

National Trust Act (Northern Ireland), 1946

[1946. Ch. i.]

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1946.

National Trust Act.

Ch. i.

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1946. Chapter i.

An Act to confer further powers in Northern Ireland upon the National Trust for places of Historic Interest or Natural Beauty.

[19th February, 1946]

WHEREAS by the National Trust Act 1907 the National Trust for Places of Historic Interest or Natural Beauty (in this Act called "the National Trust") was incorporated :

Preamble.
7 Edw.
c. cxxxvi.

AND WHEREAS by the National Trust Charity Scheme Confirmation Act 1919 a Scheme of the Charity Commissioners for the application or management of the National Trust was confirmed :

9 & 10
Geo. 5,
clxxxiv.

AND WHEREAS both the foregoing Acts are applicable in Northern Ireland :

AND WHEREAS the National Trust with the generous support of the landowners donors subscribers and others has acquired by purchase gift and otherwise considerable property in Northern Ireland :

AND WHEREAS with the objects of promoting the preservation of buildings and chattels of national interest or of architectural historic or artistic interest and places of natural interest or beauty and of protecting and augmenting the amenities of such buildings

and places and of facilitating access by the public to such buildings chattels and places it is expedient that the purposes and powers of the National Trust in Northern Ireland should be extended as by this Act provided:

AND WHEREAS in furtherance of the said objects it is expedient to make provision for the assurance of property to the National Trust by limited owners and trustees subject to the reservation in favour of the assurer of an interest for life or other limited interest:

AND WHEREAS the objects of this Act cannot be attained without the authority of the Parliament of Northern Ireland :

MAY IT THEREFORE PLEASE YOUR MAJESTY That it may be enacted and be it enacted by the King's Most Excellent Majesty, and the Senate and the House of Commons of Northern Ireland in this present Parliament assembled and by the authority of the same as follows :—

Short and
collective
titles.

1.—(1) This act may be cited as the National Trust Act (Northern Ireland), 1946.

(2) The National Trust Act 1907 and the National Trust Charity Scheme Confirmation Act 1919 (so far as the same are applicable in Northern Ireland) and this Act may be cited together as the National Trust Acts (Northern Ireland) 1907 to 1945.

Inter-
pretation.

2. In this Act unless the subject or context otherwise requires :—

“ Act of 1907 ” means the National Trust Act of 1907 ;

“ Council ” means the Council of the National Trust ;

“ National Trust ” means the National Trust for Places of Historic Interest or Natural Beauty ;

“ principal mansion house ” means principal mansion house on settled land within the meaning of section ten of the Settled Land Act 1890 ;

“ Scheme ” means the scheme set out in the schedule to the National Trust Charity Scheme Confirmation Act 1919 ;

53 & 54 Vict.
c. 69.

“trust property” includes all property from time to time vested in the National Trust ;

3. The purposes of the National Trust in Northern Ireland shall be extended so as to include the promotion of :—

Extension of
general
purposes of
National
Trust.

- (a) the preservation of buildings of national interest or architectural historic or artistic interest and places of natural interest or beauty and the protection and augmentation of the amenities of such buildings and places and their surroundings ;
- (b) the preservation of furniture and pictures and chattels of any description having national or historic or artistic interest ;
- (c) the access to and enjoyment of such buildings places and chattels by the public ;

and all such purposes shall be deemed to be purposes of the Act of 1907.

4. The powers of the National Trust shall be extended so as to include :—

Extension of
powers of
National
Trust.

- (a) The acquisition in any manner (including acquisition by purchase out of any funds of the National Trust other than funds subject to a binding trust enforceable at law or in equity under which they must be devoted to special purposes) and retention of any lands buildings and hereditaments in Northern Ireland and any rights easements or interests therein or thereover which in the opinion of the Council it may be desirable to hold as investments with a view to the provision out of the rents and profits thereof of funds applicable for the maintenance and preservation of any other part of the trust property in Northern Ireland or for any particular purpose of the National Trust or for its general purposes in Northern Ireland ;
- (b) The acquisition in any manner and retention of any investments (being at the time of acquisition of a nature authorised by the general law for the investment of trust funds or of a

nature authorised by the trusts imposed by the donor of the same or of the funds out of which the same shall be acquired) the income whereof shall be applicable (subject to any trusts imposed by the donor or otherwise affecting the same) at the discretion of the Council for the maintenance and preservation of the trust property in Northern Ireland or any specified part or parts thereof or for any particular purpose of the National Trust in Northern Ireland or for its general purposes there ;

- (c) The right, if the Council shall by resolution declare that in furtherance of the general purposes of the National Trust it is desirable that the public should have access to any land building furniture picture or chattel of any description, to act in any trusts for or as trustee of such property as if the same were devoted to public purposes within the meaning of sub-section (2) of section four of the Act of 1907 (which relates to the general purposes of the National Trust).

Occupation
of Trust
property by
Member.

5. Notwithstanding section five of the Act of 1907 which provides that the National Trust shall not divide profits among its members it shall be lawful for any member of the National Trust (not being a member of the Council or of any Committee of the Council) by agreement with the National Trust to reside in or occupy any of the trust property either at the best rent that could reasonably be obtained or (in the case of any property other than property acquired and held as an investment under paragraph (a) of section four of this Act) at a less rent or gratuitously and on such other terms and conditions as the Council shall think fit to approve.

Power to
grant settled
mansion and
lands to
National
Trust.

6.—(1) If a settlement comprises a principal mansion house the National Trust may accept and retain and the tenant for life may subject as hereafter in this Act provided grant to the National Trust in fee simple or for the whole or any less estate (not being an interest created pursuant to section eight of this Act) comprised in the settlement :—

- (a) the principal mansion house on the settled land and the pleasure grounds and park and lands (if any) usually occupied therewith (in this Act together referred to as "the mansion house");
- (b) any lands occupied or enjoyed for the purposes of agriculture sport afforestation the acquisition of which in the opinion of the Council is necessary or desirable for preserving the amenities of the principal mansion house (in this Act together referred to as "amenity lands");
- (c) (i) an annual sum charged upon any other lands or buildings comprised in the Settlement
(ii) any rights easements or interests therein or thereover
(iii) capital moneys subject to the Settlement or investments representing the same (in this Act together or separately referred to as "the endowment") which in the opinion of the Council it may be desirable to hold for the provision by means of such annual sum or out of the rents profits and income of such lands buildings capital moneys or investments of adequate funds applicable for the maintenance and preservation of the mansion house and the amenity lands held or acquired by the National Trust

subject nevertheless to any incumbrance having priority to the settlement and to any fee farm grant lease or tenancy affecting the property assured.

(2) Any disposition under the power conferred by this section shall notwithstanding that there may be no consideration therefor other than that hereinafter provided for be deemed to be a transaction authorised by the Settled Land Acts 1882 to 1890 and these Acts shall apply accordingly.

7. Any disposition under the power conferred by section six of this Act (not being a disposition authorised by the Settled Land Acts 1882 to 1890 or by the terms of the settlement) shall be void unless—

Conditions
of grant.

- (a) such disposition is made with the previous consent in writing of the trustees of the settlement or under an order of the Court authorising the same to be carried into effect upon such conditions (as to the form of the grant to be made as hereinafter in this section mentioned and otherwise) as the trustees of the settlement before giving their consent may require or the Court may direct ;
- (b) the Ministry of Finance for Northern Ireland shall certify that the principal mansion house included or proposed to be included in such disposition is or comprises a building of national interest or architectural historic or artistic interest ;
- (c) upon or within three months after the making of such disposition the National Trust shall execute a Fee Farm Grant or Sub-Fee Farm Grant as the case shall require (in this Act referred to as "The Grant") to the Trustees of the Settlement of the lands and buildings comprised in such disposition or of such part thereof as shall be agreed between the National Trust and the tenant for life containing such provisions as in the next following section mentioned.
- (d) The Grant shall vest in the trustees of the settlement the fee simple of the lands and buildings therein comprised subject to the rent and covenants therein reserved and contained. And the trustees shall hold the same upon trust to give effect to all the estates interests charges and powers of charging which existed over the said lands and buildings immediately before the making of the disposition in favour of the National Trust in all respects as if the interest comprised in the Grant were lands purchased out of capital moneys arising out of the settlement. Provided always that the Trustees shall be entitled to be indemnified against the rent and covenants reserved and contained in the Grant out of the income of any other lands or property com-

prised in the same settlement and subject to the same limitation as the lands disposed of to the National Trust, but no fine shall be paid in respect of such Grant out of capital moneys.

8.—(1) The Grant shall reserve such nominal or other yearly rent and be subject to such covenants and conditions and generally on such terms and subject to such provisions as may be approved by the trustees of the settlement or by the Court.

Terms of
grant by
National
Trust.

(2) The Grant—

- (a) shall contain a covenant by the Grantees to admit the public to view such part or parts of the demised premises at such times and on such terms as may be agreed upon by the National Trust and therein specified or referred to ;
- (b) shall contain such restrictive covenants by the Grantees in respect of the user of the demised premises as may be reasonably required by the National Trust for ensuring that the principal mansion house shall not be used otherwise than as private dwelling-house and for preserving the amenities thereof ;
- (c) may contain a covenant condition or agreement by the Grantees against assigning underletting charging or parting with the possession of the premises demised or any part thereof without the licence or consent of the National Trust such licence or consent not to be unreasonably withheld.
- (d) shall contain a covenant by the National Trust to maintain and preserve the mansion house and amenity lands included in such disposition so far as there shall be funds available for that purpose from the endowment but not further.

9.—(1) On receiving any request for their consent under paragraph (a) of section seven of this Act the

Restrictions
on consent

and protection of trustees.

trustees of the settlement shall give notice in writing thereof to every person of full age having a beneficial interest under the settlement which is not limited to take effect subsequent to an estate tail to which a person already in existence is or may become entitled in possession and no such consent by the trustees shall be effective if any person to whom such notice shall be so given shall within three months after the service thereof request the trustees in writing not to consent or if any person having such a beneficial interest as aforesaid is under the age of 21 years or of unsound mind.

(2) In considering any such request the trustees of the settlement shall be satisfied that the transaction provides full compensation to the persons entitled to the property in remainder for the transfer to the National Trust of their respective estates and interests under the settlement and shall also have regard to the considerations mentioned in paragraphs (a) to (e) inclusive of the next following section of this Act and to such other considerations as in the circumstances of the case they may consider to be relevant.

45 & 46 Vict.
c. 38.

(3) Section forty-two of the Settled Land Act 1882 shall apply to any consent given by the trustees of the settlement under paragraph (a) of section seven of this Act.

Exercise of discretion of Court.

10. On any application to the Court for an order under paragraph (a) of section seven or under section twelve of this Act the trustees of the settlement and all persons (whether of full age or not) having beneficial interests under the settlement not limited to take effect subsequent to an estate tail to which a person already in existence is or may become entitled in possession and such other persons (if any) as the Court shall direct shall be made respondents to the application and on any such application the Court shall be satisfied that the transaction provides full compensation to the persons entitled to the property in remainder for the transfer to the National Trust of their respective estates and interests under the settlement and shall also have regard to the following considerations namely :—

- (a) the interest of all persons (born or unborn) who have or may be expected to have beneficial

interests under the settlement including the benefit (whether financial or of any other character) to be derived by such persons from the Grant mentioned in section eight of this Act ;

- (b) any benefit which may be expected to accrue to the part of the settled land not proposed to be assured to the National Trust or to any part thereof either from the preservation of the amenities thereof or otherwise ;
- (c) the amount of the funds (if any) which will be available for the preservation and maintenance by the National Trust of the mansion house and amenity lands proposed to be assured to the National Trust ;
- (d) the relation between (1) the amount of any annual sum proposed to be charged under paragraph (c) of sub-section (1) of section six of this Act or (as the case may be) of the estimated present and prospective income derived and to be derived from the ownership of any land and buildings or any capital moneys or investments thereof proposed to be assured under that paragraph and (2) the sum being the average yearly sum expended during the seven years last preceding the application to the Court out of the property subject to the settlement or the rents profits and income thereof in the maintenance and preservation of the mansion house and amenity lands proposed to be assured to the National Trust ;
- (e) the desirability in the public interest of the preservation as part of the inalienable property of the National Trust of the mansion house and amenity lands proposed to be assured ;
- (f) such other considerations as in the circumstances of each case the Court may consider to be relevant.

11. Any mansion house or amenity lands assured to the National Trust under this Act shall not be alienable by the National Trust in any manner otherwise than by Grant made under the provisions of paragraph (c) of section seven of this Act and accordingly the provisions

Mansion and
lands to be
inalienable
by National
Trust.

of clause 1 of the Scheme shall apply thereto as if the same had become inalienable under section twenty one of the Act of 1907 which provides that certain property of the Trusts be inalienable.

Power of tenant for life to make grant or lease of lands or buildings other than amenity lands or a principal mansion house.

12. If the Ministry of Finance for Northern Ireland shall certify that lands or buildings (other than amenity lands or a principal mansion house) are lands or buildings which, in the National interest or by reason of historical association or Natural aspect ought to be held by the National Trust, or are lands which ought to be so held to protect other lands owned by the National Trust or the bird or animal or plant life thereon then, subject to an Order of the Court authorising the same, notwithstanding any rule of law or equity to the contrary a tenant for life may grant to the National Trust in fee simple in fee farm or for any term of years and for a nominal price or rent or for less than the best price or rent that can reasonably be obtained or gratuitously any such lands or buildings which may be comprised in a Settlement with or without any easement right or privilege over or in relation thereto or any part thereof.

Service of Notices.

13. The provisions of section forty five of the Settled Land Act 1882 shall extend to notices required to be served under this Act.

Grant of easements in respect of inalienable properties.

14. Notwithstanding anything in section twenty one of the Act of 1907 or in the Scheme the National Trust may grant any easement or right (not including a right to the exclusive possession of the surface) over or in respect of any property made inalienable by or under the said section of this Act and such Grant shall be valid without the consent of the Ministry of Finance.

Grants and contributions by local authorities.

15.—(1) A local authority may with the consent of the Ministry of Health and Local Government and of any other Government Department or authority whose consent would be required if the intended transaction were a sale by deed assure gratuitously or otherwise to the National Trust any land or building vested in them which the National Trust has power to acquire and hold and such land shall thenceforward be held by the National Trust accordingly subject nevertheless to any trusts covenants or restrictions affecting the same.

(2) A local authority with the consent of the Ministry of Health and Local Government, may contribute to the expenses of acquisition by the National Trust of any land or building in Northern Ireland wholly or partly within or in the neighbourhood of the district of such authority and to the expenses of maintenance and preservation of any land or building in Northern Ireland vested or proposed to be vested in the National Trust.

(3) In this section, the expression "local authority" shall include the council of every county, county borough, borough, urban district, and rural district and the commissioners of every town.

16.—(1) Where any person is willing to agree with the National Trust that any land or any part thereof shall so far as his interest in the land enables him to bind it be made subject either permanently or for a specified period to conditions restricting the planning development or use thereof in any manner the National Trust may if it thinks fit enter into an agreement with him or accept a covenant from him to that effect and shall have power to enforce such agreement or covenant against persons deriving title under him in the like manner and to the like extent as if the National Trust were possessed of or entitled to or interested in adjacent land and as if the agreement or covenant had been and had been expressed to be entered into for the benefit of that adjacent land.

Power to
enter into
agreements
restricting
use of land.

(2) Any conditions imposed by an agreement made under this section shall not have effect so far as they are inconsistent with any provision of a planning scheme or interim development order for the time being in force under the Planning Acts (Northern Ireland), 1931 and 1944, and any question arising in relation to the application of this sub-section to any such conditions shall be referred to and determined by the Ministry of Health and Local Government whose decision thereon shall be final.

17. Separate accounts shall be kept of all sums of money received or expended by the National Trust in respect of transactions in Northern Ireland and not applicable at the discretion of the Council to the general purposes of the National Trust in Northern Ireland.

Accounts.

Application
of Trust
property.

18. Notwithstanding the provisions of section twenty-seven of the Act of 1907 which refers to the application of revenue the Council may from time to time by resolution determine that the expenses of and concerning any one or more purposes of the National Trust in Northern Ireland shall (subject to any trusts imposed by the donor or otherwise affecting the same) be defrayed exclusively out of any specified part or parts of the Trust Property or the capital or income of any particular fund or funds and such determination (unless and until modified or abrogated by a like resolution) shall be binding.

Provisions
applicable
to bye-laws.

19.—(1) Section thirty-two of the Act of 1907 (which refers to bye-laws) shall be read and have effect as if at the end thereof the following paragraph were added.

(Q) For permitting the public or any specified persons or person to view and to make copies or reproductions of or extracts from any chattel vested in the National Trust on such terms in all respects as may be from time to time prescribed by the Council.

(2) Section thirty-three of the Act of 1907 (which refers to bye-laws as to buildings) shall apply in respect of any building notwithstanding that the same may be open to the public at specified times or for specified periods only.

(3) Section thirty five of the Act of 1907 which relates to provisions applicable to bye-laws is hereby repealed.

(4) The provisions of sections two hundred and nineteen to two hundred and twenty three inclusive of the Public Health (Ireland) Act 1878 as extended by section twenty seven of the Local Government Act (Northern Ireland) 1934 shall apply to bye-laws made by the National Trust under section thirty two or section thirty three of the Act of 1907 (which refer to bye-laws and bye-laws as to buildings respectively) as amended or extended by this Act as if the National Trust were a sanitary authority and the secretary of the National Trust were the clerk to such sanitary authority. The confirming authority in relation to bye-laws made by the National Trust shall be the Ministry of Health and Local Government.

41 & 42 Vict.
c. 52.
24 & 25 Geo 5
c. 22.

1946.

National Trust Act.

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20. Paragraph 2 of the scheme is hereby annulled.

Annulment
of paragraph
2 of scheme.
Costs of Act.

21. The costs charges and expenses of and incidental to the preparation applying for obtaining and passing of this Act or otherwise in relation thereto shall be paid by the National Trust and may in whole or in part be defrayed out of income.

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