NORTHERN TERRITORY OF AUSTRALIA

TRUSTEE ACT

As in force at 22 November 2017

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 22 November 2017

TRUSTEE ACT

An Act to consolidate and amend the law relating to trustees, and for other purposes

1 Short title and commencement

This Act may be cited as ***The Trustee Act*** and shall come into operation on a day to be fixed by the Governor, by Proclamation in the *Government Gazette*.

2 Division

This Act is divided into parts, as follows:

Part I – Investments

Part II – Various powers and duties of trustees

Part III – Powers of the Court

Part IV – Special provisions as to appointment of new trustees

Part V – Miscellaneous and supplemental.

3 Repeal

The Acts mentioned in the First Schedule hereto are repealed to the extent in such schedule mentioned. Such repeal shall not affect:

I Anything done under any enactment hereby repealed;

II Any right or privilege acquired, or liability incurred, under any enactment hereby repealed.

Any proceedings begun under the repealed enactments, or any of them, may be continued and concluded as though this Act had not been passed.

Part I Investments

4 Application of Part

This Part applies to trusts created before or after the commencement of the *Trustee Amendment Act (No. 2) 1995*.

5 Power of trustee to invest

A trustee may, unless expressly forbidden by the instrument creating the trust:

(a) invest trust funds in any form of investment; and

(b) at any time, vary an investment or realise an investment of trust funds and reinvest money resulting from the realisation in any form of investment.

6 Duties of trustee in respect of power of investment

(1) Subject to the instrument creating the trust, a trustee shall, in exercising a power of investment:

(a) if the trustee's profession, business or employment is or includes acting as a trustee or investing money on behalf of other persons, exercise the care, diligence and skill that a prudent person engaged in that profession, business or employment would exercise in managing the affairs of other persons; or

(b) if the trustee is not engaged in such a profession, business or employment, exercise the care, diligence and skill that a prudent person of business would exercise in managing the affairs of other persons.

(2) A trustee shall, in exercising a power of investment, comply with any provision of the instrument creating the trust that is binding on the trustee and requires the obtaining of a consent or approval or compliance with any direction with respect to trust investments.

(3) Subject to the instrument creating the trust, a trustee shall, not less than once in each year, review the performance (individually and as a whole) of trust investments.

7 Law and equity preserved

(1) Any rules and principles of law or equity that impose a duty on a trustee exercising a power of investment including, without limiting the generality of those duties, rules and principles that impose:

(a) a duty to exercise the powers of a trustee in the best interests of all present and future beneficiaries of the trust;

(b) a duty to invest trust funds in investments that are not speculative or hazardous;

(c) a duty to act impartially towards beneficiaries and between different classes of beneficiaries; or

(d) a duty to take advice,

continue to apply except so far as they are inconsistent with this or any other Act or the instrument creating the trust.

(2) Any rules and principles of law or equity that relate to a provision in an instrument creating a trust that purports to exempt, limit the liability of, or indemnify a trustee in respect of a breach of trust, continue to apply.

(3) If a trustee is under a duty to take advice, the reasonable costs of obtaining the advice are payable out of trust funds.

8 Matters to which trustee shall have regard in exercising power of investment

(1) Without limiting the matters that a trustee may take into account when exercising a power of investment, a trustee shall, so far as they are appropriate to the circumstances of the trust, have regard to:

(a) the purposes of the trust and the needs and circumstances of the beneficiaries;

(b) the desirability of diversifying trust investments;

(c) the nature of and risk associated with existing trust investments and other trust property;

(d) the need to maintain the real value of the capital or income of the trust;

(e) the risk of capital or income loss or depreciation;

(f) the potential for capital appreciation;

(g) the likely income return and the timing of income return;

(h) the length of the term of the proposed investment;

(j) the probable duration of the trust;

(k) the liquidity and marketability of the proposed investment during, and on the determination of, the term of the proposed investment;

(m) the aggregate value of the trust estate;

(n) the effect of the proposed investment in relation to the tax liability of the trust;

(p) the likelihood of inflation affecting the value of the proposed investment or other trust property;

(q) the cost (including commissions, fees, charges and duties payable) of making the proposed investment; and

(r) the results of a review of existing trust investments.

(2) A trustee may:

(a) obtain and consider independent and impartial advice reasonably required for the investment of trust funds or the management of the investment from a person whom the trustee reasonably believes to be competent to give the advice; and

(b) pay out of trust funds the reasonable costs of obtaining the advice.

9 Powers of trustee in relation to securities

(1) If securities of a body corporate are subject to a trust, the trustee may concur in any scheme or arrangement:

(a) for or arising out of the reconstruction, reduction of capital or liquidation of, or the issue of shares by, the body corporate;

(b) for the sale of all or any part of the property and undertaking of the body corporate to another body corporate;

(c) for the acquisition of securities of the body corporate, or of control of the body corporate, by another body corporate;

(d) for the amalgamation of the body corporate with another body corporate; or

(e) for the release, modification or variation of rights, privileges or liabilities attached to the securities, or any of them,

in the same manner as if the trustee were beneficially entitled to the securities.

(2) The trustee may accept instead of, or in exchange for, the securities subject to the trust securities of any denomination or description of another body corporate party to the scheme or arrangement.

(3) If a conditional or preferential right to subscribe for securities in a body corporate is offered to a trustee in respect of a holding in that body corporate or another body corporate, the trustee may, as to all or any of the securities:

(a) exercise the right and apply capital money subject to the trust in payment of the consideration;

(b) assign to any person, including a beneficiary under the trust, the benefit of the right, or the title to the right, for the best consideration that can be reasonably obtained; or

(c) renounce the right.

(4) A trustee accepting or subscribing for securities under this section is, for the purposes of this Part, exercising a power of investment.

(5) A trustee may retain securities accepted or subscribed for under this section for any period for which the trustee could properly have retained the original securities.

(6) The consideration for an assignment made under subsection (3)(b) shall be held as capital of the trust.

(7) This section applies in relation to securities acquired before or after the commencement of the *Trustee Amendment Act (No. 2) 1995* but subject to the instrument creating the trust.

10 Power of trustee as to calls on shares

Subject to the instrument creating the trust:

(a) a trustee may apply capital money subject to a trust in payment of calls on shares subject to the same trust; and

(b) if the trustee is a trustee company, it may exercise the powers conferred by this section notwithstanding the shares on which the calls are made being shares in the trustee company.

10A Power to purchase dwelling house as residence for beneficiary

(1) Subject to the instrument creating the trust, a trustee may:

(a) purchase a dwelling house for a beneficiary to use as a residence; or

(b) enter into any other agreement or arrangement to secure for a beneficiary a right to use a dwelling house as a residence.

(2) Notwithstanding the terms of the instrument creating the trust, a trustee may, if to do so would not unfairly prejudice the interests of other beneficiaries, retain as part of the trust property a dwelling house for a beneficiary to use as a residence.

(3) A dwelling house purchased, retained or otherwise secured for use by the beneficiary as a residence may be made available to the beneficiary for that purpose on such terms and conditions consistent with the trust and the extent of the beneficiary's interest as the trustee thinks fit.

(4) The trustee may retain a dwelling house or any interest or rights in respect of a dwelling house acquired under this section after the use of the dwelling house by the beneficiary has ceased.

(5) In this section, ***dwelling house*** includes:

(a) any building or part of a building designed, or converted or capable of being converted, for use as a residence; and

(b) any amenities or facilities for use in association with the use of a dwelling house.

10B Power of trustee to retain investments

A trustee is not liable for breach of trust by reason only of continuing to hold an investment that has ceased to be:

(a) an investment authorised by the instrument creating the trust;

(b) an investment properly made by the trustee exercising a power of investment;

(c) an investment made under this Part as previously in force from time to time; or

(d) an investment authorised by any other Act or the general law.

10C Loans and investments by trustees not breaches of trust in certain circumstances

(1) If a trustee lends money on the security of property, the trustee is not in breach of trust by reason only of the amount of the loan in comparison to the value of the property at the time when the loan was made:

(a) if it appears to the Court:

(i) that, in making the loan, the trustee was acting on a report as to the value of the property made by a person whom the trustee reasonably believed to be competent to give such a report and whom the trustee instructed and employed independently of any owner of the property;

(ii) that the amount of the loan did not exceed two-thirds of the value of the property as stated in the report; and

(iii) that the loan was made in reliance on the report; or

(b) if the trustee is insured, by a body prescribed by the Minister by notice in the *Gazette* that it is carrying on the business of insurance against all loss that may arise by reason of the default of the borrower.

(2) If a trustee lends money on the security of leasehold property, the trustee is not in breach of trust by reason only that the trustee dispensed, either in whole or in part, with the production or investigation of the lessee's title when making the loan.

(3) This section applies to transfers of existing securities as well as to new securities and to investments made before or after the commencement of the *Trustee Amendment Act (No. 2) 1995*.

10D Limitation of liability of trustee for loss on improper investments

(1) If a trustee improperly lends trust money on a security that would have been a proper investment if the sum lent had been smaller than the actual sum lent, the security is to be taken to be a proper investment in respect of the smaller sum, and the trustee is only liable to make good the difference between the sum advanced and the smaller sum, with interest.

(2) This section applies to investments made before or after the commencement of the *Trustee Amendment Act (No. 2) 1995*.

10E Court may take into account investment strategy in action for breach of trust

If a trustee has been charged with a breach of trust in respect of a duty under this Part relating to the trustee's power of investment, a Court may, when considering the question of the trustee's liability, take into account:

(a) the nature and purpose of the trust;

(b) whether the trustee had regard to the matters set out in section 8 so far as is appropriate to the circumstances of the trust;

(c) the trust investments have been made pursuant to an investment strategy formulated in accordance with the duty of a trustee under this Part; and

(d) the extent the trustee acted on the independent and impartial advice of a person competent (or apparently competent) to give the advice.

10F Power of Court to set off gains and losses arising from investment

(1) A Court may, when considering an action for breach of trust arising out of or in respect of an investment by a trustee where a loss has been or is expected to be sustained by the trust, set off all or part of the loss resulting from that investment against all or part of the gain resulting from any other investment whether in breach of trust or not.

(2) The power of set off conferred by subsection (1) is in addition to any other power or entitlement to set off all or part of any loss against any property.

10G Transitional provision

Any Act or instrument of a legislative or administrative character (whether or not creating a trust) that empowers or requires a person to invest money in the investments authorised by this Act is to be read as if it empowered or required that person to invest that money according to the provisions of this Part as to the investment of trust funds.

Part II Various powers and duties of trustees

Appointment of new trustees

11 Power of appointing new trustees

(1) Where a trustee, either original or substituted, and whether appointed by a Court or otherwise, is dead or remains out of the Territory for more than 12 months, or desires to be discharged from all or any of the trusts or powers reposed in or conferred on him, or refuses or is unfit to act therein, or is incapable of acting therein, then the person or persons nominated for the purpose of appointing new trustees by the instrument (if any) creating the trust, or if there is no such person, or no such person able and willing to act, then the surviving or continuing trustees or trustee for the time being, or the representatives of the last surviving or continuing trustee, may, by writing, appoint another person or other persons to be a trustee or trustees in the place of the trustee dead, remaining out of the Territory, desiring to be discharged, refusing or being unfit or being incapable, as aforesaid.

(2) On the appointment of a new trustee:

(a) the number of trustees may be increased; and

(b) a separate set of trustees may be appointed for any part of the trust property held on trusts distinct from those relating to any other part or parts of the trust property, or, if only one trustee was originally appointed, then one separate trustee may be so appointed for the first-mentioned part; and

(c) it shall not be obligatory to appoint more than one new trustee where only one trustee was originally appointed or to fill up the original number of trustees where more than 2 trustees were originally appointed; but, except where only one trustee was originally appointed, a trustee shall not be discharged under this section from his trust unless there will be at least 2 trustees to perform the trust; and

(d) any assurance or thing requisite for vesting the trust property, or any part thereof, jointly in the persons who are the trustees, or solely in the new trustee, as the case may require, shall be executed or done.

(3) Every new trustee so appointed, as well before as after all the trust property becomes by law or by assurance or otherwise vested in him, shall have the same powers, authorities, and discretions, and be entitled to the same remuneration (if any), and, if of a continuing nature, and may in all respects act as if he had been originally

appointed a trustee by the instrument (if any) creating the trust.

(4) The provisions of this section relative to a trustee who is dead include the case of a person nominated trustee in a will, but dying before the testator, and those relative to a continuing trustee include a refusing or retiring trustee, if willing to act in the execution of the provisions of this section.

(5) This section applies only if and as far as a contrary intention is not expressed in the instrument (if any) creating the trust, and shall have effect subject to the terms of that instrument and to any provisions therein contained.

(6) This section applies to trusts created either before or after the commencement of this Act.

(7) Nothing in this section shall give power to appoint an executor or administrator.

12 Retirement of trustees

(1) Where there are more than 2 trustees, if one of them by deed declares that he is desirous of being discharged from the trust, and if his co-trustees and such other person (if any) as is empowered to appoint trustees, by deed consent to the discharge of the trustee, and to the vesting in the co-trustees alone of the trust property, then the trustee desirous of being discharged shall be deemed to have retired from the trust, and shall, by the deed, be discharged therefrom under this Act, without any new trustee being appointed in his place.

(2) Any assurance or thing requisite for vesting the trust property in the continuing trustees alone shall be executed or done.

(3) This section applies only if and as far as a contrary intention is not expressed in the instrument (if any) creating the trust, and shall have effect subject to the terms of that instrument and to any provisions therein contained.

(4) This section applies to trusts created either before or after the commencement of this Act.

13 Vesting of trust property in new or continuing trustees

(1) Where a deed by which a new trustee is appointed to perform any trust contains a declaration by the appointor to the effect that any estate or interest in any land, subject to the trust, or in any chattel so subject, or the right to recover and receive any debt or other thing in action so subject, shall vest in the person or persons who, by virtue of the deed, become and are the trustee or trustees for

performing the trust, that declaration shall, without any conveyance or assignment, operate to vest in that person or those persons, as joint tenants if more than one, and for the purposes of the trust, that estate, interest, or right.

(2) Where a deed under section 12, by which a retiring trustee is discharged under this Act, contains such a declaration as is in this section mentioned by the retiring and continuing trustees and by the other person (if any) empowered to appoint trustees, that declaration shall, without any conveyance or assignment, operate to vest in the continuing trustees alone, as joint tenants and for the purposes of the trust, the estate, interest, or right to which the declaration relates.

(3) This section does not extend to land under the provisions of the *Land Title Act*, or to land conveyed by way of mortgage for securing money subject to the trust, or to any such share stock, annuity, or property as is only transferable in books kept by a company or other body, or in manner directed by or under Act of Parliament.

(4) For purposes of registration of the deed in the General Registry Office the person or persons making the declaration shall be deemed the conveying party or parties, and the deed shall be deemed a conveyance made by him or them under a power conferred by this Act.

(5) This section applies only to deeds executed after the commencement of this Act.

Purchase and sale

14 Power of trustees for sale to sell by auction, &c.

(1) Where a trust for sale or a power of sale of property is vested in trustees, they may sell or concur with any other person in selling all or any part of the property, either subject to prior charges or not, and either together or in lots, by public auction or by private contract, at one time or at several times, subject to any such condition respecting title or evidence of title or other matter as the trustees think fit, with power to vary any contract for sale, and to buy in at any auction, or to rescind any contract for sale and to re-sell, without being answerable for any loss.

Trustees exercising power of sale, empowered to convey

(2) For the purpose of completing any such sale as aforesaid, the trustees shall have full power to convey or otherwise dispose of the property in question, either by way of revocation and appointment of uses, or otherwise, as may be necessary.

(3) This section applies only if and as far as a contrary intention is not expressed in the instrument creating the trust or power, and shall have effect subject to the terms of that instrument and to the provisions therein contained.

(4) This section applies only to trusts and powers created by an instrument coming into operation after 21 October, 1862.

15 Power to sell subject to depreciating conditions

(1) No sale made by a trustee shall be impeached by any beneficiary upon the ground that any of the conditions subject to which the sale was made may have been unnecessarily depreciatory, unless it also appears that the consideration for the sale was thereby rendered inadequate.

(2) No sale made by a trustee shall, after the execution of the conveyance, be impeached as against the purchaser upon the ground that any of the conditions subject to which the sale was made may have been unnecessarily depreciatory, unless it appears that the purchaser was acting in collusion with the trustee at the time when the contract for sale was made.

(3) No purchaser, upon any sale made by a trustee, shall be at liberty to make any objection against the title upon the ground aforesaid.

(4) This section applies only to sales made after the commencement of this Act.

Various powers and liabilities

17 Power to authorize receipt of money by banker or legal practitioner

(1) A trustee may appoint a legal practitioner to be his agent to receive and give a discharge for any money or valuable consideration or property receivable by the trustee under the trust, by permitting the legal practitioner to have the custody of, and to produce, a deed having in the body thereof or endorsed thereon a receipt for such money, consideration, or property, the deed being executed or the endorsed receipt signed by the trustee.

(2) A trustee shall not be chargeable with breach of trust by reason only of his having made or concurred in making any such appointment. The producing of any such deed by the legal practitioner shall be sufficient authority to the person liable to pay or give the consideration, or transfer or deliver the property, for his paying, giving, transferring, or delivering the same to the legal practitioner, without the legal practitioner producing any separate or other direction or authority from the trustee.

(3) A trustee may appoint a bank or a legal practitioner to be his agent to receive and give a discharge for any money payable to the trustee under or by virtue of a policy of assurance, by permitting the bank or legal practitioner to have the custody of and to produce the policy of assurance with a receipt signed by the trustee, and a trustee shall not be chargeable with a breach of trust by reason only of his having made or concurred in making any such appointment.

(4) Nothing in this section shall exempt a trustee from any liability which he would have incurred if this Act had not been passed, in case he permits any such money, valuable consideration, or property to remain in the hands or under the control of the bank or legal practitioner for a period longer than is reasonably necessary to enable the bank or legal practitioner (as the case may be) to pay or transfer the same to the trustee.

(5) This section applies only where the money or valuable consideration or property is received after the commencement of this Act.

(6) Nothing in this section shall authorize a trustee to do anything which he is in express terms forbidden to do, or to omit anything which he is in express terms directed to do, by the instrument creating the trust.

18 Power to insure building

Court may authorize expenditure or improvements, &c.

(2) The Supreme Court may, on the application ex parte or otherwise, of a trustee, or of a beneficiary interest in trust property, authorize the expenditure by the trustee, out of the capital or income of the trust property or of the estate of a deceased person, of such sum as the Court may think fit in repairing, reinstating, or improving the trust property or estate, and may by the same or any subsequent order authorize the trustee to raise moneys required for the purpose of such expenditure by mortgage of the trust property or estate concerned, or of any other property or estate subject to the same trusts.

(3) This section does not apply to any building or property which a trustee is bound forthwith to convey absolutely to any beneficiary upon being requested to do so.

(4) This section applies to trusts created either before or after the commencement of this Act; but nothing in this section shall authorize any trustee to do anything which he is in express terms forbidden to do, or to omit to do anything which he is in express terms directed to do, by the instrument creating the trust.

18A Power to insure building or other property

(1) A trustee may insure a building or other insurable property against loss or damage, by fire or otherwise, and against any risk or liability that it would be prudent for a person to insure against if acting for himself or herself.

(2) The amount that a property is insured for must not exceed the full value of the property but that value is not limited to the sale value and may include the replacement cost at the material time as well as indemnity against loss of rent and other collateral risks.

(3) A trustee may pay the premiums for the insurance out of any income from the property insured or out of the income of any other property subject to the same trusts, without obtaining the consent of any person, despite that there may be a person entitled wholly or partly to that income.

19 Power of trustees of renewable leaseholds to renew and raise money for the purpose

(1) A trustee of any leaseholds for lives or years which are renewable from time to time, either under any covenant or contract, or by custom or usual practice, may, if he thinks fit, and shall, if thereto required by any person having any beneficial interest, present or future or contingent, in the leaseholds, use his best endeavors to obtain from time to time a renewed lease of the same hereditaments on the accustomed and reasonable terms, and for that purpose may from time to time make or concur in making a surrender of the lease for the time being subsisting, and do all such other acts as are requisite:

Provided that, where by the terms of the settlement or will, the person in possession for his life or other limited interest is entitled to enjoy the same without any obligation to renew or to contribute to the expense of renewal, this section shall not apply, unless the consent in writing of that person is obtained to the renewal on the part of the trustee.

(2) If money is required to pay for the renewal, the trustee effecting the renewal may pay the same out of any money then in his hands in trust for the persons beneficially interested in the lands to be comprised in the renewed lease, and if he has not in his hands sufficient money for the purpose, he may raise the money required by mortgage of the hereditaments to be comprised in the renewed lease, or of any other hereditaments for the time being subject to the uses or trusts to which those hereditaments are subject; and no person advancing money upon a mortgage purporting to be under this power shall be bound to see that the money is wanted, or that

no more is raised than is wanted for the purpose.

(3) This section applies to trusts created either before or after the commencement of this Act; but nothing in this section shall authorize any trustee to do anything which he is in express terms forbidden to do, or to omit to do anything which he is in express terms directed to do, by the instrument creating the trust.

20 Power of trustee to give receipts

(1) The receipt in writing of any trustee for any money, securities, or other personal property or effects payable, transferable, or deliverable to him under any trust or power shall be a sufficient discharge for the same, and shall effectually exonerate the person paying, transferring, or delivering the same from seeing to the application or being answerable for any loss or misapplication thereof.

(2) This section applies to trusts created either before or after the commencement of this Act.

21 Power for executors and trustees to compound, &c.

(2) Two or more trustees acting together, or a sole acting trustee, where, by the instrument (if any) creating the trust, a sole trustee is authorized to execute the trusts and powers thereof, may, if and as he or they may think fit, accept any composition or any security, real or personal, for any debt or for any property, real or personal, claimed, and may allow any time for payment of any debt, and may compromise, compound, abandon, submit to arbitration, or otherwise settle any debt, account, claim, or thing whatever relating to the trust, and for any of those purposes may enter into, give, execute, and do such agreements, instruments of composition or arrangement, releases, and other things, as to him or them seem expedient, without being responsible for any loss occasioned by any act or thing so done by him or them in good faith.

(3) This section applies only if and as far as a contrary intention is not expressed in the instrument (if any) creating the trust, and shall have effect subject to the terms of that instrument and to the provisions therein contained.

(4) This section applies to trusts constituted or created either before or after the commencement of this Act.

21A Power to apply to Supreme Court for declaration as to validity, &c.

(1) An executor or trustee of property, or a person interested under, or in the invalidity of, a disposition of property, whether made before or

after the commencement of this section, may at any time apply to the Supreme Court for a declaration as to the validity, in respect of the rule against perpetuities, of the disposition.

(2) The Supreme Court may, on an application under subsection (1), make a declaration, having regard to facts existing and events that have occurred at the time the declaration is made, as to the validity or otherwise of the disposition in respect of which the application is made.

(3) The Supreme Court shall not make a declaration under subsection (2) in respect of a disposition the validity of which cannot be determined at the time the Court is asked to make the declaration.

(4) If the Supreme Court refuses to make a declaration under subsection (2) relating to a disposition, it may give such directions as it thinks fit on:

(a) the construction of the instrument by which the disposition is made;

(b) the determination of a person who is a measuring life for the purposes of the disposition;

(c) whether a person who is a measuring life is to be presumed dead;

(d) whether, before the determination of the perpetuity period applicable to the disposition, an interest is to be treated as incapable of vesting during the period; and/or

(e) any other matter on which an application could properly be made to the Court apart from under this Act.

22 Distribution of estate after notice by trustee

(1) Where a trustee has given notices such as would have been given by the Court in an administration suit for creditors, beneficiaries, and others to send in to the trustee their claims against the trust property, the trustee may, at the expiration of the time named in the notices, distribute the trust property or any part thereof amongst the persons entitled thereto, having regard only to the claims of which he then has notice, and shall not be liable for the property or any part thereof so distributed to any person of whose claim he had no notice at the time of the distribution.

(2) Where a trustee has received a claim or notice of claim against a trust property, and he disputes the same, such trustee may give to the person making such claim, or giving such notice, a notice in

writing that such claim is disputed, and requiring such claimant either to withdraw such claim or to institute proceedings to enforce such claim within 6 months of the service of such last-mentioned notice; and if such claim is not so withdrawn or prosecuted, the trustee may apply by summons in Chambers to any Judge of the Supreme Court, on affidavit setting out the facts for an order that, as against such trustee, such claim shall be absolutely barred, and any such Judge may make such order as he shall deem just, and the same shall bind all persons whom it purports to affect.

(3) Nothing in this section shall prejudice the right of any person to follow the property or any part thereof into the hands of any person who has received the same.

(4) A trustee desirous of giving notices under this section may, on application, ex parte or otherwise, obtain the direction of the Supreme Court, or of an Associate Judge thereof, as to what notices are proper to be given, and as to the mode of service.

23 Powers of 2 or more trustees

(1) Where a power or trust is given to or vested in 2 or more trustees jointly, then, unless the contrary is expressed in the instrument (if any) creating the power or trust, the same may be exercised or performed by the survivor or survivors of them for the time being.

(2) This section applies only to trusts constituted after or created by instruments coming into operation after the commencement of this Act.

24 Powers of maintenance in case of infants

(1) Where any property is held by trustees in trust for an infant, either for life or for any greater interest, and whether absolutely or contingently on his attaining the age of 21 years, or on the occurrence of any event before his attaining that age, the trustees may, at their sole discretion, pay to the infant's parent or guardian (if any) or otherwise apply for or towards the infant's maintenance, education, or benefit, the income of that property, or any part thereof, whether there is or is not any other fund applicable to the same purpose, or any person bound by law to provide for the infant's maintenance.

(2) The trustees shall accumulate all the residue of that income in the way of compound interest by investing the same, and the resulting income thereof, from time to time on securities in which they are by the instrument of trust (if any), or by law, authorized to invest trust money, and shall hold those accumulations for the benefit of the person who ultimately becomes entitled to the property from which

the same arose, but so that the trustees may at any time, if they think fit, apply those accumulations, or any part thereof, as if the same were income arising in the then current year.

(3) This section applies only if and as far as a contrary intention is not expressed in the instrument under which the interest of the infant arises, and shall have effect subject to the terms of that instrument and to the provisions therein contained.

(4) This section applies whether the instrument of trust comes into operation before or after the commencement of this Act.

24A Power to apply capital towards advancement and benefit

(1) Where, under a trust, a person is entitled to the capital of the trust property or any share thereof, the trustee may, from time to time out of that capital, pay or apply for the maintenance, education, advancement or benefit of that person in such manner as the trustee shall in his absolute discretion think fit an amount not exceeding in all $2,000 or half the capital, whichever is the greater, or, with the consent of the Court, an amount greater than that amount.

(2) This section applies only where, and in so far as, a contrary intent is not expressed in the instrument, if any, under which the interest of the person entitled to the capital or any share of the trust property arises, and shall have effect subject to the terms of that instrument.

(3) This section applies only where the trust property consists of money or securities or property held upon trust for sale, calling in and conversion, and the money or securities or the proceeds of the sale, calling in and conversion are not by statute or in equity considered as land.

(4) The power conferred by this section may be exercised whether a person is entitled absolutely or contingently on his attaining any specified age or on the happening of any event, or whether his interest is subject to a gift over on his death under any specified age or on the happening of any other event, and notwithstanding that the interest of the person so entitled is liable to be defeated by the exercise of a power of appointment or revocation, or to be diminished by the increase of the class to which he belongs or whether the person is entitled in possession or in remainder or reversion.

(5) If a person is or becomes absolutely and indefeasibly entitled to a share in the trust property, money paid or applied under subsection (1) shall be brought into account as part of that share.

(6) No action shall be taken under subsection (1) so as to prejudice a person entitled to any prior life or other interest, whether vested or contingent, in the money paid or applied, unless such person is in existence, is under no disability and consents in writing to the action.

25 Exoneration of trustees in respect of certain powers of attorney

A trustee acting or paying money in good faith, under or in pursuance of any power of attorney, shall not be liable for any such act or payment by reason of the fact that at the time of the payment or act the person who gave the power of attorney was dead or had done some act to avoid the power, if this fact was not known to the trustee at the time of his so acting or paying: Provided that nothing in this section shall affect the right of any person entitled to the money against the person to whom the payment is made, and that the person so entitled shall have the same remedy against the person to whom the payment is made as he would have had against the trustee.

26 Implied indemnity of trustees

A trustee shall, without prejudice to the provisions of the instrument (if any) creating the trust, be chargeable only for money, stocks, funds, and securities actually received by him, notwithstanding his signing any receipt for the sake of conformity, and shall be answerable and accountable only for his own acts, receipts, neglects, or defaults, and not for those of any other trustee, nor for any banker, broker, or other person with whom any trust moneys or securities may be deposited, nor for the insufficiency or deficiency of any stocks, funds or securities nor for any other loss, unless the same happens through his own wilful default, and may reimburse himself; or pay or discharge out of the trust premises, all expenses incurred in or about the execution of his trusts or powers.

Part III Powers of the Court

Appointment of new trustees and vesting orders

27 Power of the Court to appoint new trustees

(1) The Supreme Court may, whenever it is expedient to appoint a new trustee or new trustees, and it is found inexpedient, difficult, or impracticable so to do without the assistance of the Court, make an order for the appointment of a new trustee or new trustees, either in substitution for or in addition to any existing trustee or trustees, or although there is no trustee. In particular, and without prejudice to

the generality of the foregoing provision, the Court may make an order for the appointment of a new trustee in substitution for a trustee who is found guilty of an indictable offence, or has been adjudicated insolvent or made an assignment or composition or arrangement with his creditors under any Act in force in that behalf, and may remove such last-mentioned trustee.

(2) An order under this section, and any consequential vesting order or conveyance shall not operate further or otherwise as a discharge to any former or continuing trustee than an appointment of new trustees under any power for that purpose contained in any instrument would have operated.

(3) Nothing in this section shall give power to appoint an executor or administrator.

28 Vesting order as to land

In any of the following cases, namely:

I Where the Supreme Court appoints or has appointed a new trustee;

II Where a trustee entitled to or possessed of any land, or entitled to a contingent right therein, either solely or jointly with any other person:

(a) is a lunatic or person of unsound mind; or

(b) is an infant; or

(c) is out of the jurisdiction of the Supreme Court; or

(d) cannot be found;

III Where it is uncertain who was the survivor of 2 or more trustees jointly entitled to or possessed of any land or entitled to a contingent right therein;

IV Where as to the last trustee known to have been entitled to or possessed of any land, or entitled to a contingent right therein, it is uncertain whether he is living or dead;

V Where there is no heir or representative to a trustee who was entitled to or possessed of land or entitled to a contingent right therein and has died intestate as to that land, or where it is uncertain who is the heir or representative or devisee of a trustee who was entitled to or possessed of land or entitled to a contingent right therein and is dead; and

VI Where a trustee jointly or solely entitled to or possessed of any land, or entitled to a contingent right therein, has been required, by or on behalf of a person entitled to require a conveyance of the land or a release of the right, to convey the land or to release the right, and has wilfully refused or neglected to convey the land or release the right for 28 days after the date of the requirement,

the Supreme Court may make an order (in this Act called a vesting order) vesting the land in any such person in any such manner and for any such estate as the Court may direct, or releasing or disposing of the contingent right to such person, as the Court may direct: Provided that:

(a) where the order is consequential on the appointment of a new trustee the land shall be vested for such estate as the Court may direct in the persons who on the appointment are the trustees; and

(b) where the order relates to a trustee entitled jointly with another person, and such trustee is out of the jurisdiction of the Supreme Court or cannot be found, the land or right shall be vested in such other person, either alone or with some other person.

29 Contingent rights of unborn trustees

Where any land is subject to a contingent right in an unborn person or class of unborn persons who, on coming into existence, would, in respect thereof, become entitled to or possessed of the land on any trust, the Supreme Court may make an order releasing the land from the contingent right, or may make an order vesting in any person the estate to or of which the unborn person or class of unborn persons would, on coming into existence, be entitled or possessed in the land.

30 Vesting order in place of conveyance by infant mortgagee

Where any person entitled to or possessed of land or entitled to a contingent right in land, either solely or jointly with any other person, by way of security for money, is a lunatic, or a person of unsound mind, or an infant, the Supreme Court may make an order vesting or releasing or disposing of the land or right in like manner as in the case of a trustee who is a lunatic, a person of unsound mind, or an infant.

31 Vesting order in place of conveyance by heir or devisee of mortgagee

Where a mortgagee of land has died without having entered into the possession or into the receipt of the rents and profits thereof, and the money due in respect of the mortgage has been paid to a person entitled to receive the same, or that last-mentioned person consents to an order for the re-conveyance of the land, then the Supreme Court may make an order vesting the land in such person or persons in such manner and for such estate as the Court may direct in any of the following cases, namely:

(a) where an heir or representative or devisee of the mortgagee is out of the jurisdiction of the Supreme Court, or cannot be found;

(b) where an heir or representative or devisee of the mortgagee, on demand made by or on behalf of a person entitled to require a conveyance of the land, has stated in writing that he will not convey the same, or does not convey the same for 28 days next after a proper instrument conveying the land has been tendered to him by or on behalf of the person so entitled;

(c) where it is uncertain which of several devisees of the mortgagee was the survivor;

(d) where it is uncertain as to the survivor of several devisees of the mortgagee, or as to the heir or representative of the mortgagee, whether he is living or dead; and

(e) where there is no heir or representative to a mortgagee who has died intestate as to the land, or where the mortgagee has died and it is uncertain who is his heir or representative or devisee.

32 Vesting order consequential on judgment for sale or mortgage of land

Where any Court gives a judgment, or makes an order directing the sale or mortgage of land, every person, whether under disability or not, who is entitled to or possessed of the land, or entitled to a contingent right therein, and is a party to the action or proceeding, or otherwise bound by the judgment or order, shall be deemed to be so entitled or possessed, as the case may be, as a trustee within the meaning of this Act; and the Supreme Court may, if it thinks expedient, make an order vesting the land, or any part thereof, for such estate as that Court thinks fit in the purchaser or mortgagee, or in any other person.

33 In what cases the heir, representative, or devisee of a person, who has contracted to sell land, shall be deemed a trustee within this Act

Where a person having contracted in writing to sell land dies without having conveyed the land in pursuance of his contract, and the consideration for the sale has been paid or satisfied in his lifetime, or after his decease, or the person entitled to receive the consideration money or such part thereof as may remain unsatisfied, is willing to receive the same, and there is no dispute or question as to the making of the contract, or as to the right of the purchaser of the land so agreed to be sold to demand specific performance of such contract, and the Court shall be satisfied that the only impediment to the performance thereof arises from the fact that the legal estate in the land has become vested in an heir, representative, or devisee of the deceased vendor, who is an infant, or lunatic, or of unsound mind, the Supreme Court may make an order declaring the heir, representative, or devisee, as the case may be, of the deceased vendor to be a trustee of the land contracted to be sold, and such heir, representative, or devisee shall thereupon be deemed to be a trustee thereof within the meaning of this Act, and at the same time or subsequently the said Court may order that the land shall vest in such person in such manner and for such estate as the said Court may direct, and may give directions as to the payment and satisfaction of any unpaid or unsatisfied purchase-money.

34 Vesting order consequential on judgment for specific performance, &c.

Where a judgment is given for the specific performance of a contract concerning any land, or for the partition or sale in lieu of partition, or exchange of any land, or generally where any judgment is given for the conveyance of any land, either in cases arising out of the doctrine of election or otherwise, the Supreme Court may declare that any of the parties to the action are trustees of the land, or any part thereof, within the meaning of this Act, or may declare that the interests of unborn persons who might claim under any party to the action, or under the will or voluntary settlement of any person deceased who was during his lifetime a party to the contract or transactions concerning which the judgment is given, are the interests of persons who, on coming into existence, would be trustees within the meaning of this Act; and thereupon the Supreme Court may make a vesting order relating to the rights of those persons, born and unborn, as if they had been trustees.

35 Effects of vesting order

A vesting order under any of the foregoing provisions shall, in the case of a vesting order consequential on the appointment of a new trustee, have the same effect as if the persons who before the appointment were the trustees (if any) had duly executed all proper conveyances of the land for such estate as the Court directs, or if there is no such person, or no such person of full capacity, then as if such person had existed and been of full capacity and had duly executed all proper conveyances of the land for such estate as the Court directs, and shall in every other case have the same effect as if the trustee, or other person, or description, or class of persons to whose rights or supposed rights the said provisions respectively relate, had been an ascertained and existing person of full capacity, and had executed a conveyance or release to the effect intended by the order.

36 Power to appoint person to convey

In all cases where a vesting order can be made under any of the foregoing provisions the Supreme Court may, if it is more convenient, appoint a person to convey the land or release the contingent right, and a conveyance or release by that person in conformity with the order shall have the same effect as an order under the appropriate provision.

37 Vesting orders as to stock and choses in action

(1) In any of the following cases, namely:

I Where the Supreme Court appoints or has appointed a new trustee; and

II Where a trustee entitled alone or jointly with another person to stock or to a chose in action:

(a) is a lunatic, a person of unsound mind, or an infant; or

(b) is out of the jurisdiction of the Supreme Court; or

(c) cannot be found; or

(d) neglects or refuses to transfer stock or receive the dividends or income thereof, or to sue for or recover a chose in action, according to the direction of the person absolutely entitled thereto, for 28 days next after a request in writing has been made to him by the person so entitled; or

(e) neglects or refuses to transfer stock, or receive the dividends or income thereof, or to sue for or recover a chose in action for 28 days next after an order of the Supreme Court for that purpose has been served on him; or

III Where it is uncertain whether a trustee entitled, alone or jointly with another person, to stock or to a chose in action is alive or dead,

the Supreme Court may make an order vesting the right to transfer or call for a transfer of stock or to receive the dividends or income thereof, or to sue for or recover a chose in action in any such person as the Court may appoint: Provided that:

(a) where the order is consequential on the appointment by the Court of a new trustee, the right shall be vested in the persons who, on the appointment, are the trustees; and

(b) where the person whose right is dealt with by the order was entitled jointly with another person, the right shall be vested in that last-mentioned person, either alone or jointly with any other person whom the Court may appoint.

(2) In all cases where a vesting order can be made under this section the Court may, if it is more convenient, appoint some proper person to make or join in making the transfer.

(3) The person in whom the right to transfer or call for the transfer of any stock is vested by an order of the Court under this Act may transfer the stock to himself or any person, according to the order; and all companies shall obey every order under this section according to its tenor.

(4) After notice in writing of an order under this section, it shall not be lawful for any company to transfer any stock to which the order relates, or to pay any dividends thereon, except in accordance with the order.

(5) The Supreme Court may make declarations and give directions concerning the manner in which the right to any stock or chose in action vested under the provisions of this Act is to be exercised.

(6) The provisions of this Act as to vesting orders shall apply to shares in ships registered under the Acts relating to merchant shipping as if they were stock.

38 Vesting order as to stock in cases of lunatic or infant mortgagee

Where a person entitled alone or jointly with another person to stock or a chose in action by way of security for money is a lunatic, or a person of unsound mind, or an infant, the Supreme Court may make an order vesting the right to transfer, or call for a transfer of the stock, or receive the dividends or income thereof, or to sue for or recover the chose in action in like manner as in the case of a trustee who is a lunatic, a person of unsound mind, or an infant.

39 Persons entitled to apply for vesting orders

(1) An order under this Act for the appointment of a new trustee, or concerning any land, stock, or chose in action subject to a trust, may be made on the application of any person beneficially interested in the land, stock, or chose in action, whether under disability or not, or on the application of any person duly appointed trustee thereof.

(2) An order under this Act concerning any land, stock, or chose in action subject to a mortgage may be made on the application of any person, whether under disability or not, who is beneficially interested, in equity or otherwise, in the land, stock, or chose in action, or of any person interested in the money secured by the mortgage.

40 Powers of new trustees appointed by Court

Every trustee appointed by a Court of competent jurisdiction shall, as well before as after the trust property becomes by law, or by assurance or otherwise, vested in him, have the same powers, authorities, and discretions, and may in all respects act, as if he had been originally appointed a trustee by the instrument (if any) creating the trust.

41 Power to charge costs on trust estate

The Supreme Court may order the costs of and incident to any application for an order appointing a new trustee, or for a vesting order, or for an order releasing or disposing of a contingent right, or of and incident to any such order, or any conveyance or transfer in pursuance thereof, to be paid or raised out of the land or personal estate in respect whereof the same is made, or out of the income thereof, or to be borne and paid in such manner and by such persons as to the Court may seem just.

42 Trustees of charities

The powers conferred by this Act as to vesting orders may be exercised for vesting any land, stock, or chose in action in any trustee of a charity or society over which the Supreme Court would have jurisdiction upon action duly instituted, whether the appointment of the trustee was made by instrument under a power or by the Supreme Court under its general or statutory jurisdiction.

43 Orders made upon certain allegations to be conclusive evidence

Where a vesting order has been made as to any land under this Act, or under any Act relating to lunacy, founded on an allegation of the infancy or personal incapacity of a trustee, representative or mortgagee, or on an allegation that a trustee or the heir or representative or devisee of a mortgagee is out of the jurisdiction of the Supreme Court, or cannot be found, or that it is uncertain which of several trustees or which of several devisees of a mortgagee was the survivor, or whether the last trustee, or the heir or representative or last surviving devisee of a mortgagee, is living or dead, or on an allegation that any trustee or mortgagee has died intestate without an heir, or has died and it is not known who is his heir or representative or devisee, the fact that the order has been so made shall be conclusive evidence of the fact alleged in any Court upon any question as to the validity of the order; but this section shall not prevent the Supreme Court from directing a reconveyance, or a redisposition of any contingent right, or the payment of costs occasioned by any such order if improperly obtained.

Payment into Court by trustees and mortgagees

44 Payment into court by trustees and mortgagees

(1) Trustees or mortgagees, or the majority of trustees or mortgagees, having in their hands or under their control money or securities belonging to a trust, or in respect whereof a trust has arisen by implication or construction of law, may, on filing an affidavit shortly describing the instrument under or in consequence of which the trust arises, according to the best of their knowledge and belief, or if there be no such instrument, then shortly setting out the facts of the case, pay the money or securities into the Supreme Court; and the same shall, subject to rules of Court, be dealt with according to the orders of the Supreme Court, which may also order the administration of the trusts in respect of such money or securities.

(2) The receipt or certificate of the proper officer shall be a sufficient discharge to trustees for the money or securities so paid into Court.

(3) Where any moneys or securities are vested in any persons as trustees or mortgagees, and the majority are desirous of paying the same into Court, but the concurrence of the other or others cannot be obtained, the Supreme Court may order the payment into Court to be made by the majority without the concurrence of the other or others; and where any such moneys or securities are deposited with any banker, broker, or other depositary, the Court may order payment or delivery of the moneys or securities to the majority of the trustees for the purpose of payment into Court, and every transfer, payment, and delivery made in pursuance of any such order shall be valid and take effect as if the same had been made on the authority or by the act of all the persons entitled to the moneys and securities so transferred, paid, or delivered.

Miscellaneous

47 Power to give judgment in absence of a trustee

Where in any action the Supreme Court is satisfied that diligent search has been made for any person who, in the character of trustee, is made a defendant in any action, to serve him with a process of the Court, and that he cannot be found, the Court may hear and determine the action, and give judgment therein against that person in his character of a trustee, as if he had been duly served, or had entered an appearance in the action, and had also appeared by his counsel and solicitor at the hearing, but without prejudice to any interest he may have in the matters in question in the action in any other character.

48 Trustee to have power to sell or convey in certain cases

(1) Where a trustee has, by the instrument creating the trust, power, subject to the direction, request, or authority of any person, to sell, convey, assure, mortgage, or otherwise deal with property, and such person is dead, of unsound mind, a lunatic, under disability, or absent from the Territory, the Supreme Court may authorize the trustee to sell, convey, assure, mortgage, or otherwise deal with the property as if such direction, request, or authority had been given, but the power conferred by this section shall not be exercised so as to injuriously affect any beneficial interest of such person.

(2) This section applies to trusts created either before or after the commencement of this Act.

(3) This section shall authorize the Supreme Court to confirm any sale, conveyance, assurance, mortgage, or other dealing heretofore made or executed by such trustee in any case in which the Court, under this Act, would have authorized the same had it not been made or executed.

49 Power to sanction sale of land or minerals separately

(1) Where a trustee is for the time being authorized to dispose of land by way of sale, exchange, or partition, the Supreme Court may sanction his so disposing of the land with an exception or reservation of any minerals, and with or without rights and powers of or incidental to the working, getting, or carrying away of the minerals, or may sanction his so disposing of the minerals, with or without the said rights or powers, separately from the residue of the land.

(2) Any such trustee, with the said sanction previously obtained, may, unless forbidden by the instrument creating the trust or direction, from time to time, without any further application to the Court, so dispose of any such land or minerals.

(3) Nothing in this section shall derogate from any other power of a trustee.

49A Relief from liability for breach of trust

If it appears to the Supreme Court:

(a) that a trustee is, or may be, personally liable for a breach of trust, whether the transaction alleged to be a breach of trust occurs before or after the commencement of this Act; and

(b) that the trustee has acted honestly and reasonably and ought fairly to be excused for the breach of trust, and for omitting to obtain the directions of the Court in the matter in which he has committed the breach,

the Court may relieve the trustee, either wholly or partly, from personal liability for the breach of trust.

50 Power to make beneficiary indemnify for breach of trust

(1) Where a trustee commits a breach of trust at the instigation or request or with the consent in writing of a beneficiary, the Supreme Court may, if it thinks fit, and notwithstanding that the beneficiary may be a married woman entitled for her separate use and restrained from anticipation, make such order as to the Court seems just for impounding all or any part of the interest of the beneficiary in the trust estate, by way of indemnity to the trustee or any person claiming through him.

(2) This section shall apply to breaches of trust committed as well before as after the commencement of this Act, but shall not apply so as to prejudice any question in an action or other proceeding which is pending at the commencement of this Act.

50AA Cy-pres modification in certain cases

(1) Subject to this section, where:

(a) the Supreme Court has, under section 21A, declared a disposition of property to be invalid; or

(b) it appears to the Court that a disposition, whether made before or after the commencement of this section, would be invalid solely on the ground that it conflicts with the rule against perpetuities,

and the general intentions originally governing the disposition can be ascertained, the Court shall reform the disposition so as to give effect as far as possible to those general intentions within the limits permitted under the rule against perpetuities as affected by this section.

(2) A disposition of property made before the commencement of this section shall not be reformed under subsection (1):

(a) where the disposition has been declared invalid before that commencement by an order or judgment made or given in legal proceedings;

(b) where any property comprised in the disposition has, before that commencement, been paid or transferred to, or applied for the benefit of, or set apart for, a person entitled by reason of the invalidity of the disposition; or

(c) so as to prejudice a person who has, before that commencement, reasonably altered his or her position in reliance on the invalidity of the disposition where, in the opinion of the Supreme Court, having regard to all possible implications in respect of other persons, it is inequitable to reform the disposition wholly or in part.

(3) In hearing an application to reform a disposition under this section, the Supreme Court:

(a) may admit extrinsic evidence of the general intentions originally governing the disposition and shall apply liberal rules of construction for the purpose of ascertaining them; and

(b) shall have no regard to the rights of a person other than:

(i) a person born or en ventre sa mere when the disposition was made; and

(ii) a person entitled on the death of a such person,

and in reforming the disposition the Court may specify the perpetuity period in accordance with section 187 of the *Law of Property Act*.

(4) An application for reformation under this section may be made by:

(a) a trustee of property comprised in the disposition;

(b) the settlor or the settlor's personal representative; or

(c) a person having an interest, whether vested or contingent, under the disposition or the personal representative of the person to whom the interest passes.

(5) Where a trustee of property comprised in a disposition becomes aware that the disposition requires to be reformed under subsection (1), the trustee has a duty to make an application under this section.

(6) A disposition that has been reformed under this section:

(a) is valid notwithstanding that it would have been invalid under a rule of law or construction if it had been effected in any other way; and

(b) shall be construed as if it had not been effected under this section.

50B Vesting orders arising from resulting trusts

(1) Where the Supreme Court has refused to reform a disposition under section 50A, it may, if satisfied that the person who made the disposition, or his or her personal representative, has become entitled under a resulting trust, make an order vesting the property comprised in the disposition absolutely in the person or, if the person has died, in his or her personal representative on the trusts of the estate of the deceased person.

(2) In the case of a disposition referred to in subsection (1), where a person other than a donor of property given to the trustee on trust, has sold other property to the trustee, or has assisted the trustee, by loan, guarantee or otherwise, to acquire other property:

(a) the power of the Supreme Court to make a vesting order under that subsection is restricted to so much of the property comprised in the disposition as was given by the donor or fairly attributable to the donor's gift; and

(b) the Court may make such order as it thinks fit regarding the remainder of property comprised in the disposition.

(3) An application for a vesting order under this section in respect of property comprised in a disposition may be made by:

(a) a trustee of the property;

(b) a vendor of the property to the trustee or the personal representative of such a vendor; or

(c) a person who assisted the trustee, by loan, guarantee or otherwise, to acquire the property, or the personal representative of the person.

50A Power of Court to authorize dealings with trust property

(1) The Court may by order, on application by the trustee or a beneficiary, authorize a trustee either generally or in a particular case:

(a) to execute a sale, lease, mortgage, surrender, release or other disposition;

(b) to make a purchase, acquisition, or investment; or

(c) to undertake expenditure,

as the Court thinks fit and for which the trustee has no power under the trust instrument or a law in force in the Territory.

(2) The Court may make an order referred to in subsection (1) subject to such terms or conditions as it thinks fit and may direct whether and how any expenditure or costs are to be paid out of capital or income of the trust.

(3) The Court may make an order referred to subsection (1) in relation to property despite that the property is the subject of a life interest in the whole of the property or any estate or interest in the property.

(4) An application to the Court for an order relating to property referred to in subsection (3) is to be made with the consent of all persons having a beneficial interest in the property, and all trustees having an estate or interest on behalf of an unborn child.

(5) Despite subsection (4) the Court may dispense with the requirement for consent of a person if that person has been served with a notice that the application will be made, and the person has made no response.

(6) A person who has been served with a notice that the application will be made may appear in Court to consent or dissent to the making of the order sought.

(7) The Court may make an order in relation to the property despite dissent by some interested parties.

(8) In deciding whether to make an order despite the dissent of some parties the Court must have regard to the number and interests of the parties.

(9) If the property to which the order relates is land, the order is to be produced to the Registrar-General who must give effect to the order by registering any transfer, lease or other document effected pursuant to the order on the land register under the *Land Title Act*.

Part IV Special provisions as to appointment of new trustees

51 This part to be permissive

This part of this Act is permissive only, and trustees may be appointed and trust estates may be transferred, conveyed, and assigned as if this part of this Act had not been passed.

52 Application of this part

This part of this Act shall not apply to trust estates held upon any trust created by an instrument expressly forbidding the application of this part of this Act; but, except as provided by this section, this part of this Act shall apply to all trust estates.

53 Interpretation

In the interpretation of this Part of this Act the following words shall have the following meanings:

trust estates shall include real and personal estate of every description held upon trust.

appointment of new trustees shall include every appointment of new trustees, and whether such new trustees are to act solely or jointly with any old trustees.

54 Form of appointment of new trustee

Any appointment of new trustees, if signed by the persons entitled to exercise the power of appointment and by the new trustees, and attested in manner prescribed by the *Land Title Act* for the attestation of instruments, and made in the form or to the effect contained in the Third Schedule hereto, or as near thereto as circumstances will permit, shall be sufficient and valid and effectual to all intents and purposes, so far as regards the form and mode of

execution and attestation thereof.

55 Extension of power of appointing new trustees

Any power of appointing new trustees vested in any persons within the Territory, jointly with any persons absent therefrom, and who shall have been continuously absent therefrom for at least one year then immediately preceding, may be exercised by such first-mentioned persons solely as if such power were exclusively vested in them, and such power shall extend to authorize the appointment of new trustees in the places of any trustees absent from the Territory, and having been continuously absent therefrom as aforesaid, and such trustees on any appointment of new trustees in their places shall cease to be trustees.

56 Appointment of new trustees may be registered

On any appointment of new trustees, a memorandum of such appointment may be registered by the Registrar-General.

57 Registration to vest estates in new trustees

On the registration of any memorandum of the appointment of new trustees, such trustees shall be deemed to be duly appointed, and the trust estates held upon the trusts to which such new trustees are appointed shall, without any conveyance, transfer, or assignment, vest in the new trustees, either solely or jointly with the old trustees, as the case may require, for all the estate and interest of the old trustees therein, subject to the trusts affecting such trust estates then subsisting, and capable of taking effect.

59 Registration with power of disposition to lesser number of joint owners

Whenever any land is brought or dealt with under the provisions of the *Land Title Act*, the application or instrument affecting the same may require the registration consequent thereon, if in favour of 2 or more persons, to be made with the addition of the words "with power of disposition to any" less number of "registered proprietors" to be specified in such application or instrument, and thereupon the Registrar-General shall include in the registration the words desired, and thereafter, whilst such registration shall continue, the number of registered proprietors so specified whilst registered with others as joint owners may deal with and dispose of the registered estate or interest as if they were registered as sole proprietors thereof.

60 Form of memorandum of appointment of new trustee

A memorandum of the appointment of a new trustee for registration under this Act shall be in the form prescribed under the *Land Title Act* for the registration of the appointment of a new trustee and shall satisfy the requirements of that Act in respect of that form.

63 Preservation of powers of Registrar-General

Nothing in this part of this Act contained, or thereby implied or to be done in pursuance thereof, shall be construed to affect the title of any registered proprietor with notice of any trust, or otherwise to limit the right of any registered proprietor to deal with the estate or interest of which he is registered proprietor for all the purposes of the *Land Title Act*, as absolute owner, or to defeat, limit, or prejudice any power or discretion vested in the Registrar-General under the *Land Title Act*, but all such powers and discretions may be exercised by the Registrar-General with reference to proceedings under this Act; and for the purpose of such proceedings this part of this Act shall be incorporated with the *Land Title Act*, and all persons shall be subject to the provisions thereof.

64 Preservation of liability of trustee

Nothing in this Part of this Act contained, or thereby implied or to be done in pursuance thereof, shall release any trustee from any liability for any breach of trust.

Part V Miscellaneous and supplemental

66 Commission concerning person of unsound mind

Upon any petition being presented under this Act to the Supreme Court concerning a person of unsound mind, the Court may direct a commission in the nature of a writ de lunatico inquirendo to issue as to such person, and may postpone making an order on such petition until after the return to the commission.

67 Provisions of Act in addition to unrepealed acts

The provisions of this Act are in addition to those of any enactment not hereby repealed.

68 Application to trustee under settled estates Act of provisions as to appointment of trustees

(1) All the powers and provisions contained in this Act with reference to the appointment of new trustees, and the discharge and retirement of trustees, are to apply to and include trustees for the purposes of

"*The Settled Estates Act, 1880*," whether occurring before or after the repeal of that Act by the *Law of Property Act*.

(2) This section applies and is to have effect with respect to an appointment or a discharge and retirement of trustees taking place before as well as after the commencement of this Act.

(3) This section is not to render invalid or prejudice any appointment or any discharge and retirement of trustees effected before the passing of this Act.

69 Settled estates

(1) For the purposes of this section:

(a) "settled land to which The Settled Estates Act 1880 applied" means all hereditaments of any tenure, and all estates or interests in any such hereditaments that are the subject of a settlement; and

(b) "settlement" means an Act of Parliament, deed, agreement, will or other instrument, or any number of such instruments, under or by virtue of which any hereditaments of any tenure or any estates or interests in any such hereditaments stand limited to or in trust for any persons by way of succession, including any such instruments affecting the estates of any one or more of such persons exclusively.

(2) If there is settled land to which The Settled Estates Act 1880 applied in the Territory, on the commencement of this section:

(a) if the land is settled on trust – the provisions of this Act apply to the trustee or trustees;

(b) if the land is not held on trust – the tenant for life is to be taken to be a trustee and the provisions of this Act apply accordingly;

(c) a future interest in the land takes effect as an equitable, not a legal, interest; and

(d) a person who holds an equitable interest in the land, whether by virtue of paragraph (c) or otherwise, is to be taken to be a beneficiary for the purposes of this Act.

73 Power of Court to sell interest of Crown in real estate

(1) Where in any proceeding, ex parte or otherwise, it appears to the Supreme Court that the Crown is entitled to any hereditament, corporeal or incorporeal, or to any estate, legal or equitable,

therein, the Court may, on the application or with the consent of the Minister, notwithstanding that no office has been found and no commission issued, order a sale of the hereditament, estate, or interest; and the net proceeds of such sale, or such portion thereof as represents the interest of the Crown, shall be paid into the Northern Territory Government Account.

(2) The Supreme Court on any such sale may make an order vesting the hereditament, estate or interest in the purchaser or requiring the person in whom it is vested or deemed to be vested to convey it to the purchaser.

(3) A person who claims to be entitled to any moneys paid into the Northern Territory Government Account under this section may apply to the Court for an order declaring him to be so entitled and, if the Court is satisfied that the applicant is entitled to those moneys or a part of those moneys, it may make an order accordingly.

(4) Upon receipt by the Minister of an office copy of an order under subsection (3), the Minister shall authorize payment to the person in whose favour the order was made the amount specified in the order out of moneys lawfully available for the purpose.

75 Definition of intestacy

Where any beneficial interest in real estate or land of a deceased person, whether the estate or interest of such deceased person therein was legal or equitable, is owing to the failure of the objects of the devise or other circumstances happening before or after the death of such person in whole or in part not effectually disposed of, such person shall be deemed for the purposes of this part of this Act to have died intestate in respect of such part of the said beneficial interest as if ineffectually disposed of.

78 Trustee's remuneration

The Court may allow to a trustee out of the trust property, for his pains and trouble, either periodically or otherwise, such commission or other remuneration, not exceeding 5%, as it thinks just and reasonable.

80 Indemnity

This Act, and every order purporting to be made under this Act, shall be a complete indemnity to all companies and persons for any acts done pursuant thereto; and it shall not be necessary for any company or person to inquire concerning the propriety of the order, or whether the Court by which it was made had jurisdiction to make the same.

81 Act to apply to *Land Title Act*

Notwithstanding the provisions of the *Land Title Act* this Act shall apply to land subject to the provisions of such Act, but only to the extent necessary for carrying out the purposes of this Act.

82 Definitions

In this Act (except as to Part IV), unless the context otherwise requires:

The expression ***bank*** means an ADI that is permitted under the *Banking Act 1959* of the Commonwealth to assume or use:

(a) the word ***bank***, ***banker*** or ***banking***; or

(b) any other word (whether or not in English) that is of like import to a word referred to in paragraph (a).

The expression ***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.

The expressions ***convey*** and ***conveyance*** applied to any person include the execution by that person of every necessary or suitable transfer or assurance for conveying, assigning, appointing, surrendering, or otherwise transferring or disposing of land to which he is entitled or of which 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 or acts required by law under the *Land Title Act* or otherwise for the validity or completion of the conveyance, including the acts to be performed by married women and tenants in tail for perfect conveyance and assurance under the Acts for the time being in force in that behalf.

The expression ***devisee*** includes the heir of a devisee and the devisee of an heir, and any person who may claim right by devolution of title of a similar description.

The expression ***disposition*** includes:

(a) the conferring or exercising of a power of appointment or any other power or authority to dispose of property; and

(b) an alienation of property.

The expression ***instrument*** includes Act of Parliament.

The expression ***land*** includes incorporeal as well as corporeal hereditaments, and any estate or interest therein, and also an undivided share of land.

The expression ***lunatic*** means any person who shall have been found to be a lunatic upon inquiry by the Supreme Court, or upon a commission of inquiry issuing out of the Supreme Court in the nature of a writ of de lunatico inquirendo.

The expressions ***mortgage*** and ***mortgagee*** include 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.

The expressions ***pay*** and ***payment***" as applied in relation to stocks and securities, and in connection with the expression ***into Court***, include the deposit or transfer of the same in or into Court.

The expression ***person of unsound mind*** means any person, not an infant who, not having been found to be a lunatic, shall be incapable from infirmity of mind of managing his own affairs.

The expression ***possessed*** applies to receipt of income of and to any vested estate less than a life estate, legal or equitable, in possession or in expectancy, in, any land.

The expression ***property*** includes real and personal property, and any estate 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.

The expression ***representative*** means an executor or administrator, and includes the Public Trustee, where he or she is administering the estate of a deceased person under section 35 of the *Public Trustee Act* in cases where the Supreme Court shall have authorized him to administer the estate of a deceased person.

The expression ***securities*** includes stocks, funds, and shares.

The expression ***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.

The expression ***Supreme Court*** includes a Judge of the Supreme Court.

The expression ***transfer*** in relation to stock, 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.

The expression ***trust*** does not include the duties incident to an estate conveyed by way of mortgage, or to the estate or interest of a mortgagee under the *Land Title Act*, but with these exceptions the expressions ***trust*** and ***trustee*** include implied and constructive trusts, and cases where the trustee has a beneficial interest in the trust property, and the duties incident to the office of representative of a deceased person: and the expression "trustee" includes a representative of a deceased person.

valuer has the same meaning as in the *Valuation of Land Act*.

Schedules

First Schedule

No. of Act	Title	Extent of Repeal
No. 7 of 1855-6	The Trustee Act, 1855	Sections 2 to 47 inclusive
No. 6 of 1860	The Property Act of 1860	Sections 24 to 30 inclusive
No. 7 of 1862	An Act to give to Trustees, Mortgagees, and others, certain powers now commonly inserted in Settlements, Mortgages, and Wills	Sections 1 to 9 inclusive, sections 23 to 31 inclusive
No. 14 of 1866-7	The Limitations of Suits and Actions Act, 1866	Section 26
No. 523 of 1891	The Trustees Appointment Act 1891	The whole

Second Schedule

South Australian Government Securities

No. [Royal Arms] No.

(Authorized by "The Trustee Act, 1893.")

I, the Treasurer of the Province of South Australia, in consideration of the sum of dollars, paid to me for public purposes by do hereby bind myself to pay to the holder for the time being of this bond the sum of dollars and interest thereon at the rate of 4% per annum; such interest to be payable on 1 April and 1 October in every year, and the principal to be paid on the first day of , in the year one thousand nine hundred and .

Sealed with my seal. Dated the day of one thousand eight hundred and .

Signed, sealed, and delivered in)
the presence of)
[Bond transferable by delivery .]

Third Schedule

Appointment of New Trustees

Pursuant to Part IV of "The Trustee Act, 1893," we [here set out names, addresses, and occupations], being persons entitled to exercise and exercising the power of appointing new trustees of the trust hereinafter referred to, do hereby appoint [here set out names, addresses and occupations of new trustees], to be new trustees (here if necessary insert ***jointly with***) [here insert names, addresses, and occupations of the old continuing trustees] of the trust constituted under [here set out shortly particulars of the instrument creating the trust, including date, and name of person by whom trust was created], and we the said [here insert names of new trustees] do hereby accept the said trusteeship.

Dated this day of , 18 .

[To be signed by the persons exercising the power
of appointment, and by the new trustees, and to be attested.]

The Trustee Act, 1907

An Act to amend "The Trustee Act, 1893."

1 Short title and application

(1) This Act may be cited as "The Trustee Act, 1907," and shall be incorporated with "The Trustee Act, 1893," and the 2 Acts may be cited together as "The Trustee Acts, 1893 and 1907."

(2) This Act, except sections 2, 6, and 7, applies only to trusts created after the passing of this Act.

Investments

2 Power to take mortgage for part purchase-money

A trustee on the sale of trust property may leave unpaid purchase-money thereof invested upon the security of the property sold to the extent to which, were the trustee not the vendor thereof, such property would be a proper security for the investment of the trust funds.

Various powers and liabilities

3 Trustee's power of delegation

(1) A trustee who, for the time being, is or is about to be absent from South Australia may, if not expressly prohibited by the instrument creating the trust, with the consent of his co-trustee (if any), by power of attorney, under seal, delegate, for a term not exceeding 12 calendar months from the date of such power of attorney, to any person or persons residing in South Australia, all or any of the powers, authorities, and discretions vested in such trustee.

(2) Every deed, act, matter, and thing executed, done, and performed by such attorney or attorneys shall be as valid and effectual as if executed, done, and performed by the trustee.

(3) A trustee appointing any attorney or attorneys as aforesaid shall be liable for the acts and defaults of every such attorney as if they were his own acts and defaults.

(4) Nothing in this section shall be deemed to limit or affect any power of appointing a new trustee in the place of a trustee absent from South Australia, or the power of the Supreme Court to make any order by reason of such absence.

4 Revocation of power of attorney not effectual as against person in ignorance

No revocation of any such power of attorney, including any revocation or avoidance by operation of law, shall be effectual as against any person dealing in good faith with such attorney in ignorance of such revocation.

5 Trustees bank account

(1) Trustees, unless prohibited by the instrument creating the trust, and, if expressly authorized by the power of attorney so to do, their attorneys, appointed under section 3 of this Act, may, by writing signed by them, authorize any bank to honor cheques, bills, promissory notes, and drafts drawn upon or made payable out of the banking account of the trust by any one or more of such trustees or attorneys, and to honor the indorsement of any one or more of such trustees or attorneys upon any cheque, bill, promissory note, or draft payable to the order of the trustees, and also to pay to any one or more of such trustees or attorneys, whether before or after maturity, all or any portion of any moneys deposited on fixed deposit.

(2) Every trustee who, in person or by attorney, gives or joins in giving any such authority shall be liable for the acts and defaults of every trustee or attorney acting thereunder as if they were his own acts and defaults.

(3) No revocation of any such authority, including any revocation or avoidance by operation of law, shall be effectual as against any banker acting or paying money in good faith under or in pursuance of such authority in ignorance of such revocation.

6 Trustee may sell land with consent of Court

With the consent of the Court, and notwithstanding anything contained in Act No. 10 of 1847, or any reservation or proviso contained in the land grants of land granted for ecclesiastical purposes to be held in conformity with the said Act, the trustees in whom the legal estate of such land shall be vested shall have power to sell the land.

Powers of the Court

7 Power for Court to authorize purchase of trust property by trustee

Where there is a trust for sale or power of sale the Supreme Court may, on the application, ex parte or otherwise, of a trustee, or of a

beneficiary interested in the trust property, or of the Public Trustee, or a next friend on behalf of such a beneficiary not sui juris, upon being satisfied that such sale will be advantageous to the beneficiaries, authorize a sale of trust property by a trustee to himself, unless such sale be expressly prohibited by the instrument creating the trust.

8 Accounts to be filed by trustees when required

Every executor and trustee shall, if so required by and at the cost of any beneficiary requiring the same, file annually in the Supreme Court an account of his administration of the testator's estate; and the Public Trustee shall, on the request of a majority or of half of the beneficiaries and at their cost, audit the accounts so filed.

ENDNOTES

1 KEY

Key to abbreviations

amd = amended
app = appendix
bl = by-law
ch = Chapter
cl = clause
div = Division
exp = expires/expired
f = forms
Gaz* = *Gazette
hdg = heading
ins = inserted
lt = long title
nc = not commenced
od = order
om = omitted
pt = Part
r = regulation/rule
rem = remainder
renum = renumbered
rep = repealed
s = section
sch = Schedule
sdiv = Subdivision
SL = Subordinate Legislation
sub = substituted

2 LIST OF LEGISLATION

PART I – ACTS OF THE STATE OF SOUTH AUSTRALIA

***The Trustee Act, 1893* (Act No. 586, 1893)**
Assent date 23 December 1893
Commenced 14 February 1894

***The Trustee Act, 1907* (Act No. 944, 1907)**
Assent date 21 December 1907
Commenced 21 December 1907

PART II – ORDINANCES AND ACTS OF THE NORTHERN TERRITORY

***Trustee Ordinance 1969* (Act No. 56, 1969)**
Assent date 10 December 1969
Commenced 10 December 1969

***Trustee Ordinance 1972* (Act No. 41, 1972)**
Assent date 31 July 1972
Commenced 31 July 1972

***Trustee Ordinance (No. 2) 1972* (Act No. 69, 1972)**
Assent date 5 December 1972
Commenced 5 December 1972

Ordinances Revision Ordinance 1973 **(Act No. 87, 1973)**

Assent date 11 December 1973
Commenced 11 December 1973 (s 12(2))

Amending Legislation

Ordinances Revision Ordinance 1974 **(Act No. 34, 1974)**

Assent date 26 August 1974
Commenced 11 December 1973 (s 3(2))

Ordinances Revision Ordinance (No. 2) 1974 **(Act No. 69, 1974)**

Assent date 24 October 1974
Commenced 11 December 1973 (s 3)

Ordinances Revision Ordinance 1976 **(Act No. 27, 1976)**

Assent date 28 June 1976
Commenced ss 1, 2 and 6: 28 June 1976 (s 6(2));
ss 3 and 4: 11 December 1973; s 5: 24 October 1974

Trustee Ordinance 1976 **(Act No. 58, 1976)**

Assent date 12 November 1976
Commenced 25 February 1977 (*Gaz* No. 8A, 25 February 1977, p 327)

Transfer of Powers (Further Provisions) Ordinance 1977 **(Act No. 51, 1977)**

Assent date 9 December 1977
Commenced 1 January 1978 (s 2)

Transfer of Powers (Self-Government) Ordinance 1978 **(Act No. 54, 1978)**

Assent date 1 July 1978
Commenced 1 July 1978 (s 8)

Statute Law Revision Act (No. 2) 1978 **(Act No. 19, 1979)**

Assent date 2 February 1979
Commenced 2 February 1979

Trustee Act 1979 **(Act No. 99, 1979)**

Assent date 10 August 1979
Commenced 10 August 1979

Trustee Amendment Act 1981 **(Act No. 57, 1981)**

Assent date 14 July 1981
Commenced s 5(a): 1 January 1981; rem: 28 August 1981 (*Gaz* G34, 28 August 1981, p 9)

Companies and Securities (Consequential Amendments) Act 1986 **(Act No. 18, 1986)**

Assent date 30 June 1986
Commenced 1 July 1986 (s 2)

Trustee Amendment Act 1988 **(Act No. 59, 1988)**

Assent date 15 December 1988
Commenced 1 January 1989 (*Gaz* S79, 30 December 1988)

Married Persons (Equality of Status) Act 1989 **(Act No. 76, 1989)**

Assent date 12 December 1989
Commenced 12 December 1989

Corporations (Consequential Amendments) Act 1990 **(Act No. 59, 1990)**

Assent date	14 December 1990
Commenced	1 January 1991 (s 2, s 2 *Corporations (NT) Act 1990* (Act No. 56, 1990) and *Gaz* S76, 21 December 1990)

Real Property (Consequential Amendments) Act 1991 **(Act No. 33, 1991)**

Assent date	25 June 1991
Commenced	1 October 1991 (*Gaz* S49, 1 October 1991)

Trustee Amendment Act 1991 **(Act No. 69, 1991)**

Assent date	4 December 1991
Commenced	16 December 1991 (*Gaz* S63, 16 December 1991)

Financial Institutions (NT) (Consequential Amendments) Act 1992 **(Act No. 23, 1992)**

Assent date	2 June 1992
Commenced	1 July 1992 (s 2, s 2 *Financial Institutions (NT) Act 1992* (Act No. 22, 1992) and *Gaz* S35, 30 June 1992)

Pastoral Land (Consequential Amendments) Act 1992 **(Act No. 39, 1992)**

Assent date	25 June 1992
Commenced	26 June 1992 (s 2, s 2 *Pastoral Land Act 1992* (Act No. 17, 1992) and *Gaz* S33, 26 June 1992)

Trustee Amendment Act 1992 **(Act No. 72, 1992)**

Assent date	14 December 1992
Commenced	14 December 1992

Trustee Amendment Act 1994 **(Act No. 9, 1994)**

Assent date	16 March 1994
Commenced	16 March 1994

Trustee Amendment Act (No. 2) 1994 **(Act No. 36, 1994)**

Assent date	18 May 1994
Commenced	1 August 1994 (s 2, s 2 *Perpetuities Act 1994* (Act No. 31, 1994) and *Gaz* G29, 20 July 1994, p 3))

Amending Legislation

Statute Law Revision Act 1994 **(Act No. 50, 1994)**

Assent date	20 September 1994
Commenced	20 September 1994

Statute Law Revision Act 1994 **(Act No. 50, 1994)**

Assent date	20 September 1994
Commenced	20 September 1994

Trustee Amendment Act 1995 **(Act No. 13, 1995)**

Assent date	26 June 1995
Commenced	26 June 1995

Trustee Amendment Act (No. 2) 1995 **(Act No. 60, 1995)**

Assent date	28 December 1995
Commenced	26 February 1996 (*Gaz* G7, 14 February 1996, p 2)

***Sentencing (Consequential Amendments) Act 1996* (Act No. 17, 1996)**

Assent date	19 April 1996
Commenced	1 July 1996 (s 2, s 2 *Sentencing Act 1995* (Act No. 39, 1995) and *Gaz* S15, 13 June 1996)

***Statute Law Revision Act (No. 2) 1998* (Act No. 92, 1998)**

Assent date	11 December 1998
Commenced	ss 7 and 11: 13 January 1999; ss 6 and 15: 10 March 1999; s 3: 1 April 1999; s 25: 20 September 1999; rem: 11 December 1998 (s 2, *Gaz* G1, 13 January 1999, p 6, *Gaz* G9, 10 March 1999, p 2 and *Gaz* S15, 1 April 1999)

***Land Title (Consequential Amendments) Act 2000* (Act No. 45, 2000)**

Assent date	12 September 2000
Commenced	1 December 2000 (s 2, s 2 *Land Title Act 2000* (Act No. 2, 2000) and *Gaz* G38, 27 September 2000, p 2)

***Law of Property (Consequential Amendments) Act 2000* (Act No. 46, 2000)**

Assent date	12 September 2000
Commenced	1 December 2000 (s 2, s 2 *Law of Property Act 2000* (Act No. 1, 2000) and *Gaz* G38, 27 September 2000, p 2)

***Statute Law Revision (Financial Provisions) Act 2002* (Act No. 38, 2002)**

Assent date	13 September 2002
Commenced	30 October 2002 (*Gaz* G43, 30 October 2002, p 3)

***Legal Profession (Consequential Amendments) Act 2007* (Act No. 7, 2007)**

Assent date	17 May 2007
Commenced	s 10: 1 July 2007 (*Gaz* G26, 27 June 2007, p 3); rem: 17 May 2007

***Local Court (Related Amendments) Act 2016* (Act No. 8, 2016)**

Assent date	6 April 2016
Commenced	1 May 2016 (s 2, s 2 *Local Court (Repeals and Related Amendments) Act 2016* (Act No. 9, 2016) and *Gaz* S34, 29 April 2016)

***Supreme Court Amendment (Associate Judges) Act 2017* (Act No. 18, 2017)**

Assent date	5 September 2017
Commenced	22 November 2017 (*Gaz* S84, 21 November 2017, p 1)

3 SAVINGS AND TRANSITIONAL PROVISIONS

s 10 *Trustee Ordinance 1969* (Act No. 56, 1969)
s 6 *Trustee Ordinance 1972* (Act No. 41, 1972)
s 8 *Trustee Ordinance 1976* (Act No. 58, 1976)
s 4 *Trustee Amendment Act 1981* (Act No. 57, 1981)

4 GENERAL AMENDMENTS

General amendments of a formal nature (which are not referred to in the table of amendments to this reprint) are made by the *Ordinances Revision Ordinance 1973* (Act No. 87, 1973) (as amended) to the following provisions: ss 4, 11, 12, 14, 21, 22, 23, 24, 28, 31, 37, 59, 61, 78, 82 and Second Sch.

5 LIST OF AMENDMENTS

s 3A	ins No. 99, 1979, s 3 rep No. 60, 1995, s 4
pt I hdg	sub No. 60, 1995, s 5
s 4	rep No. 41, 1972, s 2 ins No. 41, 1972, s 3 amd No. 69, 1972, s 3; No. 87, 1973, s 12; No. 58, 1976, s 4; No. 54, 1978, s 5; No. 19, 1979, s 29; No. 99, 1979, s 4; No. 57, 1981, s 5; No. 18, 1986, s 3; No. 59, 1988, s 4; No. 59, 1990, s 4; No. 69, 1991, s 4; No. 23, 1992, s 4; No. 39, 1992, s 3; No. 72, 1992, s 2; No. 9, 1994, s 2; No. 13, 1995, s 2 sub No. 60, 1995, s 5
s 4A	ins No. 41, 1972, s 3 amd No. 87, 1973, s 12; No. 58, 1976, s 5 rep No. 60, 1995, s 5
s 4B	ins No. 58, 1976, s 6 amd No. 54, 1978, s 5; No. 23, 1992, s 4; No. 9, 1994, s 3 rep No. 60, 1995, s 5
s 4C	ins No. 57, 1981, s 6 amd No. 59, 1988, s 6 rep No. 60, 1995, s 5
s 5	sub No. 60, 1995, s 5
ss 6 – 8	rep No. 41, 1972, s 4 ins No. 58, 1976, s 7 sub No. 60, 1995, s 5
s 9	amd No. 99, 1979, s 5 sub No. 60, 1995, s 5
s 10	sub No. 60, 1995, s 5
ss 10A – 10B	ins No. 60, 1995, s 5
s 10C	ins No. 60, 1995, s 5 amd No. 92, 1998, s 24
ss 10D – 10G	ins No. 60, 1995, s 5
s 11	amd No. 72, 1992, s 8
s 13	amd No. 45, 2000, s 9
s 16	rep No. 16, 1989, s 7
s 17	amd No. 38, 2002, s 6; No. 7, 2007, s 16
s 18	amd No. 59, 1988, s 7; No. 46, 2000, s 11
s 18A	ins No. 46, 2000, s 11
s 21	amd No. 56, 1969, s 3
s 21A	ins No. 36, 1994, s 4
s 22	amd No. 56, 1969, s 4; No. 18, 2017, s 36
s 24A	ins No. 57, 1981, s 7
s 27	amd No. 17, 1996, s 6; No. 8, 2016, s 45
ss 45 – 46	rep No. 50, 1994, s 16
s 48	amd No. 72, 1992, s 8
s 49	amd No. 46, 2000, s 11
s 49A	ins No. 57, 1981, s 8
s 50AA	ins No. 36, 1994, s 5 amd No. 46, 2000, s 11
s 50B	ins No. 36, 1994, s 5
s 50A	ins No. 59, 1988, s 8 amd No. 46, 2000, s 11
ss 53 – 54	amd No. 45, 2000, s 9
s 55	amd No. 72, 1992, s 8
s 56	amd No. 72, 1992, s 3
s 57	amd No. 33, 1991, s 7; No. 72, 1992, s 4

s 58	amd No. 33, 1991, s 7 rep No. 72, 1992, s 5
s 59	amd No. 45, 2000, s 9
s 60	sub No. 72, 1992, s 6 amd No. 45, 2000, s 9
ss 61 – 62	rep No. 72, 1992, s 6
s 63	amd No. 45, 2000, s 9
s 65	rep No. 50, 1994, s 16
s 68	amd No. 46, 2000, s 11
s 69	rep No. 76, 1989, s 7 ins No. 46, 2000, s 11
s 70	rep No. 56, 1969, s 5
s 71	rep No. 50, 1994, s 16
s 72	rep No. 56, 1969, s 5
s 73	amd No. 56, 1969, s 6; No. 51, 1977, s 3; No. 54, 1978, s 5; No. 19, 1979, s 29
s 74	rep No. 56, 1969, s 7
s 76	amd No. 33, 1991, s 7 rep No. 45, 2000, s 9
s 77	rep No. 50, 1994, s 16
s 78	sub No. 56, 1969, s 8 amd No. 41, 1972, s 5
s 79	rep No. 50, 1994, s 16
s 81	amd No. 45, 2000, s 9
s 82	amd No. 56, 1969, s 9; No. 57, 1981, s 9; No. 36, 1994, s 6; No. 92, 1998, s 24; No. 45, 2000, s 9; No. 38, 2002, s 6
sch 2	rep No. 92, 1998, s 24
sch 4 – 5	rep No. 72, 1992, s 7