



# Trustee Delegation Act 1999

## 1999 CHAPTER 15

### *Attorney of trustee with beneficial interest in land*

#### **1 Exercise of trustee functions by attorney.**

- (1) The donee of a power of attorney is not prevented from doing an act in relation to—
  - (a) land,
  - (b) capital proceeds of a conveyance of land, or
  - (c) income from land,by reason only that the act involves the exercise of a trustee function of the donor if, at the time when the act is done, the donor has a beneficial interest in the land, proceeds or income.
- (2) In this section—
  - (a) “conveyance” has the same meaning as in the <sup>M1</sup>Law of Property Act 1925, and
  - (b) references to a trustee function of the donor are to a function which the donor has as trustee (either alone or jointly with any other person or persons).
- (3) Subsection (1) above—
  - (a) applies only if and so far as a contrary intention is not expressed in the instrument creating the power of attorney, and
  - (b) has effect subject to the terms of that instrument.
- (4) The donor of the power of attorney—
  - (a) is liable for the acts or defaults of the donee in exercising any function by virtue of subsection (1) above in the same manner as if they were acts or defaults of the donor, but
  - (b) is not liable by reason only that a function is exercised by the donee by virtue of that subsection.
- (5) Subsections (1) and (4) above—
  - (a) apply only if and so far as a contrary intention is not expressed in the instrument (if any) creating the trust, and

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- (b) have effect subject to the terms of such an instrument.
- (6) The fact that it appears that, in dealing with any shares or stock, the donee of the power of attorney is exercising a function by virtue of subsection (1) above does not affect with any notice of any trust a person in whose books the shares are, or stock is, registered or inscribed.
- (7) In any case where (by way of exception to section 3(1) of the <sup>M2</sup>Trusts of Land and Appointment of Trustees Act 1996) the doctrine of conversion continues to operate, any person who, by reason of the continuing operation of that doctrine, has a beneficial interest in the proceeds of sale of land shall be treated for the purposes of this section and section 2 below as having a beneficial interest in the land.
- (8) The donee of a power of attorney is not to be regarded as exercising a trustee function by virtue of subsection (1) above if he is acting under a trustee delegation power; and for this purpose a trustee delegation power is a power of attorney given under—
- (a) a statutory provision, or
  - (b) a provision of the instrument (if any) creating a trust,
- under which the donor of the power is expressly authorised to delegate the exercise of all or any of his trustee functions by power of attorney.
- (9) Subject to section 4(6) below, this section applies only to powers of attorney created after the commencement of this Act.

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**Marginal Citations**

**M1** 1925 c.20.

**M2** 1996 c.47.

## 2 Evidence of beneficial interest.

- (1) This section applies where the interest of a purchaser depends on the donee of a power of attorney having power to do an act in relation to any property by virtue of section 1(1) above.
- In this subsection “purchaser” has the same meaning as in Part I of the <sup>M3</sup>Law of Property Act 1925.
- (2) Where this section applies an appropriate statement is, in favour of the purchaser, conclusive evidence of the donor of the power having a beneficial interest in the property at the time of the doing of the act.
- (3) In this section “an appropriate statement” means a signed statement made by the donee—
- (a) when doing the act in question, or
  - (b) at any other time within the period of three months beginning with the day on which the act is done,
- that the donor has a beneficial interest in the property at the time of the donee doing the act.
- (4) If an appropriate statement is false, the donee is liable in the same way as he would be if the statement were contained in a statutory declaration.

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**Marginal Citations**

**M3** 1925 c.20.

**3 General powers in specified form.**

In section 10(2) of the <sup>M4</sup>Powers of Attorney Act 1971 (which provides that a general power of attorney in the form set out in Schedule 1 to that Act, or a similar form, does not confer on the donee of the power any authority to exercise functions of the donor as trustee etc.), for the words “This section” substitute “ Subject to section 1 of the Trustee Delegation Act 1999, this section ”.

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**Marginal Citations**

**M4** 1971 c.27.

<sup>F1</sup>**4 Enduring powers.**

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**Textual Amendments**

**F1** S. 4 repealed (1.10.2007) by [Mental Capacity Act 2005 \(c. 9\)](#), s. 68(1), [Sch. 7](#) (with ss. 27-29, 62); [S.I. 2007/1897](#), art. 2(1)(d)

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