



Trusts of Land and Appointment of Trustees Act 1996

1996 CHAPTER 47

PART I

TRUSTS OF LAND

Right of beneficiaries to occupy trust land

12 The right to occupy

- (1) A beneficiary who is beneficially entitled to an interest in possession in land subject to a trust of land is entitled by reason of his interest to occupy the land at any time if at that time—
 - (a) the purposes of the trust include making the land available for his occupation (or for the occupation of beneficiaries of a class of which he is a member or of beneficiaries in general), or
 - (b) the land is held by the trustees so as to be so available.
- (2) Subsection (1) does not confer on a beneficiary a right to occupy land if it is either unavailable or unsuitable for occupation by him.
- (3) This section is subject to section 13.

13 Exclusion and restriction of right to occupy

- (1) Where two or more beneficiaries are (or apart from this subsection would be) entitled under section 12 to occupy land, the trustees of land may exclude or restrict the entitlement of any one or more (but not all) of them.
- (2) Trustees may not under subsection (1)—
 - (a) unreasonably exclude any beneficiary's entitlement to occupy land, or
 - (b) restrict any such entitlement to an unreasonable extent.

Status: This is the original version (as it was originally enacted).

- (3) The trustees of land may from time to time impose reasonable conditions on any beneficiary in relation to his occupation of land by reason of his entitlement under section 12.
- (4) The matters to which trustees are to have regard in exercising the powers conferred by this section include—
- (a) the intentions of the person or persons (if any) who created the trust,
 - (b) the purposes for which the land is held, and
 - (c) the circumstances and wishes of each of the beneficiaries who is (or apart from any previous exercise by the trustees of those powers would be) entitled to occupy the land under section 12.
- (5) The conditions which may be imposed on a beneficiary under subsection (3) include, in particular, conditions requiring him—
- (a) to pay any outgoings or expenses in respect of the land, or
 - (b) to assume any other obligation in relation to the land or to any activity which is or is proposed to be conducted there.
- (6) Where the entitlement of any beneficiary to occupy land under section 12 has been excluded or restricted, the conditions which may be imposed on any other beneficiary under subsection (3) include, in particular, conditions requiring him to—
- (a) make payments by way of compensation to the beneficiary whose entitlement has been excluded or restricted, or
 - (b) forgo any payment or other benefit to which he would otherwise be entitled under the trust so as to benefit that beneficiary.
- (7) The powers conferred on trustees by this section may not be exercised—
- (a) so as prevent any person who is in occupation of land (whether or not by reason of an entitlement under section 12) from continuing to occupy the land, or
 - (b) in a manner likely to result in any such person ceasing to occupy the land, unless he consents or the court has given approval.
- (8) The matters to which the court is to have regard in determining whether to give approval under subsection (7) include the matters mentioned in subsection (4)(a) to (c).