2001 CHAPTER 14

PART V

REMUNERATION

Trustee's entitlement to payment under trust instrument

28.—(1) Except to the extent (if any) to which the trust instrument makes inconsistent provision, subsections (2) to (4) apply to a trustee if—

(a) there is a provision in the trust instrument entitling him to receive payment out of trust funds in respect of services provided by him to or on behalf of the trust, and

(b) the trustee is a trust corporation or is acting in a professional capacity.

(2) The trustee is to be treated as entitled under the trust instrument to receive payment in respect of services even if they are services which are capable of being provided by a lay trustee.

(3) Subsection (2) applies to a trustee of a charitable trust who is not a trust corporation only—

(a) if he is not a sole trustee, and

(b) to the extent that a majority of the other trustees have agreed that it should apply to him.

(4) Any payments to which the trustee is entitled in respect of services are to be treated as remuneration for services (and not as a gift) for the purposes of—

(a) Article 8 of the Wills and Administration Proceedings (Northern Ireland) Order 1994 (NI 13) (gifts to an attesting witness to be void), and

(b) section 30(3) of the Administration of Estates Act (Northern Ireland) 1955 (c.24) (order in which estate to be paid out).

(5) For the purposes of this Part, a trustee acts in a professional capacity if he acts in the course of a profession or business which consists of or includes the provision of services in connection with—

(a) the management or administration of trusts generally or a particular kind of trust, or

(b) any particular aspect of the management or administration of trusts generally or a particular kind of trust,

and the services he provides to or on behalf of the trust fall within that description.

(6) For the purposes of this Part, a person acts as a lay trustee if he—

(a) is not a trust corporation, and

(b) does not act in a professional capacity.

Changes to legislation:
There are currently no known outstanding effects for the Trustee Act (Northern Ireland) 2001, Section 28.