

*These notes refer to the Trustee Act (Northern Ireland)
2001 (c.14) which received Royal Assent on 20 July 2001*

Trustee Act (Northern Ireland) 2001

EXPLANATORY NOTES

COMMENTARY ON CLAUSES

Part IV: Agents, Nominees and Custodians

Section 22: Review of agents, nominees and custodians etc.

Section 22 imposes a duty of review on trustees. The three elements of the basic duty are set out in *section 22(1)*: (a) to keep the arrangements under review; (b) where appropriate, to consider whether there is a need to intervene; and (c) to intervene if necessary. Amongst other possibilities, intervention might take the form of giving directions to the agent, nominee or custodian, or revoking his or her authorisation or appointment. Intervention would be appropriate, for example, if the agent, nominee or custodian is not carrying out his or her functions effectively, or where there is an indication that the person involved is no longer suitable to act in this way. In the case of an agent exercising asset management functions, there is a particular duty to consider the need to revise or replace the policy statement and assess compliance with it. It may be added that the duty to review does not oblige trustees to examine the situation at specific intervals or in any prescribed way. Rather, there is an ongoing obligation to do what is reasonable in the circumstances. To reinforce this, trustees are subject to the duty of care in carrying this out.