



Trustee Act 1925

1925 CHAPTER 19 15 and 16 Geo 5

PART V

GENERAL PROVISIONS

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^{F1}. . .; and in this definition “mines and minerals” include any strata or seam of minerals or substances in or under any

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land, and powers of working and getting the same ^{F1}. . .; 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;
- ^{F2}(8)
- (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; ^{F3}. . . 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” ^{F4}. . . “term of years absolute” and “vesting instrument” have the same meanings as in the ^{M1}Settled Land Act, 1925, and “entailed interest” has the same meaning as in the ^{M2}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;
- (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 ^{M3}Public Trustee Act, 1906, to act as custodian trustee;
- (19) “Trust for sale” in relation to land means an immediate ^{F5}. . . trust for sale, whether or not exercisable at the request or with the consent of any person ^{F5}. . .; ^{F5}. . .;
- (20) “United Kingdom” means Great Britain and Northern Ireland.

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[^{F6}(2) Any reference in this Act to paying money or securities into court shall be construed as referring to paying the money or transferring or depositing the securities into or in the [^{F7}Senior Courts] or into or in any other court that has jurisdiction, and any reference in this Act to payment of money or securities into court shall be construed—

- (a) with reference to an order of the High Court, as referring to payment of the money or transfer or deposit of the securities into or in the [^{F7}Senior Courts]; and
- (b) with reference to an order of any other court, as referring to payment of the money or transfer or deposit of the securities into or in that court.]

[^{F8}(3) Any reference in this Act to a person who lacks capacity in relation to a matter is to a person—

- (a) who lacks capacity within the meaning of the Mental Capacity Act 2005 in relation to that matter, or
- (b) in respect of whom the powers conferred by section 48 of that Act are exercisable and have been exercised in relation to that matter.]

Textual Amendments

- F1** Words in s. 68(6) 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**
- F2** S. 68(8) repealed by **Administration of Justice Act 1965 (c. 2), Sch. 1**
- F3** Words repealed by **Administration of Justice Act 1965 (c. 2), Sch. 1**
- F4** Words repealed by **Mental Health Act 1959 (c. 72), Sch. 8 Pt. I**
- F5** Words and definition of "trustees for sale" in s. 68(19) 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** S. 68(2) added by **Administration of Justice Act 1965 (c. 2), Sch. 1**
- F7** Words in Act substituted (1.10.2009) by **Constitutional Reform Act 2005 (c. 4), s. 148(1), Sch. 11 para. 4**; S.I. 2009/1604, **art. 2(d)**
- F8** S. 68(3) expressed to be added at the end of s. 68 (1.10.2007) by **Mental Capacity Act 2005 (c. 9), s. 68(1), Sch. 6 para. 3(6)** (with ss. 27-29, 62); S.I. 2007/1897, **art. 2(1)(d)**

Modifications etc. (not altering text)

- C1** S. 68(18) modified by 2010 c. 32, s. 12(1A)(1B) (as inserted (1.2.2012) by **Education Act 2011 (c. 21), s. 82(3), Sch. 14 para. 20(2)**; S.I. 2012/84, **art. 3** (with **art. 5**); S.I. 2012/84, **art. 3** (with **art. 5**))
- C2** S. 68(18): definition extended (coming into force in accordance with s. 53(3) of the amending Measure) by **Cathedrals Measure 2021 (No. 2), Sch. 1 para. 7(b)** (with ss. 42(4), 48, 52(1))
- C3** S. 68(18) extended by **Law of Property (Amendment) Act 1926 (c. 11), s. 3**, S. J. 1952/862 (1952 II, p. 2322) and **Clergy Pensions Measure 1961 (No. 3), s. 31**
- C4** Definition "trust corporation" in s. 68(18) extended (retrospectively) by **Charities Act 1960 (c. 58), s. 21A(b)** (which was inserted (retrospectively) by **Charities Act 1992 (c. 41), s. 14(1)(2)** and S.I. 1992/1900, **art. 2(1), Sch. 1**) and the said s. 14 falls with the partial repeal (1.8.1993) of that 1960 Act by 1993 c. 10, s. 98(2), **Sch. 7**; extended (retrospectively) by 1993 c. 10, **ss. 35(1)(b)(2), 99(1)**
- C5** S. 68(18): definition of "trust corporation" extended (retrospectively) by **Charities Act 2011 (c. 25), ss. 354, 355, Sch. 7 para. 3** (with s. 20(2), **Sch. 8**)

Marginal Citations

- M1** 1925 c. 18.
- M2** 1925 c. 20.
- M3** 1906 c. 25.

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