



# Trustee Act 1925

## 1925 CHAPTER 19

### 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 Act, 1925, and trustees for the purpose of the management of land during a minority, 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, or of the Settled Land Act, 1925, 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 the last preceding subsection or by the persons referred to in paragraph (a) of that subsection are, without prejudice to any order of the court made before such commencement, hereby confirmed.

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*Status: This is the original version (as it was originally enacted).*

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**65 Trust estate not affected by trustee becoming a convict.**

Property vested in any person on any trust or by way of mortgage shall not, in case of that person becoming a convict within the meaning of the Forfeiture Act, 1870, vest in any such administrator as may be appointed under that Act, but shall remain in the trustee or mortgagee, or pass to his co-trustee in right of survivorship or devolve on his personal representative as if he had not become a convict:

Provided that this enactment shall not affect the title to the property so far as relates to any beneficial interest therein of any such trustee or mortgagee.

**66 Indemnity to banks, &c.**

This Act, and every order purporting to be made under this Act, shall be a complete indemnity to the Bank of England, and to all persons for any acts done pursuant thereto, and it shall not be necessary for the Bank 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.

**67 Jurisdiction of the " court ".**

- (1) In this Act " the court " means the High Court, and also the Court of Chancery of the County Palatine of Lancaster or the Court of Chancery of the County Palatine of Durham, or the county court, where those courts respectively have jurisdiction.
- (2) The procedure under this Act in palatine courts and county courts shall be in accordance with the Acts and rules regulating the procedure of those courts.

**68 Definitions.**

In this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say :—

- (1) " 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;
- (2) " 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;
- (3) " 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 ; " sale " includes an exchange;
- (4) " Gazette " means the London Gazette;
- (5) " Instrument " includes Act of Parliament;
- (6) " Land " includes land of any tenure, and mines and minerals, whether or not severed from the surface, buildings or parts of buildings, whether the division is horizontal,-

vertical or made in any other way, and other corporeal hereditaments; also a manor, an advowson, and a rent and other incorporeal hereditaments, and an easement, right, privilege, or benefit in, over, or derived from land, but not an undivided share in land; and in this definition " mines and minerals " include any strata or seam of minerals or substances in or under any land, and powers of working and getting the same, but not an undivided share thereof; and " hereditaments " mean real property which under an intestacy occurring before the commencement of this Act might have devolved on an heir ;

- (7) " Mortgage " and " mortgagee " include a charge or chargee by way of legal mortgage, and relate to every estate and interest regarded in equity as merely a security for money, and every person deriving title under the original mortgagee;
- (8) " Pay " and " payment " as applied in relation to stocks and securities and in connexion with the expression " into court " include the deposit or transfer of the same in or into court;
- (9) " Personal representative " means the executor, original or by representation, or administrator for the time being of a deceased person;
- (10) " Possession " includes receipt of rents and profits or the right to receive the same, if any; " income " includes rents and profits; and " possessed " applies to receipt of income of and to any vested estate less than a life interest in possession or in expectancy in any land;
- (11) " 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;
- (12) " Rights " include estates and interests;
- (13) " Securities " include stocks, funds, and shares: and so far as relates to payments into court has the same meaning as in the enactments relating to funds in the Supreme Court and " securities payable to bearer " include securities transferable by delivery or by delivery and endorsement;
- (14) " 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;
- (15) " Tenant for life, " " statutory owner, " " settled land, " " settlement, " " trust instrument, " " trustees of the settlement " " lunatic, " " defective " " term of years absolute " and " vesting instrument " have the same meanings as in the Settled Land Act, 1925, and " entailed interest " has the same meaning as in the Law of Property Act, 1925;
- (16) " 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;
- (17) " Trust " does not include the duties incident to an estate 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 " where the context admits, includes a personal representative, and " new trustee " includes an additional trustee;

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- (18) " Trust corporation " means the Public Trustee or a corporation either appointed by the court in any particular case to be a trustee, or entitled by rules made under subsection (3) of section four of the Public Trustee Act, 1906, to act as custodian trustee;
- (19) " Trust for sale " in relation to land means an immediate binding 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; " trustees for sale " mean the persons (including a personal representative) holding land on trust for sale;
- (20) " United Kingdom " means Great Britain and Northern Ireland.

## **69 Application of Act.**

- (1) This Act, except where otherwise expressly provided, applies to trusts including, so far as this Act applies thereto, executorships and administrator ships 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 mentioned in the First Schedule to this Act shall be deemed always to have had effect subject to the provisions set forth in that Schedule.

## **70 Enactments repealed.**

The Acts mentioned in the Second Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule:

Provided that, without prejudice to the provisions of section thirty-eight of the Interpretation Act, 1889:

- (a) Nothing in this repeal shall affect any vesting order or appointment made or other thing done under any enactment so repealed, and any order or appointment so made may be revoked or varied in like manner as if it had been made under this Act;
- (b) References in any document to any enactment repealed by this Act shall be construed as references to this Act or to the corresponding enactment in this Act.

## **71 Short title, commencement, extent.**

- (1) This Act may be cited as the Trustee Act, 1925.
- (2) This Act shall come into operation on the first day of January, nineteen hundred and twenty-six.
- (3) This Act, except where otherwise expressly provided, extends to England and Wales only.
- (4) The provisions of this Act bind the Crown.