



Baxi Partnership Limited Trusts Act 2000

2000 CHAPTER iv

An Act to confirm the validity of and vary the trusts of a settlement created by Baxi Partnership Limited for the benefit of employees of Baxi Partnership Limited; to modify certain provisions of the settlement; to confer powers on the trustees of that settlement; and for other purposes. [10th February 2000]

WHEREAS—

- (1) Baxi Partnership Limited (hereinafter referred to as “the Company”) was incorporated in 1941 as a private company under the name Richard Baxendale and Sons Limited to acquire and take over the business of Richard Baxendale and Sons as manufacturers of domestic heating equipment and on 10th August 1983 changed its name to Baxi Partnership Limited:
- (2) The business of the Company which is based in Bamber Bridge in the County of Lancashire has expanded and been diversified:
- (3) To carry on its business more efficiently the Company formed a number of wholly owned subsidiaries and for a period longer than five years the Company has carried on business almost entirely through such subsidiaries and while the number of the employees of the subsidiaries of the Company has substantially increased the number of employees of the Company has been reduced to a very small number:
- (4) By a deed of settlement dated 3rd March 1983, the Company appointed trustees and certain ordinary and deferred shares in the Company were on 28th March 1983 transferred to them by, amongst others, Philip Stafford Baxendale to be held on trust (the trust hereinafter referred to as “Trust No. 1”) for the benefit of employees and former employees of the Company, their spouses and children:
- (5) On 29th March 1983 the aforementioned Philip Stafford Baxendale and others sold to the Company all the ordinary and deferred shares in the Company not previously sold to the trustees of Trust No. 1 and as a consequence of such sale the trustees of Trust No. 1 immediately thereafter held the whole of the issued share capital of the Company:
- (6) It was the intention at that time to establish a profit sharing scheme approved by the Board of Inland Revenue pursuant to the Finance Act 1978 but approval of such a scheme under the relevant legislation was refused for so long as the majority of the ordinary share capital of the Company was held upon discretionary trusts for a class of beneficiaries which included former employees of the Company:

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- (7) By a resolution dated 6th March 1984 (hereinafter referred to as “the 6th March 1984 resolution”) expressed to be passed in pursuance of the power contained in Clause 18 of the Trust No. 1 deed, the trustees of Trust No. 1 resolved to add an additional sub-clause 5(c) to the Trust No. 1 deed giving power to the trustees for the time being of Trust No. 1 to sell or transfer for no consideration the whole or any part of the shares comprising the capital fund under Trust No. 1 to the trustees of any other settlement created by the Company for the benefit of its employees subject as therein provided:
- (8) By a resolution dated 7th March 1984 (hereinafter referred to as “the 7th March 1984 resolution”) the trustees of Trust No. 1 resolved that all the shares comprised in the capital fund under Trust No. 1 (being 150 ordinary shares of one pound each and 150 deferred shares of one pound each in the Company) should thenceforth be held by them upon the trusts of a further and similar deed of settlement dated 7th March 1984 made by the Company (hereinafter referred to as “Trust No. 2”):
- (9) By a deed dated 7th March 1984 (hereinafter referred to as “the 7th March 1984 deed”), a copy of which was annexed to the 7th March resolution, expressed to be made in exercise of the power contained in the said sub-clause 5(c) of the Trust No. 1 deed, the trustees of Trust No. 1 declared that the property comprised in the capital fund under Trust No. 1 should thenceforth be held by them upon the terms of Trust No. 2:
- (10) By a resolution dated 9th March 1984 (hereinafter referred to as “the 9th March 1984 resolution”) expressed to be passed in pursuance of the power contained in Clause 18 of the Trust No. 2 deed the trustees of Trust No. 2 resolved to amend Clause 9 of the Trust No. 2 deed by removing former employees of the Company as beneficiaries of Trust No. 2:
- (11) By a further deed of settlement dated 9th March 1984 (hereinafter referred to as “the Profit Sharing Scheme”) made by the Company the Company established a profit sharing scheme which has been approved by the Board of Inland Revenue and which has been used to distribute ordinary shares in the Company to employees of the Company and its subsidiaries:
- (12) By a resolution dated 11th January 1985 (hereinafter referred to as “the 11th January 1985 resolution”) expressed to be passed in pursuance of the power contained in Clause 9 of the Trust No. 1 deed the trustees of Trust No. 1 resolved to apply the profit fund under Trust No. 1 by paying the cash representing the same to the trustees of Trust No. 2:
- (13) By a resolution dated 1st July 1988 (hereinafter referred to as “the 1st July 1988 resolution”) expressed to be passed in pursuance of the power contained in Clause 18 of the Trust No. 2 deed the trustees of Trust No. 2 resolved to amend the class of beneficiaries under Clause 9 of the Trust No. 2 deed so as to include (and to include only) persons nominated by the Company from the class of employees and former employees of the Company and any subsidiary of the Company and their spouses, children and dependants:
- (14) By a resolution dated 21st April 1990 (hereinafter referred to as “the 21st April 1990 resolution”) expressed to be passed in pursuance of the power contained in Clause 18 of the Trust No. 2 deed the trustees of Trust No. 2 resolved to amend the provisions of Clause 13 of the Trust No. 2 deed relating to the appointment of trustees and the holding of the office of trustee:
- (15) By a resolution dated 25th March 1993 (hereinafter referred to as “the 25th March 1993 resolution”) expressed to be passed in pursuance of the power contained in Clause 18 of the Trust No. 2 deed the trustees of Trust No. 2 resolved to make further amendments to the Trust No. 2 deed by, amongst other things, amending certain defined terms to reflect better the effect of the 1st July 1988 resolution and amending the powers to transfer the trust funds to the trustees of another trust for the benefit of employees of the Company who are granted exemption from the charge to Capital Transfer Tax under paragraph 17 of Schedule 5 to the Finance Act 1975 so that pursuant to such powers as amended the trust funds may be transferred to the trustees of any other trust for the benefit of employees or former

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- employees of the Company or any subsidiary of the Company to which section 86 of the Inheritance Tax Act 1984 (as from time to time amended, altered or replaced) applies:
- (16) Questions have arisen as to the validity and effect of the 6th March 1984 resolution, the 7th March 1984 resolution, the 7th March 1984 deed, the 9th March 1984 resolution and the 11th January 1985 resolution and further, even if the same are valid, questions have arisen as to whether the provisions of Clause 18 of the Trust No. 2 deed are effective insofar as they differ from the provisions of Clause 18 of the Trust No. 1 deed and whether the subsequent amendments to the Trust No. 2 deed of 1st July 1988, 21st April 1990 and 25th March 1993 were valid:
 - (17) On 4th June 1985, 14th April 1986, 17th July 1987, 19th July 1988, 17th August 1989, 19th July 1990, 19th July 1991, 16th July 1992, 19th July 1993, 19th July 1994 and 20th September 1994 the trustees of Trust No. 2 sold to the trustees of the Profit Sharing Scheme fully paid ordinary shares in the Company, in each case at the price per share agreed between the Company and the Shares Valuation Division of the Inland Revenue for the purposes of the Profit Sharing Scheme as being the market value of such an ordinary share at that time (or in the case of the sale on 20th September 1994 as at 19th July 1994) and questions have arisen as to the validity of such sales (hereinafter together referred to as “the share sales”):
 - (18) The trustees of Trust No. 2 (who include the aforementioned Philip Stafford Baxendale) have every reason to believe that it would be in accordance with his original intentions and it is in the interests of the Company, its subsidiaries and their employees that the trusts of Trust No. 2 should enable the trustees to provide benefit for the employees of the subsidiaries, their spouses and children as benefit may be provided by the trustees to the current beneficiaries of Trust No. 2:
 - (19) It is expedient that the questions as to the validity and effect of the 6th March 1984 resolution, the 7th March 1984 resolution, the 7th March 1984 deed, the 9th March 1984 resolution, the 11th July 1985 resolution, the 1st July 1988 resolution, the 21st April 1990 resolution, the 25th March 1993 resolution and the share sales should be resolved, and that provision be made whereby Trust No. 2 may be administered in accordance with the original and continuing wishes of the aforesaid Philip Stafford Baxendale:
 - (20) Certain terms of Trust No. 2 are, under rules of law, ineffective in that they purport to give the trustees thereunder powers exercisable after the end of the perpetuity period of the trusts to apply trust property for non-charitable purposes and it is expedient and in the public interest that the said rules of law and the rules of law restricting the accumulation of income should not apply in the case of Trust No. 2:
 - (21) The powers of the trustees of Trust No. 2 are unduly limited and it is expedient that they should be altered and extended and various amendments to Trust No. 2 should be made accordingly:
 - (22) The purposes of this Act cannot be effected without the authority of Parliament:

May it therefore please your Majesty that it may be enacted, and be it enacted, by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Citation and commencement

- (1) This Act may be cited as the Baxi Partnership Limited Trusts Act 2000.

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- (2) This Act shall come into force at the end of the period of three months beginning with the date on which it is passed.

2 Interpretation

- (1) In this Act, except as otherwise expressly provided or unless the context otherwise requires—

“the Company” means Baxi Partnership Limited formerly named Richard Baxendale and Sons Limited, incorporated in England and Wales under the Companies Act 1929 with registered number 367875;

“enactment” means any enactment, whether public general or local, and includes any order, rule, regulation, scheme or other instrument having effect by virtue of an enactment;

“the seven resolutions” means the seven hereinbefore recited resolutions passed on 6th March 1984, 7th March 1984, 9th March 1984, 11th January 1985, 1st July 1988, 21st April 1990 and 25th March 1993;

“the share sales” means the hereinbefore recited share sales made on 4th June 1985, 14th April 1986, 17th July 1987, 19th July 1988, 17th August 1989, 19th July 1990, 19th July 1991, 16th July 1992, 19th July 1993, 19th July 1994 and 20th September 1994;

“Trust No. 2” means the deed of settlement dated 7th March 1984 and made between the Company of the one part and Francis Roger Shackleton, Geoffrey Whittle and Philip Stafford Baxendale of the other part;

“the trustees” means the trustees for the time being of Trust No. 2.

- (2) Any reference in this Act to a clause of Trust No. 2 identified by a number shall be construed as a reference to the provisions of the clause of that number contained in Trust No. 2.

3 Validation of trust, resolutions and share sales

Notwithstanding any enactment or rule of law to the contrary, Trust No. 2, each of the seven resolutions and each of the share sales are hereby validated and confirmed and, subject as provided in this Act, shall be deemed as from the respective dates thereof to have had full legal effect according to their terms.

4 Amendment of employee benefit trust of 7th March 1984

- (1) The Trust No. 2 deed is hereby amended by the substitution of the clauses set out in the Schedule to this Act for Clauses 1 to 19 in the Trust No. 2 deed.
- (2) The Trust No. 2 deed shall continue to be capable of amendment in accordance with the terms thereof as set out in the Schedule to this Act or otherwise under any enactment or rule of law dealing with the variation of trusts.
- (3) The Trust No. 2 deed as amended by this Act, or as further amended under the provisions thereof, shall have effect in all respects according to its terms, notwithstanding any rule of law or enactment relating to perpetuities or accumulations.

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5 Costs of Act

All costs, charges and expenses preliminary to and of and incidental to the applying for and the preparing, obtaining and passing of this Act shall be paid by the Company or by the trustees out of the trust funds of Trust No. 2 as amended by this Act.