



# Trustee Act (Northern Ireland) 1958

## 1958 CHAPTER 23

### PART V

#### GENERAL PROVISIONS

#### **64 Application of Act to Settled Land Act Trustees.**

- (1) All the powers and provisions contained in this Act with reference to the appointment of new trustees, and the discharge and retirement of trustees, apply to and include trustees for the purposes of the Settled Land Acts, 1882 to 1890, and trustees for the purpose of section forty-two of the Conveyancing Act, 1881, whether such trustees are appointed by the court or by the settlement, or under provisions contained in any instrument.
- (2) Where, either before or after the commencement of this Act, trustees of a settlement have been appointed by the court for the purposes of the Settled Land Acts, 1882 to 1890, then, after the commencement of this Act—
  - (a) the person or persons nominated for the purpose of appointing new trustees by the instrument, if any, creating the settlement, though no trustees for the purposes of the said Acts were thereby appointed; or
  - (b) if there is no such person, or no such person able and willing to act, the surviving or continuing trustees or trustee for the time being for the purposes of the said Acts or the personal representatives of the last surviving or continuing trustee for those purposes;shall have the powers conferred by this Act to appoint new or additional trustees of the settlement for the purposes of the said Acts.
- (3) Appointments of new trustees for the purposes of the said Acts made or expressed to be made before the commencement of this Act by the trustees or trustee or personal representatives referred to in paragraph (b) of sub-section (2) or by the persons referred to in paragraph (a) of that sub-section are, without prejudice to any order of the court made before such commencement, hereby confirmed.

*Status: Point in time view as at 21/04/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Trustee Act (Northern Ireland) 1958, PART V. (See end of Document for details)*

## 65 Indemnity to banks, etc.

This Act, and every order purporting to be made under this Act, shall be a complete indemnity to the Banks of England and Ireland and to all persons for any acts done pursuant thereto, and it shall not be necessary for those Banks or for any person to inquire concerning the propriety of the order, or whether the court by which the order was made had jurisdiction to make it.

## 66 Jurisdiction of “the court” .

- (1) In this Act “the court” means the High Court, and also the county court, where that court has jurisdiction.
- (2) The procedure under this Act in county courts shall be in accordance with the Acts and rules regulating the procedure of those courts.
- <sup>F1</sup>(3) Any reference in this Act to paying money or securities into court shall be construed as referring to paying the money or transferring or depositing the securities into or in the<sup>F2</sup>[Court of Judicature] or into or in the county court that has jurisdiction, and any reference in this Act to payment of money or securities into court shall be construed—
  - (a) with reference to an order of the High Court, as referring to payment of the money or transfer or deposit of the securities into or in the<sup>F2</sup>[Court of Judicature]; and
  - (b) with reference to an order of a county court, as referring to payment of the money or transfer or deposit of the securities into or in that court.]

**F1** 1978 c. 23

**F2** Words in s. 66(3) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 59(5), 148(1), Sch. 11 para. 6; S.I. 2009/1604, [art. 2\(d\)](#)

## 67 Interpretation.

In this Act—

“authorised investments” mean investments authorised by the instrument, if any, creating the trust for the investment of money subject to the trust, or by law;

<sup>F3</sup>“bank” means—

- (a) an institution authorised under the Banking Act 1987 or a municipal bank within the meaning of that Act;
- (b) a European deposit-taker (within the meaning of Article 82(3) of the Banking Coordination (Second Council Directive) Regulations 1992);
- (c) the National Savings Bank;]

“contingent right” as applied to land includes a contingent or executory interest, a possibility coupled with an interest, whether the object of the gift or limitation of the interest, or possibility is or is not ascertained, also a right of entry, whether immediate or future, and whether vested or contingent;

“convey” and “conveyance” as applied to any person include the execution by that person of every necessary or suitable assurance (including an assent) for conveying, assigning, appointing, surrendering, or otherwise transferring or disposing of land whereof he is seised or possessed, or wherein he is entitled to a contingent right, either for his whole estate or for any less estate, together with the performance of all formalities required by law for the validity of the conveyance;

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“income” includes rents and profits;

“instrument” includes an Act of the Parliament of Northern Ireland or of the Parliament of the United Kingdom;

“land” includes an estate in any corporeal or incorporeal hereditaments;

“mortgage” includes a charge, created under section forty<sup>F4</sup> of the Local Registration of Title (Ireland) Act, 1891, for the payment of a principal sum and

“mortgagee” includes a registered owner of such a charge, and “mortgage” and “mortgagee” relate to every estate and interest regarded in equity as merely a security for money, and every person deriving title under the original mortgagee;

*Definition rep. by 1978 c. 23*

“personal representative” means the executor, original or by representation, or administrator for the time being of a deceased person;

“possession” includes receipt of rents and profits or the right to receive the same, if any; and “possessed” applies to receipt of income of and to any vested estate less than a life estate or interest in possession or in expectancy in any land;

“property” includes real and personal property, and any estate, share and interest in any property, real or personal, and any debt, and any thing in action, and any other right or interest, whether in possession or not;

“rights” include estates and interests;

“sale” includes an exchange;

“securities” include stocks, funds, and shares and “securities payable to bearer” include securities transferable by delivery or by delivery and endorsement;

“stock” includes fully paid up shares, and so far as relates to vesting orders made by the court under this Act, includes any fund, annuity, or security transferable in books kept by any company or society, or by instrument of transfer either alone or accompanied by other formalities, and any share or interest therein;

“tenant for life”, “settled land”, “settlement” and “trustees of the settlement” have the same meanings as in the Settled Land Act, 1882;

“transfer” in relation to stock or securities, includes the performance and execution of every deed, power of attorney, act, and thing on the part of the transferor to effect and complete the title in the transferee;

“trust” does not include the duties incident to an estate or interest conveyed by way of mortgage, but with this exception the expressions “trust” and “trustee” extend to implied and constructive trusts, and to cases where the trustee has a beneficial interest in the trust property, and to the duties incident to the office of a personal representative, and “trustee”, includes a personal representative, and “new trustee” includes an additional trustee;

“trust corporation” has the same meaning as in [<sup>F5</sup> Article 9 of the Administration of Estates (Northern Ireland) Order 1979];

“trust for sale” in relation to land means an immediate trust for sale, whether or not exercisable at the request or with the consent of any person, and with or without power at discretion to postpone the sale;

“trust funds” include any funds in the hands of a trustee, whether at the time in a state of investment or not.

<b>F3</b>	2001 c. 14 (NI)
<b>F4</b>	1970 c. 18 (NI)
<b>F5</b>	1979 NI 14

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## **68 Application of Act.**

- (1) This Act, except where otherwise expressly provided, applies to trusts including, so far as this Act applies thereto, executorships and administratorships constituted or created either before or after the commencement of this Act.
- (2) The powers conferred by this Act on trustees are in addition to the powers conferred by the instrument, if any, creating the trust, but those powers, unless otherwise stated, apply if and so far only as a contrary intention is not expressed in the instrument, if any, creating the trust, and have effect subject to the terms of that instrument.
- (3) This Act does not affect the legality or validity of anything done before the commencement of this Act, except as otherwise hereinbefore expressly provided, and except that the enactments set out in the First Schedule shall be deemed always to have had effect subject to the provisions specified in that Schedule.

*S. 69 rep. by SLR 1973*

## **70 Short title and application to Crown.**

- (1) This Act may be cited as the Trustee Act (Northern Ireland), 1958.  
*Subs. (2) rep. by SLR 1973*
- (3) This Act shall bind the Crown to the full extent authorised or permitted by the constitutional laws of Northern Ireland.

**Status:**

Point in time view as at 21/04/2015.

**Changes to legislation:**

There are currently no known outstanding effects for the Trustee Act (Northern Ireland) 1958, PART V.