

NEWS

New statutory social investment power to be introduced in the UK – February 2016

The new Bill gives charities and social enterprises a statutory social investment power for the first time. Luke Fletcher looks at the new law and what it means for social enterprise.

By ESELA Posted 25/02/2016

The UK has introduced a new statutory social investment power to clarify the law on the historically unclear area of social investments made by charities and social enterprises.

It is hoped that the provisions contained in the Charities (Protection and Social Investment) Bill will give trustees clarity and certainty about the investments they can make, and will help charities make the best of the opportunities the provisions offer. The Bill has made it through the Parliamentary process and is awaiting Royal Assent, which is expected in the next few weeks.

THE NEW LAW AT A GLANCE

Whilst the existing law generally permits charities to make social investments, the Bill gives all charities (except statutory charities and Royal Charter bodies) a statutory power to make social investment, and defines social investment in statute for the first time.

The Bill deliberately aims for a wide definition of social investment where neither the furtherance of the charity's purposes nor the financial return should be required to take precedence, in order to include the full spectrum of investments.

The core principles in the legislation are as follows:

An incorporated charity has, and the charity trustees of an unincorporated charity have, power to make social investments.

A social investment is made when a relevant act of a charity is carried out with a view to both –

Directly furthering the charity's purposes; and
Achieving a financial return for the charity.

The charity trustees of a charity must, before exercising a power to make a social investment, satisfy themselves that it is in the interests of the charity to make the social investment.

WHAT THE LAW MEANS FOR SOCIAL ENTERPRISE

The passage of the Bill could encourage charity trustees to take informed risks where the benefit to the charitable objects and the financial benefit justify the investment. The Bill is a big step forward in social investment, and it will be interesting to see if the legislation encourages further developments in the social enterprise sector.

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