



# Trustee Act 1925

1925 CHAPTER 19 15 and 16 Geo 5

## PART II

### GENERAL POWERS OF TRUSTEES AND PERSONAL REPRESENTATIVES

#### *Maintenance, Advancement and Protective Trusts*

#### **33 Protective trusts.**

- (1) Where any income, including an annuity or other periodical income payment, is directed to be held on protective trusts for the benefit of any person (in this section called “the principal beneficiary”) for the period of his life or for any less period, then, during that period (in this section called the “trust period”) the said income shall, without prejudice to any prior interest, be held on the following trusts, namely:—
- (i) Upon trust for the principal beneficiary during the trust period or until he, whether before or after the termination of any prior interest, does or attempts to do or suffers any act or thing, or until any event happens, other than an advance under any statutory or express power, whereby, if the said income were payable during the trust period to the principal beneficiary absolutely during that period, he would be deprived of the right to receive the same or any part thereof, in any of which cases, as well as on the termination of the trust period, whichever first happens, this trust of the said income shall fail or determine;
  - (ii) If the trust aforesaid fails or determines during the subsistence of the trust period, then, during the residue of that period, the said income shall be held upon trust for the application thereof for the maintenance or support, or otherwise for the benefit, of all or any one or more exclusively of the other or others of the following persons (that is to say)—
    - (a) the principal beneficiary and his or her [<sup>F1</sup>spouse or civil partner], if any, and his or her children or more remote issue, if any; or
    - (b) if there is no [<sup>F2</sup>spouse or civil partner] or issue of the principal beneficiary in existence, the principal beneficiary and the persons who would, if he were actually dead, be entitled to the trust property

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*Changes to legislation: There are currently no known outstanding effects for the Trustee Act 1925, Section 33. (See end of Document for details)*

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or the income thereof or to the annuity fund, if any, or arrears of the annuity, as the case may be;

as the trustees in their absolute discretion, without being liable to account for the exercise of such discretion, think fit.

- (2) This section does not apply to trusts coming into operation before the commencement of this Act, and has effect subject to any variation of the implied trusts aforesaid contained in the instrument creating the trust.
- (3) Nothing in this section operates to validate any trust which would, if contained in the instrument creating the trust, be liable to be set aside.
- [<sup>F3</sup>(4) In relation to the dispositions mentioned in section 19(1) of the Family Law Reform Act 1987, this section shall have effect as if any reference (however expressed) to any relationship between two persons were construed in accordance with section 1 of that Act.]

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**Textual Amendments**

- F1** Words in s. 33(1)(ii)(a) substituted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), s. 263(10)(b), [Sch. 27 para. 6](#); S.I. 2005/3175, art. 2(2); S.I. 2005/3175, art. 2(2)
- F2** Words in s. 33(1)(ii)(b) substituted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), s. 263(10)(b), [Sch. 27 para. 6](#); S.I. 2005/3175, art. 2(2); S.I. 2005/3175, art. 2(2)
- F3** S. 33(4) added by [Family Law Reform Act 1987 \(c. 42, SIF 49:7\)](#), s. 33(1)(2), Sch. 2 para. 2, Sch. 3 paras. 1, 6
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**Modifications etc. (not altering text)**

- C1** S. 33 modified by [Family Law Reform Act 1987 \(c. 42, SIF 49:7\)](#), ss. 19(3)(4), 33(2), Sch. 3 paras. 1, 6

**Changes to legislation:**

There are currently no known outstanding effects for the Trustee Act 1925, Section 33.