



# Trusts of Land and Appointment of Trustees Act 1996

## 1996 CHAPTER 47

### PART I

#### TRUSTS OF LAND

##### *Functions of trustees of land*

#### **6 General powers of trustees.**

- (1) For the purpose of exercising their functions as trustees, the trustees of land have in relation to the land subject to the trust all the powers of an absolute owner.
- (2) Where in the case of any land subject to a trust of land each of the beneficiaries interested in the land is a person of full age and capacity who is absolutely entitled to the land, the powers conferred on the trustees by subsection (1) include the power to convey the land to the beneficiaries even though they have not required the trustees to do so; and where land is conveyed by virtue of this subsection—
  - (a) the beneficiaries shall do whatever is necessary to secure that it vests in them, and
  - (b) if they fail to do so, the court may make an order requiring them to do so.
- (3) The trustees of land have power to [<sup>F1</sup>acquire land under the power conferred by section 8 of the Trustee Act 2000.]
- <sup>F2</sup>(4) .....
- (5) In exercising the powers conferred by this section trustees shall have regard to the rights of the beneficiaries.
- (6) The powers conferred by this section shall not be exercised in contravention of, or of any order made in pursuance of, any other enactment or any rule of law or equity.

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*Changes to legislation: There are currently no known outstanding effects for the Trusts of Land and Appointment of Trustees Act 1996, Cross Heading: Functions of trustees of land. (See end of Document for details)*

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- (7) The reference in subsection (6) to an order includes an order of any court or of the [<sup>F3</sup>Charity Commission].
- (8) Where any enactment other than this section confers on trustees authority to act subject to any restriction, limitation or condition, trustees of land may not exercise the powers conferred by this section to do any act which they are prevented from doing under the other enactment by reason of the restriction, limitation or condition.
- <sup>F4</sup>(9) The duty of care under section 1 of the Trustee Act 2000 applies to trustees of land when exercising the powers conferred by this section.]

#### Textual Amendments

- F1** Words in s. 6(3) substituted (1.2.2001) by 2000 c. 29, s. 40(1), **Sch. 2 Pt. II para. 45(1)** (with s. 35); S.I. 2001/49, **art. 2**
- F2** S. 6(4) repealed (1.2.2001) by 2000 c. 29, s. 40(1)(3), **Sch. 2 Pt. II para. 45(2)**, **Sch. 4 Pt. II** (with s. 35); S.I. 2001/49, **art. 2**
- F3** Words in s. 6(7) substituted (27.2.2007) by Charities Act 2006 (c. 50), s. 79(2), **Sch. 8 para. 182**; S.I. 2007/309, **art. 2**, **Sch.**
- F4** S. 6(9) inserted (1.2.2001) by 2000 c. 29, s. 40(1), **Sch. 2 Pt. II para. 45(3)** (with s. 35); S.I. 2001/49, **art. 2**

## 7 Partition by trustees.

- (1) The trustees of land may, where beneficiaries of full age are absolutely entitled in undivided shares to land subject to the trust, partition the land, or any part of it, and provide (by way of mortgage or otherwise) for the payment of any equality money.
- (2) The trustees shall give effect to any such partition by conveying the partitioned land in severalty (whether or not subject to any legal mortgage created for raising equality money), either absolutely or in trust, in accordance with the rights of those beneficiaries.
- (3) Before exercising their powers under subsection (2) the trustees shall obtain the consent of each of those beneficiaries.
- (4) Where a share in the land is affected by an incumbrance, the trustees may either give effect to it or provide for its discharge from the property allotted to that share as they think fit.
- (5) If a share in the land is absolutely vested in a minor, subsections (1) to (4) apply as if he were of full age, except that the trustees may act on his behalf and retain land or other property representing his share in trust for him.
- [<sup>F5</sup>(6) Subsection (1) is subject to sections 21 (part-unit: interests) and 22 (part-unit: charging) of the Commonhold and Leasehold Reform Act 2002.]

#### Textual Amendments

- F5** S. 7(6) added (27.9.2004) by Commonhold and Leasehold Reform Act 2002 (c. 15), s. 181(1), **Sch. 5 para. 8**; S.I. 2004/1832, **art. 2**

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## **8 Exclusion and restriction of powers.**

- (1) Sections 6 and 7 do not apply in the case of a trust of land created by a disposition in so far as provision to the effect that they do not apply is made by the disposition.
- (2) If the disposition creating such a trust makes provision requiring any consent to be obtained to the exercise of any power conferred by section 6 or 7, the power may not be exercised without that consent.
- (3) Subsection (1) does not apply in the case of charitable, ecclesiastical or public trusts.
- (4) Subsections (1) and (2) have effect subject to any enactment which prohibits or restricts the effect of provision of the description mentioned in them.

## **9 Delegation by trustees.**

- (1) The trustees of land may, by power of attorney, delegate to any beneficiary or beneficiaries of full age and beneficially entitled to an interest in possession in land subject to the trust any of their functions as trustees which relate to the land.
- (2) Where trustees purport to delegate to a person by a power of attorney under subsection (1) functions relating to any land and another person in good faith deals with him in relation to the land, he shall be presumed in favour of that other person to have been a person to whom the functions could be delegated unless that other person has knowledge at the time of the transaction that he was not such a person.

And it shall be conclusively presumed in favour of any purchaser whose interest depends on the validity of that transaction that that other person dealt in good faith and did not have such knowledge if that other person makes a statutory declaration to that effect before or within three months after the completion of the purchase.

- (3) A power of attorney under subsection (1) shall be given by all the trustees jointly and (unless expressed to be irrevocable and to be given by way of security) may be revoked by any one or more of them; and such a power is revoked by the appointment as a trustee of a person other than those by whom it is given (though not by any of those persons dying or otherwise ceasing to be a trustee).
- (4) Where a beneficiary to whom functions are delegated by a power of attorney under subsection (1) ceases to be a person beneficially entitled to an interest in possession in land subject to the trust—
  - (a) if the functions are delegated to him alone, the power is revoked,
  - (b) if the functions are delegated to him and to other beneficiaries to be exercised by them jointly (but not separately), the power is revoked if each of the other beneficiaries ceases to be so entitled (but otherwise functions exercisable in accordance with the power are so exercisable by the remaining beneficiary or beneficiaries), and
  - (c) if the functions are delegated to him and to other beneficiaries to be exercised by them separately (or either separately or jointly), the power is revoked in so far as it relates to him.
- (5) A delegation under subsection (1) may be for any period or indefinite.
- (6) A power of attorney under subsection (1) cannot be <sup>F6</sup>an enduring power of attorney or lasting power of attorney within the meaning of the Mental Capacity Act 2005].

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(7) Beneficiaries to whom functions have been delegated under subsection (1) are, in relation to the exercise of the functions, in the same position as trustees (with the same duties and liabilities); but such beneficiaries shall not be regarded as trustees for any other purposes (including, in particular, the purposes of any enactment permitting the delegation of functions by trustees or imposing requirements relating to the payment of capital money).

<sup>F7</sup>(8) .....

(9) Neither this section nor the repeal by this Act of section 29 of the <sup>M1</sup>Law of Property Act 1925 (which is superseded by this section) affects the operation after the commencement of this Act of any delegation effected before that commencement.

#### Textual Amendments

**F6** Words in s. 9(6) substituted (1.10.2007) by [Mental Capacity Act 2005 \(c. 9\), s. 68\(1\), Sch. 6 para. 42\(2\)](#) (with ss. 27-29, 62); [S.I. 2007/1897, art. 2\(1\)\(d\)](#)

**F7** S. 9(8) repealed (1.2.2001) by [2000 c. 29, s. 40\(1\)\(3\), Sch. 2 Pt. II para. 46, Sch. 4 Pt. II](#) (with s. 35); [S.I. 2001/49, art. 2](#)

#### Marginal Citations

**M1** [1925 c. 20.](#)

- <sup>F8</sup>**9A**
- (1) The duty of care under section 1 of the Trustee Act 2000 applies to trustees of land in deciding whether to delegate any of their functions under section 9.
  - (2) Subsection (3) applies if the trustees of land—
    - (a) delegate any of their functions under section 9, and
    - (b) the delegation is not irrevocable.
  - (3) While the delegation continues, the trustees—
    - (a) must keep the delegation under review,
    - (b) if circumstances make it appropriate to do so, must consider whether there is a need to exercise any power of intervention that they have, and
    - (c) if they consider that there is a need to exercise such a power, must do so.
  - (4) “Power of intervention” includes—
    - (a) a power to give directions to the beneficiary;
    - (b) a power to revoke the delegation.
  - (5) The duty of care under section 1 of the 2000 Act applies to trustees in carrying out any duty under subsection (3).
  - (6) A trustee of land is not liable for any act or default of the beneficiary, or beneficiaries, unless the trustee fails to comply with the duty of care in deciding to delegate any of the trustees’ functions under section 9 or in carrying out any duty under subsection (3).
  - (7) Neither this section nor the repeal of section 9(8) by the Trustee Act 2000 affects the operation after the commencement of this section of any delegation effected before that commencement.]

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**Changes to legislation:** There are currently no known outstanding effects for the Trusts of Land and Appointment of Trustees Act 1996, Cross Heading: Functions of trustees of land. (See end of Document for details)

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**Textual Amendments**

**F8** S. 9A inserted (1.2.2001) by 2000 c. 29, s. 40(2), **Sch. 2 Pt. II para. 47** (with s. 35); S.I. 2001/49, **art. 2**

**Changes to legislation:**

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