

TRUSTEES AND EXECUTORS ORDINANCE. 1912.⁽¹⁾

No. 16 of 1912.

An Ordinance to amend Enactments relating to Trustees and Executors.

BE it enacted by the Lieutenant-Governor of the Territory of Papua with the advice and consent of the Legislative Council thereof as follows:—

PART I.—PRELIMINARY.

1. This Ordinance may be cited as the *Trustees and Executors Ordinance, 1912.*⁽¹⁾ Short title.

2. This Ordinance shall commence on a day to be fixed by the Lieutenant-Governor by Proclamation published in the *Gazette.*⁽¹⁾ Commencement.

3. In this Ordinance unless the context otherwise indicates— Definitions.

“The Court” means the Central Court⁽²⁾ of the Territory of Papua or a judge thereof; Q. 61 Vic. No. 10, s. 3.

The term “Contingent Right” as applied to land includes a contingent or executory interest a possibility coupled with an interest whether the object of the gift or limitation of the interest or possibility is or is not ascertained also a right of entry whether immediate or future and whether vested or contingent;

The terms “Convey” and “Conveyance” applied to any person include the execution by that person of every necessary or suitable assurance for conveying assigning appointing surrendering or otherwise transferring or disposing of land whereof he is seised or possessed or wherein he is entitled to a contingent right either for his whole estate or for any less estate together with the

(1) Particulars of this Ordinance are as follows:—

Date of assent by by Lieut.-Gov.	Date notified in Papua Govt. Gaz. as not disallowed by Gov.-Gen. in Council.	Date on which came into operation.
16.7.1912	(a)	23.12.1912 (Papua Govt. Gaz. of 23.12.1912)

(a) No notice of non-disallowance has been published in Papua Govt. Gaz.

(2) See Section 19(2) of the *Ordinance Interpretation Ordinance, 1911-1940.*

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performance of all formalities required by law to the validity of the conveyance;

The term "Devisee" includes the heir of a devisee and the devisee of an heir and any person who may claim right by devolution of title of a similar description;

The term "Instrument" includes Ordinance and Act of Parliament;

The term "Land" includes incorporeal as well as corporeal hereditaments and any interest therein and also an undivided share of land;

The terms "Mortgage" and "Mortgagee" include and relate to every estate and interest regarded by law or in equity as merely a security for money and every person deriving title under the original mortgagee;

The terms "Pay" and "Payment" as applied in relation to stocks and securities and in connection with the expression "into court" include the deposit or transfer of the same in or into court;

The term "Possessed" applies to receipt of income of and to any vested estate less than a life estate legal or equitable in possession or in expectancy in any land;

The term "Property" includes real and personal property and any estate and interest in any property real or personal and any debt and any thing in action and any other right or interest whether in possession or not;

The term "Rights" includes estates and interests;

The term "Stock" includes fully paid up shares and so far as relates to vesting orders made by the court under this Ordinance includes any fund annuity or security transferable in books kept by any company or society or by instrument of transfer either alone or accompanied by other formalities and any share or interest therein;

The term "Transfer" in relation to stock includes the performance and execution of every deed power of attorney act and thing on the part of the transferor to effect and complete the title in the transferee;

The term "Trust" does not include the duties incident to an estate conveyed by way of mortgage but with this exception the terms "trust" and "trustee" include implied and constructive trusts and cases where the trustee has a beneficial interest in the trust property and also the duties incident to the office of real or personal representative of a deceased person.

PART II.—INVESTMENTS.

4. A trustee may unless expressly forbidden by the instrument if any creating the trust invest any trust funds in his hands whether at the time in a state of investment or not in manner following that is to say:—

Authorized investments.
Q. 61 Vic.
No. 10, s. 4.

- (a) In any of the Parliamentary stocks or public funds or Government securities of the United Kingdom;
- (b) on real or heritable securities in Great Britain or Ireland;
- (c) in the stock of the Bank of England or the Bank of Ireland;
- (d) in any securities the interest of which is for the time being guaranteed by the Parliament of the United Kingdom or of the Commonwealth or of any of the States of the Commonwealth or of the Dominion of New Zealand;
- (e) in debentures or securities of the Government of the said Commonwealth States or Dominion;
- (f) on real securities in the Territory or any of the States of the Commonwealth;
- (g) in any of the stocks funds or securities for the time being authorized for the investment of cash under the control or subject to the order of the court;

and may also from time to time vary any such investment.

5.—(1.) A trustee may under the powers of this Ordinance invest in any of the securities mentioned or referred to in the last preceding section notwithstanding that the same may be redeemable or that the price exceeds the redemption value.

Purchase at a premium of redeemable stock.
Q. *Ib.* s. 5.

(2.) A trustee may retain until redemption any redeemable stock fund or securities which may have been purchased in accordance with the powers of this Ordinance.

6. Every power conferred by the preceding sections shall be exercised according to the discretion of the trustee but subject to any consent required by the instrument if any creating the trust with respect to the investment of the trust funds.

Discretion of trustees.
Q. *Ib.* s. 6.

7. The preceding sections apply as well to trusts created before as to trusts created after the passing of this Ordinance and the powers thereby conferred are in addition to the powers conferred by the instrument if any creating the trust.

Application of preceding sections.
Q. *Ib.* s. 7.

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Loans and investments by trustees not chargeable as breaches of trust.

Q. 61 Vic.
No. 10, s. 8.

8.—(1.) A trustee lending money on the security of any property on which he can lawfully lend it is not chargeable with breach of trust by reason only of the proportion borne by the amount of the loan to the value of the property at the time when the loan was made provided that it appears to the court that in making the loan the trustee was acting upon a report as to the value of the property made by a person whom he reasonably believed to be an able practical surveyor or valuer instructed and employed independently of any owner of the property whether such surveyor or valuer carried on business in the locality where the property is situate or elsewhere and that the amount of the loan does not exceed two equal third parts of the value of the property as stated in the report and that the loan was made under the advice of the surveyor or valuer expressed in the report.

(2.) A trustee is not chargeable with breach of trust only upon the ground that in effecting the purchase of or in lending money upon the security of any property he has accepted a shorter title than the title which a purchaser is in the absence of a special contract entitled to require if in the opinion of the court the title accepted is such as a person acting with prudence and caution would have accepted.

(3.) A trustee is not liable for breach of trust by reason only of his continuing to hold an investment which has ceased to be an investment authorized by the instrument of trust or by the general law.

(4.) This section applies to transfers of existing securities as well as to new securities and to investments made as well before as after the commencement of this Ordinance.

Liability for loss by reason of improper investments.

Q. 7b. s. 9.

9.—(1.) When a trustee improperly advances trust money on a mortgage security which would at the time of the investment be a proper investment in all respects for a smaller sum than is actually advanced thereon the security shall be deemed an authorized investment for the smaller sum and the trustee shall only be liable to make good the sum advanced in excess thereof with interest.

(2.) This section applies to investments made as well before as after the commencement of this Ordinance.

PART III.—VARIOUS POWERS AND DUTIES OF TRUSTEES.

Appointment of New Trustees.

Power of appointing new trustees.

Q. 7b. s. 10.

10.—(1.) When a trustee either original or substituted and whether appointed by the court or otherwise is dead or remains out of the Territory for more than twelve months or desires to be discharged from all or any of the trusts or powers reposed in or conferred on him or refuses or is unfit to act therein or is incapable

of acting therein then the person or persons nominated for the purpose of appointing new trustees in such event by the instrument if any creating the trust or if there is no such person or no such person able and willing to act then the surviving or continuing trustees or trustee for the time being or the personal representatives of the last surviving or continuing trustee may by writing appoint another person or other persons to be a trustee or trustees in the place of the trustee dead remaining out of the Territory desiring to be discharged refusing or being unfit or being incapable as aforesaid.

(2.) On the appointment of a new trustee for the whole or any part of trust property—

- (a) the number of trustees may be increased; and
- (b) a separate set of trustees may be appointed for any part of the trust property held on trusts distinct from those relating to any other part or parts of the trust property notwithstanding that no new trustees or trustee are or is to be appointed for other parts of the trust property and any existing trustee may be appointed or remain one of such separate set of trustees; or if only one trustee was originally appointed then one separate trustee may be so appointed for the first-mentioned part; and
- (c) it shall not be obligatory to appoint more than one new trustee when only one trustee was originally appointed or to fill up the original number of trustees when more than two trustees were originally appointed; but except when only one trustee was originally appointed a trustee shall not be discharged under this section from his trust unless there will be either a trustee company specially authorized by Ordinance to act as sole trustee or at least two trustees to perform the trust; and
- (d) any assurance or thing requisite for vesting the trust property or any part thereof jointly in the persons who are the trustees shall be executed or done.

(3.) When in any case not hereinbefore mentioned it is desired to increase the number of trustees of any trust the existing trustees or trustee may by writing with the concurrence in writing of the person or persons if any nominated for the purpose of appointing new trustees of the instrument if any creating the trust appoint another person or other persons to be a trustee or trustees in addition to the existing trustee or trustees.

(4.) Every new trustee so appointed as well before as after all

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the trust property becomes by law or by assurance or otherwise vested in him shall have the same powers authorities and discretions and may in all respects act as if he had been originally appointed a trustee by the instrument if any creating the trust.

(5.) The provisions of this section relative to a trustee who is dead include the case of a person nominated trustee in a will but dying before the testator and those relative to a continuing trustee include a refusing or retiring trustee if willing to act in the execution of the provisions of this section.

(6.) This section applies only if and as far as a contrary intention is not expressed in the instrument if any creating the trust and has effect subject to the terms of that instrument and to any provisions therein contained.

(7.) This section applies to trusts created either before or after the commencement of this Ordinance.

Retirement
of trustee.
Q. 61 Vic.
No. 10, s. 11.

11.—(1.) When there are more than two trustees if one of them by deed declares that he is desirous of being discharged from the trust and if his co-trustees and such other person if any as is empowered in that event to appoint trustees by deed consent to the discharge of the trustee and to the vesting in the co-trustees alone of the trust property then the trustees⁽³⁾ desirous of being discharged shall be deemed to have retired from the trust and shall by the deed be discharged therefrom under this Ordinance without any new trustee being appointed in his place.

(2.) Any assurance or thing requisite for vesting the trust property in the continuing trustees alone shall be executed or done.

(3.) This section applies only if and as far as a contrary intention is not expressed in the instrument if any creating the trust and has effect subject to the terms of that instrument and to any provisions therein contained.

(4.) This section applies to trusts created either before or after the commencement of this Ordinance.

Devolution of
trust and
mortgage
estates on
death.
Q. *Ib.* s. 12.

12.—(1.) When an estate or interest of inheritance in any hereditaments corporeal or incorporeal is vested on any trust or by way of mortgage in any person solely the same shall on his death notwithstanding any testamentary disposition devolve to and become vested in his personal representative from time to time in like manner as if the same were a chattel real vested in him and for the purposes of this section the personal representative for the time being of the deceased shall be deemed in law to be his heir and assign within the meaning of all trusts and powers expressed in words by virtue of which but for this section the estate or in-

(3) The word "trustees" appeared in the original Ordinance. *Semble*, it should be "trustee."

terest would vest in or the power would be exercisable by his heirs or assigns.

(2.) This section applies only in cases of death after the commencement of this Ordinance.

13.—(1.) When a deed by which a new trustee is appointed to perform any trust contains a declaration by the appointor to the effect that any estate or interest in any land subject to the trust or in any chattel so subject or the right to recover and receive any debt or other thing in action so subject shall vest in the persons who by virtue of the deed become and are the trustees for performing the trust that declaration shall (subject however in the case of an estate or interest in land to registration which the Registrar of Titles is hereby authorized and required to make) and without any conveyance or assignment operate to vest in those persons as joint tenants and for the purposes of the trust that estate interest or right.

Vesting of trust property in new or continuing trustees.
Q. 61 Vic. No. 10, s. 13.

(2.) When a deed by which a retiring trustee is discharged under this Ordinance contains such a declaration as is in this section mentioned by the retiring and continuing trustees and by the other person (if any) empowered to appoint trustees that declaration shall upon registration which the Registrar of Titles is hereby authorized and required to make and without any conveyance or assignment operate to vest in the continuing trustees alone as joint tenants and for the purposes of the trust the estate interest or right to which the declaration relates.

(3.) This section does not extend to land conveyed by way of mortgage for securing money subject to the trust or to any such share stock annuity or property as is only transferable in books kept by a company or other body or in the manner directed by or under any Ordinance or Act of Parliament.

(4.) For purposes of registration of the deed in any registry the person or persons making the declaration shall be deemed the conveying party or parties and the conveyance shall be deemed to be made by him or them under a power conferred by this Ordinance.

(5.) This section applies only to deeds executed since the commencement of this Ordinance.

Purchase and Sale.

14.—(1.) When a trust for sale or a power of sale of property is vested in a trustee he may sell or concur with any other person in selling all or any part of the property either subject to prior charges or not and either together or in lots by public auction or by private contract subject to any such conditions respecting title or evidence of title or any other matter as the trustee thinks fit with power to vary any contract for sale and to buy in at any

Power of trustee for sale to sell by auction &c.
Q. 1b. s. 14.

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auction or to rescind any contract for sale and to re-sell without being answerable for any loss.

(2.) This section applies only if and as far as a contrary intention is not expressed in the instrument creating the trust or power and has effect subject to the terms of that instrument and to the provisions therein contained.

(3.) This section applies only to a trust or power created by an instrument coming into operation after the commencement of this Ordinance.

Power to sell
subject to
depreciatory
conditions.
Q. 61 Vic.
No. 10, s. 15.

15.—(1.) A sale made by a trustee shall not be impeached by any beneficiary upon the ground that any of the conditions subject to which the sale was made may have been unnecessarily depreciatory unless it also appears that the consideration for the sale was thereby rendered inadequate.

(2.) A sale made by a trustee shall not after the execution of the conveyance be impeached as against the purchaser upon the ground that any of the conditions subject to which the sale was made may have been unnecessarily depreciatory unless it appears that the purchaser was acting in collusion with the trustee at the time when the contract for sale was made.

(3.) A purchaser upon a sale made by a trustee shall not be at liberty to make any objection against the title upon the ground aforesaid.

(4.) This section applies only to sales made after the commencement of this Ordinance.

Power to
postpone sale
and conversion
in certain
cases.
Q. 2 Edw. VII.
No. 7, s. 2.

16.—(1.) When any property is now or shall hereafter become vested in any trustee in trust for an infant or for an infant and any other person or persons and such trustee is bound by law to sell and convert such property into money it shall be lawful for such trustee with the sanction of the court and with the consent of and after hearing such other person or persons if any as the court may direct to postpone the sale and conversion of such property into money and to manage the said property and carry on any business or undertaking with or in connection with such property for such period during the minority of such infant as the court may think fit for the benefit of the persons entitled to such property.

(2.) If any such trustee has prior to the passing of this Ordinance retained any property without having realized the same and has carried on any business or undertaking by means thereof for the benefit of the persons entitled thereto the court may in its discretion sanction any such retention and carrying on of business or undertaking and such sanction shall operate and take effect as

if this Ordinance had been in force when such retention and carrying on of such business or undertaking occurred and the sanction had been obtained prior thereto.

(3.) If any such trustee is now or hereafter shall be authorized to carry on any business or undertaking as aforesaid the court may either in lieu of or in addition to the commission mentioned in this Ordinance allow the trustee such salary or remuneration as the court shall think fit for his pains and trouble in carrying on such business or undertaking.

(4.) This section applies only if and so far as a contrary intention is not expressed in the instrument if any creating the trust and has effect subject to the terms of that instrument and to any provision therein contained.

Various Powers and Liabilities.

17.—(1.) A trustee may appoint a solicitor to be his agent to receive and give a discharge for any money or valuable consideration or property receivable by the trustee under the trust by permitting the solicitor having^(3a) the custody of and to produce a deed or instrument having in the body thereof or indorsed thereon a receipt for such money valuable consideration or property such deed or instrument being executed or such indorsed receipt being signed by the trustee; and a trustee is not chargeable with breach of trust by reason only of his having made or concurred in making any such appointment; and the producing of any such deed or instrument by the solicitor has the same validity and effect as if the person appointing the solicitor had not been a trustee.

Power to authorize receipt of money by banker or solicitor.
Q. 61 Vic. No. 10, s. 16.

(2.) A trustee may appoint a banker or solicitor to be his agent to receive and give a discharge for any money payable to the trustee under or by virtue of a policy of assurance by permitting the banker or solicitor to have the custody of and to produce the policy of assurance with a receipt signed by the trustee; and a trustee is not chargeable with a breach of trust by reason only of his having made or concurred in making any such appointment.

(3.) This section does not exempt a trustee from any liability which he would have incurred if this Ordinance had not been passed in case he permits any such money valuable consideration or property to remain in the hands or under the control of the banker or solicitor for a period longer than is reasonably necessary to enable the banker or solicitor as the case may be to pay or transfer the same to the trustee.

(4.) This section applies only where the money or valuable consideration or property is received after the commencement of this Ordinance.

(3a) The word "having" appeared in the original Ordinance. *Semble*, "to have" was intended.

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(5.) This section does not authorize a trustee to do anything which he is in express terms forbidden to do or to omit to do anything which he is in express terms directed to do by the instrument creating the trust.

Power to insure building.
Q. 61 Vic.
No. 10, s. 17.

18.—(1.) A trustee may insure against loss or damage by fire any building or other insurable property to any amount including the amount of any insurance already on foot not exceeding three equal fourth parts of the full value of such building or property and may pay the premiums for such insurance out of the income thereof or out of the income of any other property subject to the same trusts without obtaining the consent of any person who may be entitled wholly or partly to such income.

(2.) This section does not apply to any building or property which a trustee is bound forthwith to convey absolutely to any beneficiary upon being requested to do so.

(3.) This section applies to trusts created either before or after the commencement of this Ordinance but does not authorize a trustee to do anything which he is in express terms forbidden to do or omit to do anything which he is in express terms directed to do by the instrument creating the trust.

Power of trustees of renewable leaseholds to renew and raise money for the purpose.
Q. 1b. s. 18.

19.—(1.) A trustee for any leaseholds for lives or years which are renewable from time to time either under any covenant or contract or by custom or usual practice may if he thinks fit and shall if thereto required by any person having any beneficial interest present or future or contingent in the leaseholds use his best endeavours to obtain from time to time a renewed lease of the same lands on the accustomed and reasonable terms and for that purpose may from time to time make or concur in making a surrender of the lease for the time being subsisting and do all such other acts as are requisite: Provided that when by the terms of the settlement or will the person in possession for his life or other limited interest is entitled to enjoy the trust property without any obligation to renew or to contribute to the expense of renewal the consent in writing of that person must be obtained to the renewal on the part of the trustee.

(2.) If money is required to pay for the renewal the trustee effecting the renewal may pay the same out of any money then in his hands in trust for the persons beneficially interested in the lands to be comprised in the renewed lease and if he has not in his hands sufficient money for the purpose he may raise the money required by mortgage of the lands to be comprised in the renewed lease or of any other lands for the time being subject to the uses or trusts to which those lands are subject; and any person advancing

money upon a mortgage purporting to be given under this power is not bound to see that the money is wanted or that no more is raised than is wanted for the purpose.

(3.) This section applies to trusts created either before or after the commencement of this Ordinance but does not authorize a trustee to do anything which he is in express terms forbidden to do or to omit anything which he is in express terms directed to do by the instrument creating the trust.

20.—(1.) The receipt in writing of a trustee for any money securities or other personal property or effects payable transferable or deliverable to him under any trust or power is a sufficient discharge for the same and effectually exonerates the person paying transferring or delivering the same from seeing to the application or being answerable for any loss or misapplication thereof.

Power of trustee
to give receipts.
Q. 61 Vic.
No. 10, s. 19.

(2.) This section applies to trusts created either before or after the commencement of this Ordinance.

21.—(1.) An executor or administrator may pay or allow any debt or claim on any evidence that he thinks sufficient.

Power for
executors and
trustees to
compound &c.
Q. 7b. s. 20.

(2.) An executor or administrator or two or more trustees acting together or a sole acting trustee when by the instrument if any creating the trust a sole trustee is authorized to execute the trusts and powers thereof may if and as he or they think fit accept any composition or any security real or personal for any debt or for any property real or personal claimed and may allow any time for payment for any debt and may compromise compound abandon submit to arbitration or otherwise settle any debt account claim or thing whatever relating to the testator's or intestate's estate or to the trust and for any of those purposes may enter into give execute and do such agreements instruments of composition or arrangement releases and other things as to him or them seem expedient without being responsible for any loss occasioned by any act or thing so done by him or them in good faith.

(3.) This section applies only if and as far as a contrary intention is not expressed in the instrument if any creating the trust and has effect subject to the terms of that instrument and to the provisions therein contained.

(4.) This section applies to executorships administratorships and trusts constituted or created either before or after the commencement of this Ordinance.

As to liability of executor or administrator in respect of rents covenants or agreements. Imp. 56 and 57 Vic. c. 53, s. 21.

22.—(1.) When an executor or administrator liable as such to the rents covenants or agreements contained in—

- (a) any lease or agreement for a lease granted or assigned to the testator or intestate; or
- (b) any conveyance on chief rent or rent charge whether any such rent is by limitation of use grant or reservation or any agreement for such a conveyance granted or assigned to or made and entered into with the testator or intestate

has assigned the lease or conveyed the property comprised in the conveyance or assigned the agreement for a lease or conveyance to a purchaser and has satisfied all such liabilities under the lease conveyance or agreement as have accrued due and being claimed up to the time of the assignment or conveyance and has set apart a sufficient fund to answer any future claim that may be made in respect of any fixed and ascertained sum covenanted or agreed by the lessee or grantee to be laid out on the property demised or conveyed or agreed to be demised or conveyed although the period for laying out the same has not arrived he may distribute the remainder of the estate of the testator or intestate among the parties entitled thereto without appropriating any part or any further part as the case may be of the estate to meet any future liability under the lease conveyance or agreement.

(2.) An executor or administrator so distributing the estate after making such assignment or conveyance and having when necessary set apart such sufficient fund as aforesaid is not personally liable in respect of any subsequent claim under the lease conveyance or agreement.

(3.) This section does not prejudice the right of the lessor or grantor or those claiming under him to follow the assets of the testator or intestate into the hands of any person who has received them.

As to distribution of the assets of testator or intestate after notice given by executor or administrator. Imp. 1b. s. 22.

23. An executor or administrator may by public advertisement call upon all persons having claims against the estate of the testator or intestate to send their claims to him and may at the expiration of the time named in the advertisement or the last of the advertisements for sending in claims distribute the assets of the testator or intestate among the parties entitled thereto having regard to the claims of which he has then notice.

If the notices so given are in the opinion of any court in which the executor or administrator is afterwards sought to be charged such as would have been given by direction of the court for the like purpose in an administration action he is not liable for the

assets so distributed to any person of whose claim he had not notice at the time of distribution of the assets.

This section does not prejudice the right of any creditor or claimant to follow the assets into the hands of any person who has received them.

24.—(1.) When a power or trust is given to or vested in two or more executors or trustees jointly then unless the contrary is expressed in the instrument if any creating the power or trust the same may be exercised or performed by the survivor or survivors of them for the time being.

Powers of two or more executors or trustees.
Q. 61 Vic.
No. 10, s. 23.

(2.) This section applies only to executorships or trusts constituted after or created by instruments coming into operation after the commencement of this Ordinance.

25. An executor administrator or trustee acting or paying money in good faith under or in pursuance of a power of attorney is not liable for any such act or payment by reason of the fact that at the time of the payment or act the person who gave the power of attorney was dead or had done some act to avoid the power if this fact was not known to the executor administrator or trustee at the time of his so acting or paying.

Exoneration of trustees in respect of certain powers of attorney.
Q. 16, s. 24.

This section does not affect the right of any person entitled to the money as against the person to whom the payment is made; and the person so entitled has the same remedy against the person to whom the payment is made as he would have had against the executor administrator or trustee.

26.—(1.) Subject and without prejudice to the provisions of the instrument if any creating the trust a trustee is chargeable only for money and securities actually received by him notwithstanding his signing any receipt for the sake of conformity and is answerable and accountable only for his own acts receipts neglects or defaults and not for those of any other trustee nor for any banker broker or other person with whom any trust moneys or securities may be deposited nor for the insufficiency or deficiency of any securities nor for any other loss unless the same happens through his own wilful default.

Implied indemnity of trustees.
Q. 16, s. 25.

(2.) A trustee may reimburse himself or pay or discharge out of the trust estate all expense incurred in or about the execution of his trusts or powers.

PART IV.—POWERS OF THE COURT.

Appointment of New Trustees and Vesting Orders.

27.—(1.) Whenever it is expedient to appoint a new trustee or new trustees and it is found inexpedient difficult or impractic-

Power of the court to appoint new trustees.
Q. 16, s. 26.

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able so to do without the assistance of the court the court may make an order for the appointment of a new trustee or new trustees either in substitution for or in addition to any existing trustee or trustees or although there is no existing trustee. In particular and without prejudice to the generality of the foregoing provision the court may make an order for the appointment of a new trustee in substitution for a trustee who is convicted of felony is an insolvent or is of unsound mind.

(2.) An order under this section and any consequential vesting order or conveyance shall not operate further or otherwise as a discharge to any former or continuing trustee than an appointment of new trustees under any power for that purpose contained in any instrument would have operated.

(3.) This section does not authorize the appointment of an executor or administrator.

Vesting orders
as to land.
Q. 61 Vic.
No. 10, s. 27.

28. In any of the following cases namely:—

- (i) When the court appoints or has appointed a new trustee; and
- (ii) when a trustee entitled to or possessed of any land or entitled to a contingent right therein either solely or jointly with any other person—
 - (a) is an infant; or
 - (b) is of unsound mind; or
 - (c) is out of the jurisdiction of the court; or
 - (d) cannot be found; and
- (iii) when it is uncertain who was the survivor of two or more trustees jointly entitled to or possessed of any land; and
- (iv) when as to the last trustee known to have been entitled to or possessed of any land it is uncertain whether he is living or dead; and
- (v) when in the case of a trustee who was entitled to or possessed of land and who has died before the commencement of this Ordinance it is uncertain whether he died intestate as to the land or who is his heir or devisee; and
- (vi) when in the case of a trustee who was entitled to or possessed of land and who has died after the commencement of this Ordinance—
 - (a) his personal representative is out of the jurisdiction of the court or cannot be found; or

- (b) it is uncertain whether his personal representative is living or dead; or
 - (c) he has no personal representative; and
- (vii) when a trustee jointly or solely entitled to or possessed of any land or entitled to a contingent right therein has been required by or on behalf of a person entitled to require a conveyance of the land or a release of the right to convey the land or to release the right and has wilfully refused or neglected to convey the land or release the right for twenty-eight days after the date of the requirement

the court may make an order in this Ordinance called a vesting order vesting the land in such person in any such manner and for any such estate as the court may direct or releasing or disposing of the contingent right to such person as the court may direct:

Provided that—

- (a) when the order is consequential on the appointment by the court of a new trustee the land shall be vested for such estate as the court may direct in the persons who on the appointment are the trustees; and
- (b) when the order relates to a trustee entitled jointly with another person the land or right shall be vested in such other person either alone or with some other person.

29. When any land is subject to a contingent right in an unborn person or class of unborn persons who on coming into existence would in respect thereof become entitled to or possessed of the land on any trust the court may make an order releasing the land from the contingent right or may make an order vesting in any person the estate to or of which the unborn person or class of unborn persons would on coming into existence be entitled or possessed in the land.

Orders as to contingent rights of unborn persons.
Q. 61 Vic.
No. 10, s. 28.

30. When any person entitled to or possessed of land or entitled to a contingent right in land by way of security for money is an infant the court may make an order vesting or releasing or disposing of the land or right in like manner as in the case of an infant trustee.

Vesting order in place of conveyance by infant mortgagee.
Q. 1b, s. 29.

31. When a mortgagee of land has died without having entered into the possession or into the receipt of the rents and profits thereof and the money due in respect of the mortgage has been paid to a person entitled to receive the same or a person so entitled consents to an order under this section then—

Vesting order in place of conveyance by heir or devisee of heir &c. or personal representative of mortgagee.
Q. 1b, s. 30.

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- (a) if the personal representative of the mortgagee is out of the jurisdiction of the court or cannot be found; or
 - (b) if the personal representative of the mortgagee on demand made by or on behalf of a person entitled to require a re-conveyance of the land has stated in writing that he will not indorse upon the mortgage deed an acknowledgment of payment or does not sign such an acknowledgment for the space of twenty-eight days next after a proper acknowledgment has been tendered to him by or on behalf of the person so entitled; or
 - (c) if it is uncertain whether the personal representative of the mortgagee is living or dead; or
 - (d) if there is no personal representative of the mortgagee
- the court may make an order vesting the land in such person or persons in such manner and for such estate as the court may direct or in the case of land subject to *The Real Property Ordinance of 1889*⁽⁴⁾ directing that an entry of the discharge of the mortgage be made in the register book which entry the Registrar of Titles is hereby authorized and required to make.

Vesting order consequential on judgment for sale or mortgage of land.

Q. 61 Vic.
No. 10, s. 31.

32. When the court gives a judgment or makes an order directing the sale or mortgage of any land every person who is entitled to or possessed of the land or entitled to a contingent right therein and is a party to the action or proceeding in which the judgment or order is given or made or is otherwise bound by the judgment or order shall be deemed to be so entitled or possessed as the case may be as a trustee within the meaning of this Ordinance; and the court may if it thinks expedient make an order vesting the land or any part thereof for such estate as the court thinks fit in the purchaser or mortgagee or in any other person or in the case of land subject to *The Real Property Ordinance of 1889*⁽⁴⁾ declaring that the mortgagee is entitled to a charge on the land; and the Registrar of Titles is hereby authorized and required to make an entry of such declaration in the register book; and such entry shall have the same operation as a registered mortgage to the same effect would have had.

Vesting order consequential on judgment for specific performance &c.

Q. 1b. s. 32.

33. When a judgment is given for the specific performance of a contract concerning any land or for the partition or sale in lieu of partition or exchange of any land and generally when a judgment is given for the conveyance of any land either in cases arising out of the doctrine of election or otherwise the court may declare that any of the parties to the action are trustees of the land or any part thereof within the meaning of this Ordinance or may declare that the interests of unborn persons who might claim under any party

(4) Repealed and replaced by the *Real Property Ordinance, 1913-1939.*

to the action or under the will or voluntary settlement of any person deceased who was during his lifetime a party to the contract or transactions concerning which the judgment is given are the interests of persons who on coming into existence would be trustees within the meaning of this Ordinance and thereupon the court may make a vesting order relating to the rights of those persons born and unborn as if they had been trustees.

34. A vesting order made under any of the foregoing provisions shall in the case of a vesting order consequential on the appointment of a new trustee have the same effect as if the persons who before the appointment were the trustees if any had duly executed all proper conveyances of the land for such sale as the court directs to be vested in the new trustee or if there is no such person or no such person of full capacity then as if such person had existed and been of full capacity and had duly executed all proper conveyances of the land for such estate as the court directs to be so vested and shall in every other case have the same effect as if the trustee or other person or description or class of persons to whose rights or supposed rights the said provisions respectively relate had been an ascertained and existing person of full capacity and had executed a conveyance or release to the effect intended by the order.

Effect of vesting order.
Q. 61 Vic.
No. 10, s. 33.

35. In all cases where a vesting order can be made under any of the foregoing provisions the court may if it is more convenient appoint a person to convey the land or release the contingent right and a conveyance or release by that person in conformity with the order shall have the same effect under the appropriate provision.

Power to appoint person to convey.
Q. Ib. s. 34.

36.—(1.) In any of the following cases namely:—

- (i) When the court appoints or has appointed a new trustee; and
- (ii) when a trustee entitled alone or jointly with another person to stock or to a chose in action—
 - (a) is an infant; or
 - (b) is of unsound mind;⁽⁵⁾
 - (c) is out of the jurisdiction of the court; or
 - (d) cannot be found; or
 - (e) neglects or refuses to transfer stock or receive the dividends or income thereof; or to sue for or recover a chose in action according to the direction of the person absolutely entitled thereto for twenty-eight days next after a request in writing has been made to him by the person so entitled; or

Vesting orders as to stock and choses in action.
Q. Ib. s. 35.

(5) The word "or" was omitted from the original Ordinance. *Seem*, it should be inserted.

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(f) neglects or refuses to transfer stock or receive the dividends or income thereof or to sue for or recover a chose in action for twenty-eight days next after an order of the court for that purpose has been served on him; and

(iii) when it is uncertain whether a trustee entitled alone or jointly with another person to stock or to a chose in action is alive or dead

the court may make an order vesting the right to transfer or call for a transfer of the stock or to receive the dividends or income thereof or to sue for or recover the chose in action in any such person as the court may appoint:

Provided that—

(a) when the order is consequential on the appointment by the court of a new trustee the right shall be vested in the persons who on the appointment are the trustees; and

(b) when the person whose right is dealt with by the order was entitled jointly with another person the right shall be vested in that last-mentioned person either alone or jointly with some other person.

(2.) In all cases where a vesting order can be made under this section the court may if it is more convenient appoint some proper person to make or join in making the transfer.

(3.) The person in whom the right to transfer or call for the transfer of any stock is vested by an order of the court under this Ordinance may transfer the stock to himself or any other person according to the order and all companies shall obey every order under this section according to its tenor.

(4.) When an order is made under this section vesting the right to sue for or recover a chose in action or any interest in respect thereof in any person such right shall vest accordingly and such person may thereupon commence and carry on in his own name any action or other proceeding for the recovery of such chose in action in the same manner as the person in whom it was previously vested.

(5.) After notice in writing of an order under this section it shall not be lawful for any company to transfer any stock to which the order relates or to pay any dividends thereon except in accordance with the order.

(6.) The court may make declarations and give directions concerning the manner in which the right to any stock or chose in

action vested under the provisions of this Ordinance is to be exercised.

(7.) The provisions of this Ordinance as to vesting orders apply to shares in ships registered under the acts relating to merchant shipping as if they were stock.

37.—(1.) An order under this Ordinance for the appointment of a new trustee or concerning any land stock or chose in action subject to a trust may be made on the application of any person beneficially interested in the land stock or chose in action whether under disability or not or on the application of any person duly appointed trustee thereof.

Persons entitled to apply for orders.
Q. 61 Vic. No. 10, s. 36.

(2.) An order under this Ordinance concerning any land stock or chose in action subject to a mortgage may be made on the application of any person beneficially interested in the equity of redemption whether under disability or not or of any person interested in the money secured by the mortgage.

38. Every trustee appointed by the court has as well before as after the trust property becomes by law or by assurance or otherwise vested in him the same powers authorities and discretions and may in all respects act as if he had been originally appointed a trustee by the instrument if any creating the trust.

Powers of new trustee appointed by court.
Q. *Ib.* s. 37.

39. The court may order the costs and expenses of and incident to any application for an order appointing a new trustee or for a vesting order or of and incident to any such order or any conveyance or transfer in pursuance thereof to be paid or raised out of the land or personal estate in respect whereof the same is made or out of the income thereof or to be borne and paid in such manner and by such persons as to the court may seem just.

Power to charge costs on trust estate.
Q. *Ib.* s. 38.

40. The powers conferred by this Ordinance as to vesting orders may be exercised for vesting any land stock or chose in action in any trustee of a charity or society over which the court would have jurisdiction upon action duly instituted whether the appointment of the trustee was made by instrument under a power or by the court under its general or statutory jurisdiction.

Trustees of charities.
Q. *Ib.* s. 39.

41. When a vesting order as to any land is made under this Ordinance or under any Ordinance relating to insanity founded on an allegation of the personal incapacity of a trustee or on an allegation that a trustee or the personal representative of a mortgagee is out of the jurisdiction of the court or cannot be found or that it is uncertain which of several trustees was the survivor or whether the last trustee or the personal representative of a mort-

Orders made upon certain allegations to be conclusive evidence.
Q. *Ib.* s. 40.

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gagee is living or dead or on an allegation that there is no personal representative of a trustee or mortgagee or on an allegation that any trustee has died intestate and it is not known who is his heir or has died and it is uncertain whether he died intestate or who is his heir or devisee the fact that the order has been made shall be conclusive evidence of the matter so alleged in any court upon any question as to the validity of the order; but this section shall not prevent the court from directing a reconveyance or the payment of costs occasioned by any such order if it was improperly obtained.

Payment Into Court by Trustees.

Payment into
court by
trustees.
Q. 61 Vic.
No. 10, s. 41.

42.—(1.) Trustees or the majority of trustees having in their hands or under their control money or securities belonging to a trust may pay the same into court and the same shall subject to rules of court be dealt with according to the orders of the court.

(2.) The receipt or certificate of the proper officer shall be a sufficient discharge to trustees for the money or securities so paid into court.

(3.) Where any moneys or securities are vested in any persons as trustees and the majority are desirous of paying the same into court but the concurrence of the other or others cannot be obtained the court may order the payment into court to be made by the majority without the concurrence of the other or others; and where any such moneys or securities are deposited with any banker broker or other depository the court may order payment or delivery of the moneys or securities to the majority of the trustees for the purpose of payment into court and every transfer payment and delivery made in pursuance of any such order shall be valid and take effect as if the same had been made on the authority or by the act of all the persons entitled to the moneys and securities so transferred paid or delivered.

Miscellaneous.

Power to give
judgment in
absence of a
trustee.
Q. 1b. s. 42.

43. When in any cause or matter the court is satisfied that diligent search has been made for any person who in the character of trustee is made a defendant or party to the cause or matter to serve him with process of the court or with any proceedings in the cause or matter and that he cannot be found the court may hear and determine the cause or matter and give judgment therein against that person in his character of a trustee as if he had been duly served or had entered an appearance in the cause or matter and had also appeared by his counsel and solicitor at the hearing but without prejudice to any interest he may have in the matters in question in the cause or matter in any other character.

44.—(1.) When a trustee or other person is for the time being authorized to dispose of land by way of sale exchange or partition the court may sanction his so disposing of the land with an exception or reservation of any minerals and with or without rights and powers of or incidental to the working getting or carrying away of the minerals or so disposing of the minerals with or without the said rights or powers separately from the residue of the land.

Power to sanction sale of land or minerals separately.
Q. 61 Vic. No. 10, s. 43.

(2.) Any such trustee or other person having obtained such sanction may unless forbidden by the instrument creating the trust or direction from time to time without any further application to the court so dispose of any such land or minerals.

(3.) This section does not derogate from any power which a trustee may have under "*The Settled Land Act of 1886*"⁽⁶⁾ (Queensland adopted) or otherwise.

45.—(1.) When a trustee commits a breach of trust at the instigation or request or with the consent in writing of a beneficiary the court may if it thinks fit and notwithstanding that the beneficiary is a married woman entitled for her separate use and restrained from anticipation make such order as to the court seems just for impounding all or any part of the interest of the beneficiary in the trust estate by way of indemnity to the trustee or any person claiming through him.

Power to make beneficiary indemnify for breach of trust.
Q. *Ib.* s. 44.

(2.) This section applies to breaches of trust committed as well before as after the passing of this Ordinance but does not apply so as to prejudice any question in an action or other proceeding which was pending at the commencement of this Ordinance.

46.—(1.) A trustee executor or administrator may without an action apply upon a written statement of facts to the court for the opinion advice or direction of the court on any question respecting the management or administration of the trust property or the assets of the testator or intestate.

Trustee executor &c. may apply by petition to judge for opinion advice &c. in management &c. of trust property.
Q. *Ib.* s. 45.

Notice of such application must be served upon and the hearing thereof may be attended by any persons interested in the application or such of them as the court may think expedient.

A trustee executor or administrator acting upon the opinion advice or direction given by the court shall be deemed so far as regards his own responsibility to have discharged his duty as such trustee executor or administrator in the subject-matter of the application.

(2.) This section does not extend to indemnify any trustee executor or administrator in respect of any act done in accordance

(6) Printed on p. 2719.

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with such opinion advice or direction if he is guilty of any fraud or wilful concealment or misrepresentation in obtaining such opinion advice or direction.

(3.) The costs of the application shall be in the discretion of the court.

47. Where a trustee is either by order in a particular cause or matter or by any general rule directed to account from time to time to the court or to file any report or account in the office of the Registrar of the court the court may on the application of any party interested or of the Registrar or without any such application make a special or further order directing compliance with such rule or order and may enforce obedience to such order or punish non-compliance therewith according to the practice of the court.

PART V.—MISCELLANEOUS AND SUPPLEMENTAL.

48.—(1.) All the powers and provisions contained in this Ordinance with reference to the appointment of new trustees and the discharge and retirement of trustees apply to and include trustees for the purposes of "*The Settled Land Act of 1886*"⁽⁶⁾ (Queensland adopted) whether appointed by the court or by the settlement or under provisions contained in the settlement.

(2.) This section applies and has effect with respect to an appointment or a discharge and retirement of trustees taking place before as well as after the commencement of this Ordinance.

49. A trustee may with the sanction of the court and notwithstanding any directions given by the instrument under which the trust arises raise by sale or lease or by way of mortgage of the trust property or any part thereof any sum or sums of money which in the opinion of the court it may be necessary to raise for the purpose of the preservation or improvement of the trust property or its insurance against damage by fire or for the discharge of any debts or liabilities charged upon the trust property or for the payment of which the trust property may be made available. And any sum so raised may be raised at such rate of interest and shall be repayable at such period as the court may sanction.

This section applies to trusts created either before or after the commencement of this Ordinance.

50.—(1.) When any property is held by trustees in trust for an infant either for life or for any greater interest and whether absolutely or contingently on his attaining the age of twenty-one years or on the occurrence of any event before that age the court

Power to compel trustees to account.
Q. 61 Vic.
No. 10, s. 46.

Application to trustees under Settled Land Acts of provisions as to appointment of trustees.
Q. 1b. s. 47.

Trustees may with sanction of court raise money by mortgage for the preservation of the estate or like purposes.
Q. 1b. s. 48.
Q. 62 Vic.
No. 8, s. 2.

Court may order infant's property to be applied for his benefit.
Q. 61 Vic.
No. 10, s. 49.

(6) Printed on p. 2719.

on the application of the infant or any person on his behalf if satisfied that the infant's income is inadequate may authorize the trustees to raise by sale collection or appropriation of the property or any part of it such amounts as shall be necessary for the maintenance education or advancement of the infant and to pay the same to the infant's parent or guardian if any or otherwise apply the same to the infant's benefit.

(2.) When such property consists of an undivided share in land the court may authorize the sale of any other undivided share in the same land which is the property of any other infant notwithstanding that the income of such other infant is not inadequate.

Q. 62 Vic.
No. 8, s. 3.

(3.) If the net value of the infant's property does not exceed Two hundred pounds the trustees may raise and apply and pay the moneys necessary for the infant at their sole discretion.

Q. 61 Vic.
No. 10, s. 49.

(4.) This section applies only if and so far as a contrary intention is not expressed in the instrument under which the interest of the infant arises and has effect subject to the terms of that instrument and to the provisions therein contained.

(5.) This section applies to trusts created and to intestacies occurring as well before as after the commencement of this Ordinance.

51.—(1.) When any property is held by trustees in trust for an infant either for life or for any greater interest and whether absolutely or contingently on his attaining the age of twenty-one years or on the occurrence of any event before his attaining that age the trustees may at their sole discretion pay to the infant's parent or guardian if any or otherwise apply for or towards the infant's maintenance education or benefit the income of that property or any part thereof whether there is any other fund applicable to the same purpose or any person bound by law to provide for the infant's maintenance or education or not.

Application by
trustees of
income of
property of
infant for
maintenance.
Q. 1b. s. 50.

(2.) The trustees shall accumulate all the residue of that income in the way of compound interest by investing the same and the resulting income thereof from time to time on securities on which they are by the settlement if any or by law authorized to invest trust money and shall hold those accumulations for the benefit of the person who ultimately becomes entitled to the property from which the same arise but so that the trustees may at any time if they think fit apply those accumulations or any part thereof as if the same were income arising in the then current year.

(3.) This section applies only if and as far as a contrary intention is not expressed in the instrument under which the interest of the infant arises and has effect subject to the terms of that instrument and to the provisions therein contained.

(4.) This section applies whether that instrument comes into operation before or after the commencement of this Ordinance.

Jurisdiction of court in cases of breach of trust.
Q. 61 Vic. No. 10, s. 51.

52. If it appears to the court that a trustee is or may be personally liable for any breach of trust whether the transaction alleged to be a breach of trust occurred before or after the commencement of this Ordinance but has acted honestly and reasonably and ought fairly to be excused for the breach of trust or for omitting to obtain the direction of the court in the matter in which he committed such breach then the court may relieve the trustees either wholly or partly from personal liability for the same.

Statute of limitations may be pleaded by trustees.
Q. *Ib.*, s. 52.

53.—(1.) In any action or other proceeding against a trustee or any person claiming through him except where the claim is founded upon any fraud or fraudulent breach of trust to which the trustee was party or privy or is to recover trust property or the proceeds thereof still retained by the trustee or previously received by the trustee and converted to his use the following provisions shall apply:—

(a) All rights and privileges conferred by any statute of limitations shall be enjoyed in the like manner and to the like extent as they would have been enjoyed in such action or other proceeding if the trustee or person claiming through him had not been a trustee or person claiming through him;

(b) if the action or other proceeding is brought to recover money or other property and is one to which no existing statute of limitations applies the trustee or person claiming through him shall be entitled to the benefit of and be at liberty to plead the lapse of time as a bar to such action or other proceeding in the like manner and to the like extent as if the claim had been against him in action of debt for money had and received but so nevertheless that the statute shall run against a married woman entitled in possession for her separate use whether with or without a restraint upon anticipation but shall not begin to run against any beneficiary unless and until the interest of such beneficiary becomes an interest in possession.

(2.) A beneficiary as against whom there would be a good defence by virtue of this section shall not derive any greater or other benefit from a judgment or order obtained by another beneficiary than he could have obtained if he had brought such action or other proceeding and this section had been pleaded.

(3.) This section does not deprive any executor or administra-

tor of any right or defence to which he is entitled under any existing statute of limitations.

54. When land is devised to a trustee upon trusts which do not authorize the expenditure of money with respect to the land and when a person dies intestate leaving land and in either case any of the persons beneficially interested in the land are not *sui juris* or are out of the jurisdiction of the court if it appears to the court expedient for the preservation of any buildings upon the land or for the continuance of the land in cultivation or for enabling an income to be derived from the land or otherwise for the benefit of the persons beneficially interested in the land that any expenditure should be made with respect to the land the court may authorize the trustee to expend with respect to the land such sums for such purposes during such periods and upon such conditions as it thinks fit and may allow the trustee to retain out of the rents and profits of the land or out of any moneys held by him upon the same trusts any money properly expended by him in pursuance of such authority.

Expenditure upon land by trustees.
Q. 61 Vic.
No. 10, s. 53.

This section applies to trusts created either before or after the passing of this Ordinance.

55. Whenever a trustee has expended any money or done any act under such circumstances that the court might on proper application in that behalf have authorized the incurring of the expenditure or the doing of the act the court may make an order sanctioning such expenditure or act. Such an order shall have the same effect as if the expenditure or act had been authorized by the court in the first instance.

Retrospective sanction by the court.
Q. 1b. s. 54.

An order may be made under this section with respect to any expenditure incurred or act done before the passing of this Ordinance.

An order may be made under this section on an application by a trustee to pass his accounts of his dealings with trust property.

56. The court may by order authorize a trustee to retain for his own use out of the income of the trust property or in case of a sale by the trustee out of the proceeds of the trust property a reasonable sum by way of commission for his pains and trouble in the management or sale of the property; but no such commission shall be allowed at a higher rate than Five pounds per centum of the income or proceeds except as in this Ordinance expressly provided.

Commission to trustees.
Q. 1b. s. 55.

TRUSTEES—

Rules.
Q. 61 Vic.
No. 10 s. 56.

57. The Chief Judicial Officer⁽⁷⁾ may make general rules and orders⁽⁸⁾ of the Central Court⁽²⁾ for any of the following purposes that is to say:—

- (1) Requiring trustees to file and pass accounts of their dealings with the trust property;
- (2) regulating the form verification and passing of accounts by trustees;
- (3) regulating the time form and mode of service of notice of filing such accounts;
- (4) regulating the practice affecting applications by trustees for commission;
- (5) regulating the fees payable in respect of the matters aforesaid; and
- (6) generally for giving effect to this Ordinance.

Application of
Ordinance.
Q. 1b. s. 57.

58.—(1.) The provisions of this Ordinance except when otherwise expressly provided apply as well to trusts created by instruments executed before as to trusts created by instruments executed after the passing of this Ordinance.

(2.) Provided always that save as in this Ordinance expressly provided nothing therein contained authorizes any trustee to do anything which he is in express terms forbidden to do or to omit to do anything which he is in express terms directed to do by the instrument or instruments creating the trusts.

Indemnity.
Q. 1b. s. 58.

59. This Ordinance and every order purporting to be made under this Ordinance shall be a complete indemnity to all persons for any acts done pursuant thereto; and it shall not be necessary for any person to inquire concerning the propriety of the order or whether the court has jurisdiction to make the same.

Repeal.

60. The enactments mentioned in the schedule to this Ordinance are hereby repealed to the extent mentioned in third column of that schedule.

Schedule.

SCHEDULE.

Enactment.	Title or Short Title.	Extent of Repeal.
31 Vic. No. 19 (Queensland adopted)	<i>Trustees and Incapacitated Persons Act of 1867</i>	Sections 2 to 20, 25, 26, 28 to 52, 75 to 99.
38 Vic. No. 5 (Queensland adopted)	<i>The Insolvency Act of 1874</i>	Section 201.

(2) See Section 19(2) of the *Ordinance Interpretation Ordinance*, 1911-1940.

(7) See Section 4 of the *Central Court Ordinance*, 1925.

(8) No rules and orders have been published in *Papua Govt. Gaz.*