2001 CHAPTER 14

PART VII

MISCELLANEOUS AND SUPPLEMENTARY

Power to insure

Power to insure

37.—(1) For section 19 of the Trustee Act (Northern Ireland) 1958 (c.23) (power to insure) substitute—

"**Power to insure**

19. A trustee may—

(a) insure any property which is subject to the trust against risks of loss or damage due to any event, and

(b) pay the premiums out of any income or capital funds of the trust"

(2) In section 20(1) of the Trustee Act (Northern Ireland) 1958 (c.23) (application of insurance money) omit "whether by fire or otherwise".

(3) The amendments made by this section apply in relation to trusts whether created before or after its commencement.

Special cases

Personal representatives

38.—(1) Subject to the following provisions of this section, this Act applies in relation to a personal representative administering an estate according to the law as it applies to a trustee carrying out a trust for beneficiaries.

(2) For this purpose this Act is to be read with the appropriate modifications and in particular—

(a) references to the trust instrument are to be read as references to the will,

(b) references to a beneficiary or to beneficiaries, apart from the reference to a beneficiary in section 8(1)(b), are to be read as references to a person or the persons interested in the due administration of the estate;

(c) the reference to a beneficiary in section 8(1)(b) is to be read as a reference to a person who under the will of the deceased or under the law relating to intestacy is beneficially interested in the estate.

(3) Remuneration to which a personal representative is entitled under section 28 or 29 is to be treated as an administration expense for the purposes of—

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

(b) any provision giving reasonable administration expenses priority over the preferential debts listed in Schedule 4 to the Insolvency (Northern Ireland) Order 1989 (NI 19).

(4) Nothing in subsection (3) is to be treated as affecting the operation of the provisions mentioned in paragraphs (a) and (b) of that subsection in relation to any death occurring before the commencement of this section.

Pension schemes

39.—(1) In this section "pension scheme" means an occupational pension scheme (within the meaning of the Pension Schemes (Northern Ireland) Act 1993 (c.49)) established under a trust and subject to the law of Northern Ireland.

(2) Part I does not apply in so far as it imposes a duty of care in relation to—

(a) the functions described in paragraphs 1 and 2 of Schedule 1, or

(b) the functions described in paragraph 3 of that Schedule to the extent that they relate to trustees—

(i) authorising a person to exercise their functions with respect to investment, or

(ii) appointing a person to act as their nominee or custodian.

(3) Nothing in Part II or III applies to the trustees of any pension scheme.

(4) Part IV applies to the trustees of a pension scheme subject to the restrictions in subsections (5) to (8).

(5) The trustees of a pension scheme may not under Part IV authorise any person to exercise any functions relating to investment as their agent.

(6) The trustees of a pension scheme may not under Part IV authorise a person who is—

(a) an employer in relation to the scheme, or

(b) an associate of or connected with such an employer,

to exercise any of their functions as their agent.

(7) For the purposes of subsection (6)—

(a) "employer", in relation to a scheme, has the same meaning as in Part II of the Pensions (Northern Ireland) Order 1995 (NI 22);

(b) Articles 4 and 7 of the Insolvency (Northern Ireland) Order 1989 (NI 19) apply for the purpose of determining whether a person is an associate of or connected with an employer.

(8) Sections 16 to 20 (powers to appoint nominees and custodians) do not apply to the trustees of a pension scheme.

Authorised unit trusts

40.—(1) Parts II to IV do not apply to trustees of authorised unit trusts.

(2) "Authorised unit trust" means a unit trust scheme in the case of which an order under section 78 of the Financial Services Act 1986 (c.60) or section 243 of the Financial Services and Markets Act 2000 (c.8) is in force.

Common investment schemes for charities

41. Parts II to IV do not apply to trustees managing a fund under a common investment scheme made under section 25 of the Charities Act (Northern Ireland) 1964 (c.33), other than such a fund the trusts of which provide that property is not to be transferred to the fund except by or on behalf of a charity the trustees of which are the trustees appointed to manage the fund.

The Crown

42. This Act binds the Crown to the full extent authorised or permitted by the constitutional laws of Northern Ireland.

Supplementary

Interpretation

43.—(1) In this Act—

"asset" includes any right or interest;

"asset management function" has the meaning given in section 15(5);

"charitable trust" means a trust under which property is held for charitable purposes and "charitable purposes" has the same meaning as in **[**[F1]the Charities Act (Northern Ireland) 2008**]** ;

"custodian" has the meaning given by section 17(2);

"the duty of care" has the meaning given by section 1(2);

"the general power of investment" has the meaning given by section 3(2);

"personal representative" has the same meaning as in the Trustee Act (Northern Ireland) 1958 (c.23);

"settled land" has the same meaning as in the Settled Land Act 1882 (c.38);

"statutory provision" has the same meaning as in section 1(f) of the Interpretation Act (Northern Ireland) 1954 (c.33);

"trust corporation" has the same meaning as in the Trustee Act (Northern Ireland) 1958 (c.23);

"trust funds" means income or capital funds of the trust.

(2) For the purposes of this Act, a statutory provision is not to be regarded as being, or as being part of, a trust instrument.

F1 Words in s. 43(1) substituted (24.6.2013) by Charities Act (Northern Ireland) 2008 (c. 12), s. 185(1), **Sch. 8 para. 8**; S.R. 2013/145, art. 2, Sch.

Amendments, transitional and saving provisions and repeals

44.—(1) The statutory provisions set out in Schedule 2 shall have effect subject to the minor and consequential amendments specified in that Schedule.

(2) The Department of Finance and Personnel may by order make such amendments of any statutory provision as appears to it appropriate in consequence of or in connection with Part II or III.

(3) An order under subsection (2) —

(a) may contain such transitional provisions and savings as the Department thinks fit, and

(b) shall be subject to negative resolution.

(4) Schedule 3 (transitional provisions and savings) shall have effect.

(5) The statutory provisions set out in the first column of Schedule 4 are repealed to the extent specified in the second column of that Schedule.

Commencement

45.—(1) Sections 1 to 44 of, and the Schedules to, this Act shall come into operation on such day or days as the Department of Finance and Personnel may by order appoint[F2].

(2) An order under subsection (1) may contain such transitional provisions and savings as the Department of Finance and Personnel considers appropriate in connection with the order.

F2 fully exercised by SR 2002/253

Short title

46. This Act may be cited as the Trustee Act (Northern Ireland) 2001.

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