Trustee Investments Act 1961

The Trustee Investments Act 1961 (c 62) was an Act of the Parliament of the United Kingdom that covers where trustees can invest trust funds . Given the royal assent on 3 August 1961 , it removed the " Statutory Lists " system and replaced it with sets of specific investment areas . The Act was heavily criticised for the way it set these areas out , particularly the requirement that trusts trying to invest in multiple areas would need to be permanently divided . A 1997 Law Commission paper called its terms " overly cautious and restrictive " , suggesting that some trusts were underperforming as a result . The passing of the Trustee Act 2000 effectively nullified the 1961 Act 's terms in relation to trustee investment , and the 2000 Act is now the principal piece of legislation in this area .

Background

Prior to the 1961 Act , the areas trustees could invest in were based on the Trustee Act 1925 , which set up a " Statutory Lists " system . The list contained only those investments available at the Post Office , along with land . It did not take into account the deprecation of currency or inflation , meaning that if the trustees invested in stocks and shares they were at risk of losing money simply because of the falling value of the pound sterling . As a result , even though the income from a trust might remain nominally constant , the real value of that income could be much reduced over the lifetime of the trust . This was recognised by lawyers , who had been advising their clients to structure trusts in such a way as to allow their trustees to invest in wider areas than the Statutory Lists . In 1952 the report of the Nathan Committee advocated reform , and the government published a White Paper on " Government Policy on Charitable Trusts in England and Wales " in 1955 , which proposed a reform of the Statutory Lists system . This came about under the Variation of Trusts Act 1958 , which allowed trustees to apply to the courts to widen their investment powers , a process that was expensive and slow .

A statement in the House of Lords on 13 May 1959 promised further reform , and a detailed White Paper was published in December . In November 1960 a Bill based on that report was introduced in the House of Lords , where it was much scrutinised by solicitors and barristers (particularly at the Committee stage) owing to its complexity . The Bill received its royal assent on 3 August 1961 , and passed into law as the Trustee Investments Act 1961 .

Act

The Act replaced the old Statutory Lists system of investments with two sets of " narrow range " investments and a set of " wide range " investments , both covered in the first Schedule of the Act . The first set of " narrow range " investments included Defence Bonds , National Savings Certificates and similar " small " investments , which could be bought at a Post Office and did not require the trustee to seek advice before investing . The second set included debentures in certain British companies and gilt @-@ edged securities , with the trustee expected to seek written advice from a person he believed was qualified to give it before investing . " Wide range " investments included unit trusts and shares in certain British companies , and shares in building societies .

If trustees wished to invest in " wide range " investments , they were required to have the trust fund valued and divided into two parts ? three quarters of the value in one part , and a quarter in the other . The quarter was to be invested in " wide range " investments , while the remainder was restricted to " narrow range " investments . The valuation had to be done by " a person reasonably believed by the trustee to be qualified to make it " . This division of funds was permanent , and the quarter and three quarters became distinct units . The permanence of the division was the Act 's most controversial section .

Aftermath

The Act was considered a bad one , since it required a " very conservative investment policy for trustees " . The powers given to investment trustees were restrictive and narrow , and the trustees were expected to go through expensive and complicated procedures to exercise them . The Act was criticised almost immediately for its complexity and outdatedness . A 1997 paper by the Law Commission called it " overly cautious and restrictive " , and suggested that some trusts were underperforming because of the difficulty of complying with the Act 's provisions . The Trustee Act 2000 repealed most of the 1961 Act and now serves as the principal piece of guidance on trustee investments .