

*These notes refer to the Trustee Act (Northern Ireland)  
2001 (c.14) which received Royal Assent on 20 July 2001*

# Trustee Act (Northern Ireland) 2001

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## EXPLANATORY NOTES

### COMMENTARY ON CLAUSES

#### Part IV: Agents, Nominees and Custodians

##### *Section 14: Terms of agency*

*Section 14* regulates the terms on which an agent may be appointed. The general rule is that trustees will be free to decide the terms of the appointment of the agent. This is subject to specific constraints set out in *section 14(3)*: trustees may not delegate on terms which permit their agent to appoint a substitute or sub-delegate; they may not agree to terms which restrict the liability of the agent or a substitute; and they may not consent to an agent acting where a conflict of interest may arise. However, these restrictions on the scope of their power to appoint agents will not apply if it is reasonably necessary to delegate on such terms (*section 14(2)*). In practice today it is often advisable to appoint an investment fund manager so relaxation of the traditional rule against delegation is appropriate. In addition, the section recognises the fact that in practice standard form terms of business usually include limits on liability and the freedom to act despite a conflict of interest and trustees would be severely hampered if they were forbidden to accept such terms.

There are additional restrictions in relation to the delegation of asset management functions under *section 15* and remuneration under *sections 29* to *32*. These are discussed below.