

Registered Trust Act 1999

Principal Act

Act. No. 1999-35

Commencement
Assent

1.1.2000
4.11.1999

ARRANGEMENT OF SECTIONS

Section

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AN ACT TO MAKE PROVISION FOR THE REGISTERING OF A TRUST DEED WHERE REGISTRATION IS REQUIRED UNDER THE TERMS OF THE TRUST DEED AND FOR THE KEEPING OF AN INDEX OF TRUSTS REGISTERED UNDER THE ACT.

Title and commencement.

1. This Act may be cited as the Registered Trust Act 1999 and comes into operation on the 1st day of January 2000.

Interpretation.

2. In this Act, unless the context otherwise requires, —

“address for service” means the address of a trustee on whom service in respect of any matters concerning the trust may be made;

“deed of trust” means the document in whatever form by which a trust is established;

“index” means the index of registered trusts referred to in section 4;

“prescribed”, in relation to a fee, means prescribed by notice in the Gazette;

“prescribed or approved”, in relation to the form of documents delivered to the Registrar, means prescribed or approved by the Registrar, either in a notice issued by him or in relation to a particular document;

“registered number” in respect of a registered trust means the number allocated to that trust in the index;

“registered trust” means a trust, the specified particulars of which have been recorded by the Registrar in accordance with section 4;

“Registrar” means the Registrar appointed in accordance with sub-section (1) of section 278¹ of the Companies Act, who, for the purposes of this Act, will be known as the Registrar of Registered Trusts, and the provisions of sub-sections (2) and (3) of that section shall apply —

(a) with the substitution of “Registered Trusts” for “Companies” wherever that word appears; and

(b) the omission of the reference to the Building Societies Act;

¹ As a consequence of the re-numbering of the Companies Act now s. 343

and the office of the Registrar shall be the office provided for in section 277¹ of the Companies Act;

“specified particulars” means the information in respect of a trust specified in section 4(1) as the information which shall be recorded in the index in respect of that trust.

Duty of trustees to register trust deed.

3. Where so required by the deed of trust by which a trust is established, the trustee, or trustees, as the case may be, of that trust shall deliver to the Registrar for recording the deed of trust.

Index of trusts.

4. (1) The Registrar shall on payment of the prescribed fee enter in an index to be kept by him the specified particulars of each trust deed delivered to him for registration, that is to say—

- (a) the name of the trust;
- (b) the date of its creation;
- (c) the amount of the initial settlement;
- (d) the date of its registration;
- (e) the name(s) of the trustee(s); and
- (f) the address for service in Gibraltar.

(2) The Registrar shall give a certificate of the recording of the trust recorded in pursuance of this section, stating the particulars specified in subsection (1), and the certificate shall be conclusive evidence that the requirements of this section as to recording have been complied with.

(3) The Registrar shall endorse the trust deed with the record of the date of registration and shall return the deed which shall not form a part of the record.

Duty of trustees to register change in specified particulars.

5.(1) Where a change occurs in a specified particulars in respect of a registered trust the trustees for the time being shall cause —

- (a) details of the change;

¹ As a consequence of the re-numbering of the Companies Act now s. 342

- (b) the instrument by which the change was created or is evidenced;
- (c) the prescribed fee,

to be delivered to the Registrar for recording in manner required by this Act within twenty-one days after the date on which the change is made.

(2) The Registrar shall give a certificate stating the change in the specified particulars recorded in pursuance of this section and the certificate shall be conclusive evidence that the requirements of this section as to recording have been complied with.

(3) The Registrar shall endorse the document delivered in compliance with sub-section (1)(b) with the record of the date of registration and shall return the document which shall not form a part of the record.

Delivery to the Registrar of documents.

6.(1) The Registrar may prescribe or approve forms for the purpose of the Act.

(2) Where a document is delivered to the Registrar in printed form the document shall be in the form prescribed or approved by the Registrar.

(3) Any requirement to deliver a document to the Registrar, or to deliver a document in the prescribed or approved form, may be satisfied by the communication to the Registrar of the requisite information in any non-printed form prescribed or approved by the Registrar.

(4) Where a document which requires to be signed or sealed is delivered to the Registrar in any non-printed form it shall be authenticated in such manner as may be prescribed or approved by the Registrar.

(5) A document, printed or in non-printed form, delivered to the Registrar shall –

- (a) contain in a prominent position the name and, where it has been registered, the registered number of the trust to which it relates;
- (b) be furnished in such manner, and conform to such requirements, as the Registrar may prescribe or approve for the purpose of enabling him to read and, where the document is to form part of the index, to copy the document.

(6) If a document is delivered to the Registrar which does not comply with the requirements of this section, he may serve on the person by whom the document was delivered (or, if there were two or more such persons, on any of them), a notice indicating the respect in which the document does not comply.

- (7) Where the Registrar serves such a notice, then, unless a replacement document—
- (a) is delivered to him within 14 days after service of the notice; and
 - (b) complies with the requirements of this section or is not rejected by him for failure to comply with those requirements,

the original document shall be deemed not to have been delivered to him.

Keeping of the index by the Registrar.

7.(1) The Registrar may determine the form of the index required to be kept by section 4 and the information to be contained in the index may be recorded and kept by him in any form he thinks fit, provided it is possible to inspect the information and to produce a copy of it in printed form and this shall be sufficient compliance with any duty of his to keep, file or register any document or information.

(2) The originals of documents delivered to the Registrar in printed form and which are to be retained by him shall be kept by him for 10 years, after which time they may be destroyed.

Inspection, production and evidence of documents kept by Registrar.

8.(1) Any person may on payment of the prescribed fee or fees inspect the index kept by the Registrar for the purposes of this Act and may require—

- (a) a copy in such form as the Registrar considers appropriate of any information contained in the index; or
- (b) a certified copy of, or extract from the index.

(2) The right of inspection extends to the originals of documents in the printed form —

- (a) delivered to the Registrar; and
- (b) retained by him;

only where the index kept by the Registrar of the contents of the document is illegible or unavailable.

(3) A copy of an extract from the index certified in writing by the Registrar (whose official position it is unnecessary to prove), to be an accurate record of the contents the index or any document delivered to him and retained by him under this Act, is in all legal proceedings, admissible in evidence as of equal validity with the original document and as evidence of any facts stated therein, of which direct oral evidence would be admissible.

(4) Copies of or extracts from records furnished by the Registrar may, instead of being certified by him in writing to be an accurate record, be sealed with his official seal.

(5) Any person may require a certificate of the registration of a trust, signed by the Registrar or authenticated by his official seal.

(6) Any requirement of the Act as to the supply by the Registrar of a document may, if the Registrar thinks fit, be satisfied by the communication by the Registrar of the requisite information in any non-printed form prescribed or approved by him.

(7) Where the document is required to be signed by him or sealed with his official seal and is a communication in a non-printed form, it shall instead be authenticated in such manner as may be prescribed or approved by the Registrar.

(8) No process for compelling the production of a record by the Registrar shall issue from any court except with the leave of the court, and any such process shall bear on it a statement that it is issued with the leave of the court.

Fees.

9.(1) There shall be paid to the Registrar in respect of the matters specified in the Act the fees prescribed from time to time by the Government by notice in the Gazette and, without prejudice to the generality of the foregoing, a fee may be so prescribed in respect of the performance by the Registrar of any function under the Act.

(2) The Registrar may charge a fee for any services provided by him otherwise than in pursuance of an obligation imposed on him by the Act.