



Trustee Delegation Act 1999

1999 CHAPTER 15

Trustee delegation under section 25 of the Trustee Act 1925

5 Delegation under section 25 of the Trustee Act 1925

(1) For section 25 of the Trustee Act 1925 substitute—

“25 Delegation of trustee’s functions by power of attorney

- (1) Notwithstanding any rule of law or equity to the contrary, a trustee may, by power of attorney, delegate the execution or exercise of all or any of the trusts, powers and discretions vested in him as trustee either alone or jointly with any other person or persons.
- (2) A delegation under this section—
 - (a) commences as provided by the instrument creating the power or, if the instrument makes no provision as to the commencement of the delegation, with the date of the execution of the instrument by the donor; and
 - (b) continues for a period of twelve months or any shorter period provided by the instrument creating the power.
- (3) The persons who may be donees of a power of attorney under this section include a trust corporation.
- (4) Before or within seven days after giving a power of attorney under this section the donor shall give written notice of it (specifying the date on which the power comes into operation and its duration, the donee of the power, the reason why the power is given and, where some only are delegated, the trusts, powers and discretions delegated) to—
 - (a) each person (other than himself), if any, who under any instrument creating the trust has power (whether alone or jointly) to appoint a new trustee; and
 - (b) each of the other trustees, if any;

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but failure to comply with this subsection shall not, in favour of a person dealing with the donee of the power, invalidate any act done or instrument executed by the donee.

- (5) A power of attorney given under this section by a single donor—
- (a) in the form set out in subsection (6) of this section; or
 - (b) in a form to the like effect but expressed to be made under this subsection,

shall operate to delegate to the person identified in the form as the single donee of the power the execution and exercise of all the trusts, powers and discretions vested in the donor as trustee (either alone or jointly with any other person or persons) under the single trust so identified.

- (6) The form referred to in subsection (5) of this section is as follows—

“THIS GENERAL TRUSTEE POWER OF ATTORNEY is made on [date] by [name of one donor] of [address of donor] as trustee of [name or details of one trust].

I appoint [name of one donee] of [address of donee] to be my attorney [if desired, the date on which the delegation commences or the period for which it continues (or both)] in accordance with section 25(5) of the Trustee Act 1925.

[To be executed as a deed]”.

- (7) The donor of a power of attorney given under this section shall be liable for the acts or defaults of the donee in the same manner as if they were the acts or defaults of the donor.
- (8) For the purpose of executing or exercising the trusts or powers delegated to him, the donee may exercise any of the powers conferred on the donor as trustee by statute or by the instrument creating the trust, including power, for the purpose of the transfer of any inscribed stock, himself to delegate to an attorney power to transfer, but not including the power of delegation conferred by this section.
- (9) The fact that it appears from any power of attorney given under this section, or from any evidence required for the purposes of any such power of attorney or otherwise, that in dealing with any stock the donee of the power is acting in the execution of a trust shall not be deemed for any purpose to affect any person in whose books the stock is inscribed or registered with any notice of the trust.
- (10) This section applies to a personal representative, tenant for life and statutory owner as it applies to a trustee except that subsection (4) shall apply as if it required the notice there mentioned to be given—
- (a) in the case of a personal representative, to each of the other personal representatives, if any, except any executor who has renounced probate;
 - (b) in the case of a tenant for life, to the trustees of the settlement and to each person, if any, who together with the person giving the notice constitutes the tenant for life; and

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- (c) in the case of a statutory owner, to each of the persons, if any, who together with the person giving the notice constitute the statutory owner and, in the case of a statutory owner by virtue of section 23(1)(a) of the Settled Land Act 1925, to the trustees of the settlement.”
- (2) Subsection (1) above has effect in relation to powers of attorney created after the commencement of this Act.
- (3) In section 34(2)(b) of the Pensions Act 1995 (delegation by trustees of trustee scheme under section 25 of the Trustee Act 1925), for “during absence abroad” substitute “for period not exceeding twelve months”.