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## THE CHARITY LAW & PRACTICE REVIEW

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C L & P R  
Volume 3, 1995, Issue 2

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**The Charity Law & Practice Review**  
is published by  
Key Haven Publications PLC  
7 Crescent Stables  
139 Upper Richmond Road  
London SW15 2TN  
Telephone (0181) 780 2522, Facsimile (0181) 780 1693

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## Contents of Volume 3, Issue 2

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# CONTENTS

	Page No
Editorial	v
<b>Time for Change: Charity Investment and Modern Portfolio Theory</b> Harvey P Dale and Michael Gwinnell	65
<b>Wills and their Alternatives in the AIDS Era</b> Robert Venables QC	97
<b>Charitable Companies: Regulated Companies?</b> Elizabeth Yates	123
<b>Members, Non-Members and VAT</b> Jean Warburton	133

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## From the Managing Editor

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### EDITORIAL

This issue of the *Review* is published at the precise point of time when there is considerable interest being shown in the investment duties of charity trustees and in the impact of the National Lottery on charitable giving as well as in the actual quantum and destination of the National Lottery Charities Board's handouts.

#### **Reform of Charity Investment Law**

The largest contribution in this issue is the article "Time for Change: Charity Investment and Modern Portfolio Theory" by Professor Harvey Dale, Director of the Program on Philanthropy and Law at New York University, and Michael Gwinnell of APS Advisory Services Ltd. As the title of the article indicates, it contains a weighty discussion of the implications of modern portfolio terms for charity investment. Its especial value is its comparison of the current state of law and practice in relation to charity investment in the United Kingdom with that in the United States, as codified in the recently published US Uniform Prudent Investor Act. The Trust Law Committee, headed by the retired Chancery judge, Sir John Vinelott, has already set up a working party under the Chairmanship of Professor David Hayton to examine issues of trust law reform. The first issues to be addressed by the working party are powers of investment and the delegation of powers of investment. The attempt to narrow this study to private trusts has been rightly resisted. Encouraging noises had emanated from the Government about a general reform of all trust law, when attempts were made to introduce investment reforms via the Charities Act 1992. So it would clearly be wrong to except charity investment from the remit of the Trust Law Committee. The article by Professor Harvey Dale and Michael Gwinnell is a welcome addition to the debate.

Robert Venables QC, Chairman of the *Review's* Advisory Editorial Board and Treasurer of CRUSAID (an AIDS Charity), has scrutinised in some detail various testamentary and other legal problems generated by AIDS victims, in his article "Wills and their Alternatives in the AIDS Era", tying this discussion in with charitable bequests. No less interesting is the analysis by Elizabeth Yates, Chief Officer of the Telford Community Council, of the extent to which charitable companies are regulated by the Local Government and Housing Act 1989.

Jean Warburton, of the University of Liverpool, Charity Law Unit, in her article "Members, Non-Members and VAT" singles out yet another area of VAT law of importance, this time in relation to charities in the recreational field. Given the

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*From the Managing Editor*

proliferation of statutory instruments relating to VAT it is expected that further discussion of VAT in its relationship to charities will continue to engage the attention of contributors to this *Review*.

### **National Lottery**

At the time of writing it has been announced that in view of the wide-spread concern on this point the Home Office is conducting an inquiry into the impact of the National Lottery on charitable giving by individuals.

On 23rd October 1995 the National Lottery Charities Board, amid considerable and predictable criticism, declared its first list of benefiting charities. Some 627 charities out of 15,000 applications have turned up trumps of varying value. The Board expects to award up to £300 million a year, topping the allocations of £250 million a year made by Britain's biggest grant-making trust, the Wellcome Trust. The underlying policy of the Board is to target each batch of grants to specific areas of need. People Living in Poverty is the theme of Autumn 1995; Health Disability and Medical Research (together with small grants and UK charities abroad) are targeted for Spring 1996. Summer 1996 will see grants to New Opportunities and Choices, Winter 1996 will be the time for Improving People's Living Environments, and Spring 1997 for Community Involvement.

The weighting of charitable donations in favour of particular countries in the United Kingdom and the alleged "political correctness" of some grants are both bound to provoke raucous dissenting noises. Much of the tabloids' objections stem from a failure to recognise that the National Lottery is, at worst, a tax on stupidity (the stupidity of the punters). But it is early days for any measured criticism. Only after the swings and roundabouts have been in operation for some time will it be possible to see whether the National Lottery is indeed a circus, a fairground or, as its supporters allege, a wonderful additional power for good.

Finally, I should repeat that articles, long or short, on charity law or practice are most welcome for consideration, as are suggestions for areas of charity law or practice to be covered.

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25th October 1995