in relation to a charity comprising land, any of the following—

Power of Board or trustees of charity, with authority of Board, to grant building, etc., leases, do repairs, etc., and raise money for those purposes.

[1867 (c. 54) s. 13]

- (a) the letting of the land on building, repairing, improving or other leases, or on leases for working any mine,
45 (b) the digging or raising of stone, clay, gravel or other minerals on the land,
(c) the cutting of timber on the land,
(d) the forming or laying out of any new road or street through the land,
50 (e) the making of drains or sewers through the land,
(f) the erection of any new building on the land,
(g) the repair, alteration, rebuilding or total removal of any existing building on the land,

(h) the making of any other improvements or alterations in the state or condition of the land.

(2) If it appears to the trustees of any charity comprising land that the doing of any act to which this section applies would be for the benefit of the charity, they may lay before the Board a statement and proposal in relation to the doing of that act, and thereupon—

(a) the Board, if they think that the doing of the act to which the statement and proposal relate (with or without modifications or alterations) would be beneficial to the charity, may make such order for or in relation to the doing of the act and any circumstances connected therewith, as they think fit, though the act is not authorised or permitted by the trust; 10

(b) the Board may by that order authorise the application of any moneys belonging to the charity for the act, and, if necessary, may authorise the trustees to raise any sum of money by mortgage of all or any part of the land of the charity. 15

(3) If it appears to the Board in respect of any charity comprising land of which they are trustees that the doing of any act to which this section applies would be for the benefit of the charity— 20

(a) they may do that act, and

(b) they may for that purpose, if necessary, raise any sum of money by mortgage of all or any part of the land belonging to the charity. 25

(4) Every mortgage made under *subsection* (2) or (3) shall provide for—

(a) the payment of the principal money by annual instalments,

(b) the redemption and reconveyance of the mortgaged land within a period of not more than thirty years. 30

(5) The Board may, if they think proper, authorise, with retrospective effect, any act to which this section applies done without such authority.

Investment of proceeds of sale, etc., in name of Board.
[New]

38.—The Board may, in relation to money arising from any transaction to which *section* 34, 35 or 37 applies, direct the trustees to pay the money to the Board and, in that case, the money shall be invested by the Board for the benefit of the charity in such manner as the Board think fit. 35

Power of Board or trustees of charity to purchase sites for buildings from owners under disability according to Lands Clauses Consolidation Act, 1845.
[1867 (c. 54) s. 18]

39.—(1) Where— 40

(a) any land is required for the erection or construction of any house or building, with or without garden, playground, or other appurtenances for the purpose of any charity, and

(b) the Board or the trustees of the charity are authorised to purchase the land, but by reason of the disability of any person having an estate or interest therein or of any defect of title, a valid and perfect assurance of that land cannot be made to the Board or the trustees in the ordinary manner, 45

the Board or the trustees (with the consent of the Board, certified under the hand of the Secretary), as the case may be, may take and purchase the land according to the provisions of the Lands Clauses Consolidation Act, 1845. 50

1845, c. 18.

(2) For the purposes of *subsection* (1), the following clauses of the Lands Clauses Consolidation Act, 1845, namely— 55

(a) the clauses with respect to the purchase of lands by agreement,

(b) the clauses with respect to the purchase money or compensation coming to parties having limited interests, or prevented from treating, or not making title,
 (c) the clauses with respect to conveyances of land,
 5 shall be incorporated in this Act subject to the following modifications—

- (i) "the special Act" shall mean this Act,
 (ii) "the promoters of the undertaking" shall mean the Board or the trustees of the charity in question
 10 (as the case may be).

40.—All sales, leases, exchanges and other transactions authorised by the Board under this Act shall have the like effect and validity as if they had been authorised by the express terms of the trust affecting the charity.

Validity of sales, etc., authorised by Board.
 [1867 (c. 54) s. 17]

15 41.—Where—

- (a) a person is liable to make any payment to or for any charitable purposes, and
 (b) difficulty arises in making the payment by reason of the death, absence, incapacity or non-existence of a person
 20 competent to give an effectual discharge,

Power of Board to give effectual receipt of payments for charitable purposes where no person available or competent to do so.
 [1871 (c. 102) s. 12]

the Board may, if they think fit, accept the payment (to be applied by them according to the trusts affecting it) and the receipt of the Board shall be an effectual discharge to the person making the payment.

25 42.—(1) The Board may request any person having the custody of any documents relating to any charity to furnish such copies or extracts of or from those documents as the Board may specify and that person shall comply with the request.

Power of Board to require copies of public documents relating to charities and to examine and search records.
 [1867 (c. 54) s. 21]

(2) The Secretary or any other officer of the Board authorised
 30 in that behalf by the Board may, without payment, examine and search the registers and records of any Court, and any public registry and office of records and take copies of and extracts from any document recorded or registered or deposited therein.

35 43.—(1) Where for any reason the appointment of a new trustee or new trustees of any charity appears to the Board to be necessary, the Board—

Power of Board to appoint new trustees of charity.

- (a) on the application of the trustee or trustees of the charity,
 or
 (b) if there are no trustees of the charity, or they cannot be
 40 found, on the application of any person having an interest, or
 (c) in any case, of their own motion,
 may make—

[New]

- (i) an order under the seal of the Board appointing a
 45 new trustee or new trustees of the charity either in substitution for or in addition to any existing trustee or trustees, or although there is no existing trustee, and
 (ii) an order under the seal of the Board vesting the
 50 property of the charity for such estate as the Board may direct in the persons who on the appointment are the trustees, and the order shall have the same effect as if the persons who before the appointment were the trustees (if any) had duly executed
 55 all proper conveyances of the land for such estate as the Board direct, or if there is no such person, or no such person of full capacity, then as if such

person had existed and been of full capacity and had duly executed all proper conveyances of the land for such estate as the Board direct.

(2) Every trustee of a charity appointed under this section shall, as well before as after the property of the charity becomes by law 5 vested in him, have the same powers, authorities and discretions, and may in all respects act as if he had been originally appointed a trustee by the instrument (if any) creating the trust.

(3) The Board may order the costs and expenses of and incidental to any application or order under this section to be paid or 10 raised out of the property of the charity or the income thereof or to be borne and paid in such manner and by such persons as the Board may consider just.

(4) The Board shall—

(a) not less than one month before the date on which they 15 propose to make an order under this section, give public notice of the proposed order, and

(b) on the day immediately following the date of the making of the order, give public notice of the making, and of 20 the date of the making, of the order,

in such manner as the Board consider most effectual for ensuring publicity for the proposal or order, as the case may be, and for bringing it to the attention of persons interested.

(5) (a) Any person having an interest may, within twenty-one days after the date of the making of an order under 25 this section, appeal to the High Court against the making of the order and on such appeal the High Court may make such order confirming, annulling or varying the order under this section and such order as to costs as it thinks fit. 30

(b) The Board and the trustees (if any) of the charity shall be entitled to be represented and heard on any appeal under this subsection.

(c) An order under this section shall, if no appeal is brought 35 against it, become operative on the expiration of the period of twenty-one days mentioned in *paragraph (a)* of this subsection, and an order against which an appeal is brought shall become operative—

(i) if and so far as it is confirmed by the Court, from the date of the final determination of the appeal, 40 and

(ii) if the appeal is withdrawn, from the date of the withdrawal.

(6) An order under this section shall not operate further or otherwise as a discharge to any former or continuing trustee than 45 an appointment of new trustees under any power for that purpose contained in any instrument would have operated.

(7) Nothing in this section shall give power to appoint an executor or administrator.

(8) Where a body corporate is appointed by order under this 50 section to be, or a body corporate appointed under this section becomes, sole trustee of a charitable trust the terms of which provide for or require the appointment of more than one trustee, then during such time as the body corporate holds the office of trustee of the trust— 55

(a) the terms of the trust shall be deemed to provide for or require the appointment of one trustee only, and

(b) one trustee only shall be deemed to have been originally appointed under the terms of the trust.

(9) Where any land of which the ownership is registered under the Registration of Title Acts, 1891 and 1942, becomes vested, by order under this section, in any person or persons, the registering authority under those Acts shall, upon production of
5 a copy under the seal of the Board of the order and upon payment of the appropriate fee, register that person or those persons in the appropriate register maintained under those Acts as owner (within the meaning of those Acts) of the land.

44.—The Board may order the bill of costs claimed by a
10 solicitor on account of business conducted or transacted by him on behalf of a charity, or the trustees thereof, to be taxed and ascertained by a Taxing Master, and where costs which are the subject of an order under this section will fall to be paid out of a fund, the Taxing Master shall have regard to that fact in taxing and
15 ascertaining them.

Taxation of solicitor's costs.
[New]

PART III

MISCELLANEOUS PROVISIONS IN RELATION TO CHARITIES

45.—(1) In determining whether or not a gift for the purpose of the advancement of religion is a valid charitable gift it shall be
20 conclusively presumed that the purpose includes and will occasion public benefit.

Gifts for the advancement of religion.
[New]

(2) For the avoidance of the difficulties which arise in giving effect to the intentions of donors of certain gifts for the purpose of the advancement of religion and in order not to frustrate those
25 intentions and notwithstanding that certain gifts for the purpose aforesaid, including gifts for the celebration of Masses, whether in public or in private, are valid charitable gifts, it is hereby enacted that a valid charitable gift for the purpose of the advancement of religion shall have effect and, as respects its having effect,
30 shall be construed in accordance with the laws, canons, ordinances and tenets of the religion concerned.

(3) The foregoing subsections shall not apply in the case of a gift which takes effect before the 1st day of January, 1960.

46.—(1) The High Court or the Board may by order make and
35 bring into effect schemes for the establishment of common investment funds (in this section referred to as schemes) upon terms which provide—

Schemes to establish common investment funds.
[New]

(a) for property transferred to the fund by or on behalf of
40 a charity participating in the scheme to be invested under the control of trustees appointed to manage the fund; and

(b) for the participating charities to be entitled (subject to the provisions of the scheme) to the capital and income
45 of the fund in shares determined by reference to the amount or value of the property transferred to it by or on behalf of each of them and to the value of the fund at the time of the transfers.

(2) The High Court or the Board may make a scheme on the application of any two or more charities: provided that, in the
50 case of any two or more charities of which the Board are trustees, the Board may make a scheme of their own motion.

(3) A scheme may be made in terms admitting any charity to participate, or restricting the right to participate in any manner.

(4) A scheme may make provision for, and for all matters
55 connected with, the establishment, investment, management and

winding up of the common investment fund, and may in particular include provision—

- (a) for remunerating persons appointed trustees to hold or manage the fund or any part of it, with or without provision authorising a person to receive the remuneration notwithstanding that he is also a charity trustee of or trustee for a participating charity;
- (b) for restricting the size of the fund, and for regulating as to time, amount or otherwise the right to transfer property to or withdraw it from the fund, and for enabling sums to be advanced out of the fund by way of loan to a participating charity pending the withdrawal of property from the fund by the charity;
- (c) for enabling income to be withheld from distribution with a view to avoiding fluctuations in the amounts distributed, and generally for regulating distributions of income;
- (d) for enabling moneys to be borrowed temporarily for the purpose of meeting payments to be made out of the fund;
- (e) for enabling questions arising under the scheme as to the right of a charity to participate, or as to the rights of participating charities, or as to any other matter, to be conclusively determined by the decision of the trustees managing the fund or in any other manner;
- (f) for regulating the accounts and information to be supplied to participating charities.

(5) A scheme, in addition to the provision for property to be transferred to the fund on the basis that the charity shall be entitled to a share in the capital and income of the fund, may include provision for enabling sums to be deposited by or on behalf of a charity on the basis that (subject to the provisions of the scheme) the charity shall be entitled to repayment of the sums deposited and to interest thereon at a rate determined by or under the scheme; and where a scheme makes any such provision it shall also provide for excluding from the amount of capital and income to be shared between charities participating otherwise than by way of deposit such amounts (not exceeding the amounts properly attributable to the making of deposits) as are from time to time reasonably required in respect of the liabilities of the fund for the repayment of deposits and for the interest on deposits, including amounts required by way of reserve.

(6) Except in so far as a scheme provides to the contrary, the rights under it of a participating charity shall not be capable of being assigned or charged, nor shall any trustee or other person concerned in the management of the common investment fund established by the scheme be required or entitled to take account of any trust or other equity affecting a participating charity or its property or rights.

(7) Property held upon any charitable trust may be transferred to common investment funds established under this section unless the power to do so is excluded by a provision specifically referring to schemes in the terms of the trust.

(8) A common investment fund shall be deemed for all purposes to be a charity.

(9) The High Court may by order amend or vary the terms of, or wind up, a scheme and the Board may by order amend or vary the terms of, or wind up, a scheme made by order of the Board.

Occasions for
applying
property
cy-près.

47.—(1) Subject to subsection (2), the circumstances in which the original purposes of a charitable gift may be altered to allow the property given or part of it to be applied *cy-près* shall be as follows:—

- (a) where the original purposes, in whole or in part—

- (i) have been as far as may be fulfilled; or
- (ii) cannot be carried out, or cannot be carried out according to the directions given and to the spirit of the gift; or
- 5 (b) where the original purposes provide a use for part only of the property available by virtue of the gift; or
- (c) where the property available by virtue of the gift and other property applicable for similar purposes can be more effectively used in conjunction, and to that end
- 10 can suitably, regard being had to the spirit of the gift, be made applicable to common purposes; or
- (d) where the original purposes were laid down by reference to an area which then was but has since ceased to be a unit for some other purpose, or by reference to a
- 15 class of persons or to an area which has for any reason since ceased, either to be suitable, regard being had to the spirit of the gift, or to be practical in administering the gift; or
- (e) where the original purposes, in whole or in part, have,
- 20 since they were laid down—
 - (i) been adequately provided for by other means; or
 - (ii) ceased, as being useless or harmful to the community or for other reasons, to be in law charitable; or
- 25 (iii) ceased in any other way to provide a suitable and effective method of using the property available by virtue of the gift, regard being had to the spirit of the gift.

(2) *Subsection (1)* shall not affect the conditions which must be

30 satisfied in order that property given for charitable purposes may be applied *cy-près*, except in so far as those conditions require a failure of the original purposes.

(3) References in the foregoing subsections to the original purposes of a gift shall be construed, where the application of the

35 property given has been altered or regulated by a scheme or otherwise, as referring to the purposes for which the property is for the time being applicable.

(4) It is hereby declared that a trust for charitable purposes places a trustee under a duty, where the case permits and requires

40 the property or some part of it to be applied *cy-près*, to secure its effective use for charity by taking steps to enable it to be so applied.

(5) This section shall apply to property given for charitable purposes, notwithstanding that it was so given before the com-

45 mencement of this Act.

48.—(1) Property given for specific charitable or non-charitable purposes which fail shall be applicable *cy-près* by a Court of competent jurisdiction as if given for charitable purposes generally, where it belongs—

Application
cy-près of
gifts of
donors
unknown or
disclaiming.

50 (a) to a donor who, after such advertisements and inquiries as are reasonable, cannot be identified or cannot be found; or

[New]

(b) to a donor who has executed a written disclaimer of his right to have the property returned,

55 but in applying *cy-près* property given for specific non-charitable purposes regard shall be had to the wishes of the trustees or other persons in charge of the property.

(2) For the purposes of this section property shall be conclusively presumed (without any advertisement or inquiry) to belong to donors who cannot be identified, in so far as it consists—

- (a) of the proceeds of cash collections made by means of collecting boxes or by other means not adapted for distinguishing one gift from another; or 5
- (b) of 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. 10

(3) A Court of competent jurisdiction may by order direct that property not falling within *subsection (2)* shall for the purposes of this section be treated (without any advertisement or inquiry) as belonging to donors who cannot be identified, where it appears to the Court either— 15

- (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 amount of the gifts, and to the lapse of time since the gifts were made, for the donors to expect the property to be returned. 20

(4) Where property is applied *cy-près* by virtue of this section, the donor shall be deemed to have parted with all his interest at the time when the gift was made; but where property is so applied as belonging to donors who cannot be identified or cannot be found, and is not so applied by virtue of *subsection (2)* or (3)— 25

- (a) the scheme shall specify the total amount of that property; and
- (b) the donor of any part of that amount shall be entitled, if he makes a claim not later than twelve months after the date on which the scheme is made, to recover from the charity for which the property is applied a sum equal to that part, less any expenses properly incurred by the charity trustees after that date in connection with claims relating to his gift; and 30 35
- (c) the scheme may include directions as to the provision to be made for meeting any such claim.

(5) For the purposes of this section, purposes shall be deemed to fail where any difficulty in applying property to those purposes makes that property, or, in the case of property to be applied for charitable purposes, the part not applicable *cy-près* under *section 47*, available to be returned to the donors. 40

(6) In this section, except in so far as the context otherwise requires, references to a donor include references to persons claiming through or under the original donor, and references to property given include references to the property for the time being representing the property originally given or property derived from it. 45

- (7) (a) The powers conferred by this section on a Court of competent jurisdiction in relation to property given for specific charitable purposes may, where the property does not exceed one thousand pounds in value, be exercised by the Board, and, for the purposes of such exercise, references in the preceding subsections of this section to a Court of competent jurisdiction shall be construed as including references to the Board. 50 55

(b) For the purposes of *paragraph (a)*—

(i) the value of land shall be taken to be fifty times the rateable valuation thereof,

(ii) the value of any periodical payment to which land is subject shall be taken to be fifteen times the annual amount thereof, and

(iii) the value of any other periodical payment shall be taken to be twenty times the annual amount thereof.

(8) This section shall apply to property given for charitable or non-charitable purposes, notwithstanding that it was so given before the commencement of this Act.

49.—(1) Where any of the purposes of a gift includes or could be deemed to include both charitable and non-charitable objects, its terms shall be so construed and given effect to as to exclude the non-charitable objects and the purpose shall, accordingly, be treated as charitable.

Construction of gifts for mixed purposes. [New]

(2) *Subsection (1)* shall not apply where—

(a) the gift takes effect before the 1st day of January, 1960, or

(b) (i) the terms of the gift make, or provide for the making of, an apportionment between the charitable and the non-charitable objects, and

(ii) the non-charitable objects are identifiable from an express or implied description.

(3) This section shall not, by its operation on any gift as respects the period from the 1st day of January, 1960, to the 24th day of September, 1960, entitle any person to reclaim any tax or duty paid or borne during that period, nor (save as respects tax or duty) require the objects declared by the gift to be treated as having been charitable so as to invalidate anything done or any determination given during that period.

50.—(1) Every gift made after the commencement of this Act for the provision, maintenance or improvement of a tomb, vault or grave or of a tombstone or any other memorial to a deceased person or deceased persons which would not otherwise be charitable shall, to the extent provided by this section, be a charitable gift.

Gifts for graves and memorials. [New]

(2) Such a gift shall be charitable so far as it does not exceed—

(a) in the case of a gift of income only, sixty pounds a year,

(b) in any other case, one thousand pounds in amount or value.

51.—(1) In every case of a breach or supposed breach of any trust for charitable purposes or whenever the direction or order of the High Court is considered necessary for the administration of any trust for charitable purposes, the Board or, with the consent of the Attorney General, any person may apply to the Court for such relief as the nature of the case may require and the Court may make such order thereon as the Court thinks fit.

Power to apply to High Court for directions. [1812 (c. 101) ; 1867 (c. 54) s. 8 ; 1871 (c. 102) ss. 7, 10]

(2) Where any of the circumstances specified in *subsection (1)* of *section 47* exist in relation to a charitable gift which is the subject of an application under this section, the Court may, if it thinks fit, on such application, frame a scheme for the application *cy-près* of the property comprised in the charitable gift.

Duty of executors to publish, unless exempted under *section 20*, advertisements of charitable devises and bequests.

[1867 (c. 54) s. 19 ;
1871 (c. 102) s. 16
(except proviso)]

52.—(1) Whenever there is contained in any will a charitable devise or bequest, the person (in this section referred to as the personal representative) to whom probate of the will or letters of administration with the will annexed is granted shall, subject to any exemption granted by the Board under *section 20*, do the following things—

- (a) within three months after the grant of probate or letters of administration, publish once in *Iris Oifigiúil* and three times successively in some newspaper circulating in the locality where the devise or bequest or the greater part thereof is directed to be expended or applied, or if there is no direction as to any such locality, then in some morning newspaper published on every week-day in Dublin, the following particulars—
 - (i) the devise or bequest contained in the will, 15
 - (ii) the name of the testator,
 - (iii) the date of the will,
 - (iv) the name of the person to whom the devise or bequest is given,
 - (v) the name of the person appointed by the testator for the management and direction of the devise or bequest; and 20
- (b) within four months after the grant of probate or letters of administration, deliver at the office of the Board or forward to them by post three papers (other than *Iris Oifigiúil*) containing the successive publications pursuant to *paragraph (a)*. 25

(2) If a personal representative fails to comply with *paragraph (a)* of *subsection (1)*, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding fifty pounds. 30

(3) If a personal representative fails to comply with *paragraph (b)* of *subsection (1)*, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding ten pounds.

(4) An offence under *subsection (2)* or *(3)* may be prosecuted by the Board. 35

(5) The expenses incurred by a personal representative in complying with *subsection (1)* shall be paid by him out of the estate or funds devised or bequeathed to the charity concerned.

Notice of legal proceedings to be given to Board.

[1867 (c. 54) ss. 4, 5
(first part)]

53.—(1) Before any legal proceedings (except legal proceedings instituted with the authority of or by the direction of the Board under *section 25*) in relation to any charity are commenced by any person except the Attorney General, that person shall transmit to the Board notice in writing of the proposed legal proceedings and such information as may be requisite or proper or may be required from time to time by the Board, for explaining the nature and objects thereof. 40 45

(2) Nothing contained in *subsection (1)* shall make any order in any proceedings in which the Board have not been made parties binding and final as against the Board.

Deeds, etc., may be deposited by trustees of charity in repository provided by Board.

[1867 (c. 54) s. 11]

54.—It shall be lawful for trustees or other persons having the custody of any deeds or muniments of or relating to a charity to deposit them for security in a repository which may be provided by the Board, subject to any regulations made by the Board under this Act. 50

55.—(1) In this section “disposition”, in relation to property means any sale, exchange, partition, mortgage, lease or other disposition of the property.

Power of majority of two-thirds of trustees to deal with charity property.
[1867 (c. 54) s. 16]

(2) Where the trustees of a charity have power to determine on a disposition of any property of the charity, a majority of two-thirds of the trustees assembled at a meeting of their body duly constituted shall have legal power, on behalf of themselves and their co-trustees, to do, enter into, and execute all such acts, deeds, contracts and assurances as may be requisite for carrying into legal effect any disposition of the property, and all those acts, deeds, contracts or assurances shall have the same legal effect as if they were respectively done, entered into, or executed by all the acting trustees for the time being.

56.—Where, before the commencement of this Act, a body corporate has been appointed sole trustee of a charitable trust, then, during such time before and after such commencement as the body corporate has held and continues to hold the office of trustee of the trust—

Provision in relation to bodies corporate acting as sole trustees in certain cases.

(a) the terms of the trust shall be deemed to have provided for and required and to provide for and require the appointment of one trustee only, and

[New]

(b) one trustee only of the trust shall be deemed to have been originally appointed under the terms of the trust.

57.—The following provisions shall apply in relation to a corporation established by Act or charter as the governing body of a charity—

Resignation of member of governing body of charitable foundation and filling of vacancy.

(a) a member of the corporation may resign his membership by giving to the corporation not less than one month's notice in writing of his intention to do so;

(b) the corporation may appoint another person to be a member of the corporation in place of a member so resigning.

[3 Geo. 3. c. 16 (Ir.) s. 17]

58.—The Probate Officer shall, between the 1st day of July and the 1st day of November in every year, make to the Board a return containing—

Probate Officer to make annual return to Board of charitable devices and bequests.
[1867 (c. 54) s. 20]

(a) particulars of every charitable devise or bequest contained in any will entered in the Probate Office or of which a copy has been forwarded to him from the office of any of the district probate registrars in the State or from any other source during the year preceding the said 1st day of July,

(b) the name of the testator,

(c) the name of the person to whom probate of the will or letters of administration with the will annexed was granted,

(d) the date of the will and the date of the probate or letters of administration.

59.—The Board are hereby authorised to pay into their general account out of the accruing income of the Embezzled Charities Recovery Fund, kept by them, the sum of seventeen pounds thirteen shillings and five pence, being the amount of a deficit appearing in their annual accounts since the year 1873.

Power to meet a particular deficit.
[New]

SCHEDULE

REPEALS

Session and Chapter or Number and Year	Short title or subject-matter	Extent of repeal
3 Geo. 3. c.16 (Ir.).	Resignation of governors and trustees of statutory charitable foundations. (1763).	Section 17.
52 Geo. 3. c. 101.	The Charities Procedure Act, 1812.	The whole Act.
7 & 8 Vic. c. 97.	The Charitable Donations and Bequests (Ireland) Act, 1844.	The whole Act.
24 & 25 Vic. c. 111.	The Court of Probate (Ireland) Act, 1861.	Section 1.
30 & 31 Vic. c. 54.	The Charitable Donations and Bequests (Ireland) Act, 1867.	The whole Act.
34 & 35 Vic. c. 102.	The Charitable Donations and Bequests Act (Ireland), 1871.	The whole Act.
40 & 41 Vic. c. 49.	The General Prisons (Ireland) Act, 1877.	Section 58.
40 & 41 Vic. c. 57.	The Supreme Court of Judicature Act (Ireland), 1877.	Section 75, sixth paragraph, so far as it relates to the audit of accounts of the Board.
53 & 54 Vic. c. 16.	The Working Classes Dwellings Act, 1890.	The whole Act.
No. 18 of 1955.	The Charitable Donations and Bequests (Amendment) Act, 1955.	The whole Act.

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BILLE

dá ngairtear

Acht do leasú an dlí a bhaineas le carthanais.

BILL

entitled

An Act to amend the law relating to charities.

*Rite ag dhá Theach an Oireachtais,
21 Meitheamh, 1961*

*Passed by both Houses of the Oireachtas,
21st June, 1961*

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