

*These notes refer to the Trustee Act 2000 (c.29)  
which received Royal Assent on 23 November 2000*

# TRUSTEE ACT 2000

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### Part IV: Agents, Nominees and Custodians

##### *Section 24: Effects of trustees exceeding their powers*

88. **Section 24** provides that appointments of agents, nominees or custodians under Part IV are not invalidated by any failure of the trustees to respect the limits of their powers. This provision will facilitate dealings by third parties with agents, nominees and custodians appointed by trustees. It will have the effect that third parties will not need to satisfy themselves that the trustees have complied with the requirements of the Act. Examples of the kinds of mistakes which trustees might make include: the appointment under section 11 of a person as an agent who is in fact a beneficiary of the trust contrary to section 12(3); the authorisation of an agent on terms which prevent the trustees as trustees of land from consulting with the relevant beneficiaries under section 11(1) of the Trusts of Land and Appointment of Trustees Act 1996 (section 13(4)); or an appointment on terms which permit the agent to appoint a substitute where that is not reasonably necessary. Indeed, even where an agent is authorised to exercise a function which is not a “delegable function” as defined in section 11, the authorisation will be valid.
89. **Section 24** does not, of course, relieve trustees of any of their obligations under the Act. They will still be liable for any loss incurred by the trust as a consequence of an *ultra vires* appointment. In addition, if a person is authorised to exercise a function as an agent, that person may also be liable, as trustee *de son tort*, if the function in question is not properly delegable under section 11. Both parties to the appointment have therefore an interest in ensuring that the appointment can properly be made.