



MONTSERRAT

CHAPTER 11.07

TRUSTEES' RELIEF ACT

Revised Edition
showing the law as at 1 January 2002

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Act.

This edition contains a consolidation of the following laws—

TRUSTEES' RELIEF ACT

Act 9 of 1877 .. in force 7 December 1877

Amended by S.R.O. 15/1956 and Act 12 of 1961

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TRUSTEES' RELIEF ACT

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CHAPTER 11.07

TRUSTEES' RELIEF ACT

(Act 9 of 1877, S.R.O. 15/1956 and Act 12 of 1961)

Commencement

[7 December 1877]

Short title

1. This Act may be cited as the Trustees' Relief Act.

Trustees may pay trust moneys, or transfer stocks and securities, into the High Court

2. All trustees, executors, administrators, or other persons having in their hands any moneys belonging to any trust whatsoever, or the major part of them, shall be at liberty, on filing an affidavit shortly describing the instrument creating the trust, according to the best of their knowledge and belief, to pay the same into the High Court in the matter of the particular trust (describing the same by the names of the parties, as accurately as may be, for the purpose of distinguishing it), in trust to attend the orders of the said Court; and all trustees or other persons having any Government securities standing in their names, or in the names of any deceased persons

of whom they shall be personal representatives, upon any trusts whatsoever, or the major part of them, shall be at liberty to transfer or deposit such securities into or in the name of the Registrar of the High Court, with his privy, in the matter of the particular trust (describing the same as aforesaid), in trust to attend the orders of the said Court; and, in every such case, the receipt of the Registrar of the said Court for the money so paid, or, in the case of securities, of the transfer or deposit of such securities, shall be a sufficient discharge to such trustees, or other persons, for the money so paid, or the securities so transferred or deposited.

High Court to make orders on petition, without bill, for application of trust moneys and administration of trust

3. Such orders as shall seem fit shall be, from time to time, made by the said High Court in respect of the trust moneys or securities so paid in, transferred, and deposited as aforesaid, and for the investment and payment of any such moneys, or of any dividends or interest on any such securities, and for the transfer and delivery out of any such securities and for the administration of any such trusts generally, upon a petition to be presented in a summary way to a Judge, without bill, by such party, or parties, as to such Judge shall appear to be competent and necessary in that behalf; and service of such petition shall be made upon such person, or persons, as such Judge shall see fit and direct; and every order made upon such petition shall have the same authority and effect, and shall be enforced and subject to rehearing and appeal, in the same manner as if the same had been made in a suit regularly instituted in the Court; and, if it shall appear that any such trust funds cannot be safely distributed without the institution of one or more suit or suits, such Judge may direct any such suits to be instituted.

High Court may make orders etc.

4. The High Court shall have power, and is hereby authorized, to make such orders as shall, from time to time, seem necessary for the better carrying of the provisions of this Act into effect.

Any Judge may, upon application by majority of trustees, etc., order payment or transfer of trust moneys or securities into the High Court

5. If, upon any petition presented to a Judge in the matter of this Act, it shall appear to such Judge, before whom such petition shall be heard, that any moneys or securities are vested in any persons as trustees, executors, or administrators, or otherwise, upon trusts within the meaning of this Act, and that the major part of such persons are desirous of transferring, paying, or delivering the same to the Registrar of the High Court under the provisions of this Act, but that, for any reason, the concurrence of the other or others of them cannot be had, it shall be lawful for such Judge as aforesaid to order and direct such transfer, payment, or delivery to be made by the major part of such persons without the concurrence of the other or others of them; and, where any such moneys or Government securities shall be deposited with any banker or other depository, it shall be lawful for such

Judge as aforesaid to make such order for the payment or delivery of such moneys or Government securities to the major part of such trustees, executors, administrators, or other persons as aforesaid, for the purpose of being paid or delivered to the said Registrar of the High Court, as to the said Judge shall seem meet; and every transfer of any securities, and every payment of money or delivery of securities in pursuance of any such order, shall be as valid and effectual as if the same had been made on the authority, or by the act, of all the persons entitled to the securities so transferred, or the moneys or securities so paid or delivered, respectively, and shall fully protect and indemnify all persons acting under or in pursuance of such order.

Trustee, executor, etc., may apply by petition to Judge for opinion, advice, etc., in management, etc., of trust property, etc.

6. Any trustee, executor, or administrator shall be at liberty, without the institution of a suit, to apply by petition to any Judge of the High Court, or by summons upon a written statement to any Judge at Chambers, for the opinion, advice, or direction of such Judge on any question respecting the management or administration of the trust property, or the assets of any testator or intestate, such application to be served upon, or the hearing thereof to be attended by, all persons interested in such application, or such of them as the said Judge shall think expedient; and the trustee, executor, or administrator acting upon the opinion, advice, or direction given by the said Judge 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 said application: Provided, nevertheless, that this Act shall not extend to indemnify any trustee, executor, or administrator, in respect of any act done in accordance with such opinion, advice, or direction, as aforesaid, if such trustee, executor, or administrator shall have been guilty of any fraud or wilful concealment or misrepresentation in obtaining such opinion, advice, or direction; and the costs of such application, as aforesaid, shall be in the discretion of the Judge to whom the said application shall be made.

Form of applying for advice of Judge, etc.

7. Where any trustee, executor, or administrator shall apply for the opinion, advice, or direction of the Court under section 6, the petition or statement shall be signed by counsel, and the Judge by whom it is to be answered may require the petitioner or applicant to attend him by counsel, either in Chambers or in Court, where he deems it necessary to have the assistance of counsel.

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