



Trustee Act 1925

1925 CHAPTER 19 15 and 16 Geo 5

PART I

INVESTMENTS

1 ^{F1}

Textual Amendments

F1 Ss. 1, 5(1)(a)(4)–(6) repealed by [Trustee Investments Act 1961 \(c. 62\)](#), [Sch. 5](#)

2 **Purchase at a premium of redeemable stocks; change of character of investment.**

(1) A trustee may under the powers of this Act invest in any of the securities mentioned or referred to in section one of this Act, notwithstanding that the same may be redeemable, and that the price exceeds the redemption value.

..... ^{F2}

(2) A trustee may retain until redemption any redeemable stock, fund, or security which may have been purchased in accordance with the powers of this Act, or any statute replaced by this Act.

Textual Amendments

F2 Proviso repealed by [Trustee Investment Act 1961 \(c. 62\)](#), [Sch. 5](#)

3 **Discretion of trustees.**

Every power conferred by the preceding sections shall be exercised according to the discretion of the trustee, but subject to any consent or direction required by the

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Changes to legislation: There are currently no known outstanding effects for the Trustee Act 1925, Part I. (See end of Document for details)

instrument, if any, creating the trust or by statute with respect to the investment of the trust funds.

4 Power to retain investment which has ceased to be authorised.

A trustee shall not be liable for breach of trust by reason only of his continuing to hold an investment which has ceased to be an investment authorised by the trust instrument or by the general law.

Modifications etc. (not altering text)

C1 S. 4 excluded by [Trustee Investments Act 1961 \(c. 62\)](#), s. 3(4), [Sch. 3 para. 2](#)

5 Enlargement of powers of investment.

(1) A trustee having power to invest in real securities may invest and shall be deemed always to have had power to invest—

(a) ^{F3}

(b) on any charge, or upon mortgage of any charge, made under the ^{M1}Improvement of Land Act, 1864.

(2) A trustee having power to invest in real securities may accept the security in the form of a charge by way of legal mortgage, and may, in exercise of the statutory power, convert an existing mortgage into a charge by way of legal mortgage.

(3) A trustee having power to invest in the mortgages or bonds of any railway company or of any other description of company may invest in the debenture stock of a railway company or such other company as aforesaid.

(4) ^{F3}

Textual Amendments

F3 Ss. 1, 5(1)(a)(4)–(6) repealed by [Trustee Investments Act 1961 \(c. 62\)](#), [Sch. 5](#)

Marginal Citations

M1 1864 c. 114.

6 Power to invest in land subject to drainage charges.

A trustee having power to invest in the purchase of land or on mortgage of land may invest in the purchase or on mortgage of any land notwithstanding the same is charged with a rent under the powers of . . . ^{F4} the ^{M2}Landed Property Improvement (Ireland) Act, 1847, or by an absolute order made under the Improvement of Land Act, 1864, unless the terms of the trust expressly provide that the land to be purchased or taken in mortgage shall not be subject to any such prior charge.

Textual Amendments

F4 Words repealed by [Statute Law Revision Act 1963 \(c. 30\)](#)

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Marginal Citations

M2 1847 c. 32.

7 Investment in bearer securities.

- (1) A trustee may, unless expressly prohibited by the instrument creating the trust, retain or invest in securities payable to bearer which, if not so payable, would have been authorised investments:

Provided that securities to bearer retained or taken as an investment by a trustee (not being a trust corporation) shall, until sold, be deposited by him for safe custody and collection of income with a banker or banking company.

A direction that investments shall be retained or made in the name of a trustee shall not, for the purposes of this subsection, be deemed to be such an express prohibition as aforesaid.

- (2) A trustee shall not be responsible for any loss incurred by reason of such deposit, and any sum payable in respect of such deposit and collection shall be paid out of the income of the trust property.

8 Loans and investments by trustees not chargeable as breaches of trust.

- (1) A trustee lending money on the security of any property on which he can properly lend shall not be chargeable with breach of trust by reason only of the proportion borne by the amount of the loan to the value of the property at the time when the loan was made, if it appears to the court—

- (a) that in making the loan the trustee was acting upon a report as to the value of the property made by a person whom he reasonably believed to be an able practical surveyor or valuer instructed and employed independently of any owner of the property, whether such surveyor or valuer carried on business in the locality where the property is situate or elsewhere; and
- (b) that the amount of the loan does not exceed two third parts of the value of the property as stated in the report; and
- (c) that the loan was made under the advice of the surveyor or valuer expressed in the report.

- (2) A trustee lending money on the security of any leasehold property shall not be chargeable with breach of trust only upon the ground that in making such loan he dispensed either wholly or partly with the production or investigation of the lessor's title.

- (3) A trustee shall not be chargeable with breach of trust only upon the ground that in effecting the purchase, or in lending money upon the security, of any property he has accepted a shorter title than the title which a purchaser is, in the absence of a special contract, entitled to require, if in the opinion of the court the title accepted be such as a person acting with prudence and caution would have accepted.

- (4) This section applies to transfers of existing securities as well as to new securities and to investments made before as well as after the commencement of this Act.

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Modifications etc. (not altering text)

C2 S. 8 saved by [Trustee Investments Act 1961 \(c. 62\), s. 6\(7\)](#)

9 Liability for loss by reason of improper investment.

- (1) Where a trustee improperly advances trust money on a mortgage security which would at the time of the investment be a proper investment in all respects for a smaller sum than is actually advanced thereon, the security shall be deemed an authorised investment for the smaller sum, and the trustee shall only be liable to make good the sum advanced in excess thereof with interest.
- (2) This section applies to investments made before as well as after the commencement of this Act.

10 Powers supplementary to powers of investment.

- (1) Trustees lending money on the security of any property on which they can lawfully lend may contract that such money shall not be called in during any period not exceeding seven years from the time when the loan was made, provided interest be paid within a specified time not exceeding thirty days after every half-yearly or other day on which it becomes due, and provided there be no breach of any covenant by the mortgagor contained in the instrument of mortgage or charge for the maintenance and protection of the property.
- (2) On a sale of land for an estate in fee simple or for a term having at least five hundred years to run^{F5} . . . by a tenant for life or statutory owner,^{F5} . . . the tenant for life or statutory owner on behalf of the trustees of the settlement, may, where the proceeds are liable to be invested, contract that the payment of any part, not exceeding two-thirds, of the purchase money shall be secured by a charge by way of legal mortgage or a mortgage by demise or subdemise for a term of at least five hundred years (less a nominal reversion when by sub-demise), of the land sold, with or without the security of any other property, such charge or mortgage, if any buildings are comprised in the mortgage, to contain a covenant by the mortgagor to keep them insured against loss or damage by fire to the full value thereof.

^{F5} . . . The trustees of the settlement shall be bound to give effect to such contract made by the tenant for life or statutory owner.

- (3) Where any securities of a company are subject to a trust, the trustees may concur in any scheme or arrangement—
 - (a) for the reconstruction of the company;
 - (b) for the sale of all or any part of the property and undertaking of the company to another company;
 - [^{F6}(bb) for the acquisition of the securities of the company, or of control thereof, by another company]
 - (c) for the amalgamation of the company with another company;
 - (d) for the release, modification, or variation of any rights, privileges or liabilities attached to the securities or any of them;

in like manner as if they were entitled to such securities beneficially, with power to accept any securities of any denomination or description of the reconstructed or purchasing or new company in lieu of or in exchange for all or any of the first-

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mentioned securities; and the trustees shall not be responsible for any loss occasioned by any act or thing so done in good faith, and may retain any securities so accepted as aforesaid for any period for which they could have properly retained the original securities.

- (4) If any conditional or preferential right to subscribe for any securities in any company is offered to trustees in respect of any holding in such company, they may as to all or any of such securities, either exercise such right and apply capital money subject to the trust in payment of the consideration, or renounce such right, or assign for the best consideration that can be reasonably obtained the benefit of such right or the title thereto to any person, including any beneficiary under the trust, without being responsible for any loss occasioned by any act or thing so done by them in good faith: Provided that the consideration for any such assignment shall be held as capital money of the trust.
- (5) The powers conferred by this section shall be exercisable subject to the consent of any person whose consent to a change of investment is required by law or by the instrument, if any, creating the trust.
- (6) Where the loan referred to in subsection (1), or the sale referred to in subsection (2), of this section is made under the order of the court, the powers conferred by those subsections respectively shall apply only if and as far as the court may by order direct.

Textual Amendments

- F5** Words in s. 10(2) repealed (1.1.1997) by 1996 c. 47, s. 25(2), **Sch.4** (with ss. 24(2), 25(4)); S.I. 1996/2974, **art.2**
- F6** Para.(bb) added by **Trustee Investments Act 1961 (c. 62), s. 9(1)**

Modifications etc. (not altering text)

- C3** S. 10(4) amended by **Trustee Investments Act 1961 (c. 62), s. 9(2)**

11 Power to deposit money at bank and to pay calls.

- (1) Trustees may, pending the negotiation and preparation of any mortgage or charge, or during any other time while an investment is being sought for, pay any trust money into a bank to a deposit or other account, and all interest, if any, payable in respect thereof shall be applied as income.
- (2) Trustees may apply capital money subject to a trust in payment of the calls on any shares subject to the same trust.

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