

SCHEDULES

SCHEDULE 1

Section 2

APPLICATION OF DUTY OF CARE

Investment

1. The duty of care applies to a trustee—
 - (a) when exercising the general power of investment or any other power of investment, however conferred;
 - (b) when carrying out a duty to which he is subject under section 4 or 5 (duties relating to the exercise of a power of investment or to the review of investments).

Acquisition of land

2. The duty of care applies to a trustee—
 - (a) when exercising the power under section 8 to acquire land;
 - (b) when exercising any other power to acquire land, however conferred;
 - (c) when exercising any power in relation to land acquired under a power mentioned in sub-paragraph (a) or (b).

Agents, nominees and custodians

- 3.—(1) The duty of care applies to a trustee—
 - (a) when entering into arrangements under which a person is authorised under section 11 to exercise functions as an agent;
 - (b) when entering into arrangements under which a person is appointed under section 16 to act as a nominee;
 - (c) when entering into arrangements under which a person is appointed under section 17 or 18 to act as a custodian;
 - (d) when entering into arrangements under which, under any other power, however conferred, a person is authorised to exercise functions as an agent or is appointed to act as a nominee or custodian;
 - (e) when carrying out his duties under section 22 (review of agent, nominee or custodian, etc.).

(2) For the purposes of sub-paragraph (1), entering into arrangements under which a person is authorised to exercise functions or is appointed to act as a nominee or custodian includes, in particular—

- (a) selecting the person who is to act,
- (b) determining any terms on which he is to act, and
- (c) if the person is being authorised to exercise asset management functions, the preparation of a policy statement under section 15.

Compounding of liabilities

- 4. The duty of care applies to a trustee—
 - (a) when exercising the power under section 15 of the Trustee Act (Northern Ireland) 1958 (c. 23) to do any of the things referred to in that section;
 - (b) when exercising any corresponding power, however conferred.

Insurance

- 5. The duty of care applies to a trustee—
 - (a) when exercising the power under section 19 of the Trustee Act (Northern Ireland) 1958 to insure property;
 - (b) when exercising any corresponding power, however conferred.

Reversionary interests, valuations and audit

- 6. The duty of care applies to a trustee—
 - (a) when exercising the power under section 23(1) or (3) of the Trustee Act (Northern Ireland) 1958 to do any of the things referred to there;
 - (b) when exercising any corresponding power, however conferred.

Exclusion of duty of care

7. The duty of care does not apply if or in so far as it appears from the trust instrument that the duty is not meant to apply.