

The most important provisions of the new Trust Act include:

- 1. The Act clearly defines what a Trust is, what is required to form a Trust.**
- 2. The maximum duration of a Trust is extended from the existing 80 years, to 125 years.**
- 3. A list of duties that all Trustees must fulfil are set out, including the duty to act unanimously, whereas many Trusts provide for a majority vote.**
- 4. Some of what the Act provides, such as the duty of Trustees to act honestly and in good faith and to always act for the benefit of Beneficiaries, might have always been assumed to be the law, but it is now clearly stated as such.**
- 5. Trustees are required to actively and regularly consider the exercise of their Trustee powers and they are required to keep proper records and accounts.**
- 6. Most existing Trust Deeds protect the Trustees against any liability for losses suffered by the Trust, unless such losses are the result of the Trustees' dishonesty or knowingly doing something that is a breach of trust.**

This protection for Trustees is limited by the new Act, and Trustees will be liable for losses resulting from their dishonesty, wilful misconduct or gross negligence. This should be a clear warning to all personal Trustees.

- 7. Trustees will be required to provide certain Trust information to those Beneficiaries of the Trust who have a reasonable likelihood of receiving Trust property under the terms of the Trust Deed, and this is a significant matter which many Trustees will have to address for the first time.**

The most important provisions of the new Trust Act include:

8. The Act will make it easier to remove a Trustee where a Trustee refuses to retire as a Trustee, or is unable to do so because of mental or physical incapacity.

At the moment, in many cases the only means to do this is by way of an application to the Court.

Whilst it is still primarily the High Court that will deal with Trust matters, in certain circumstances the Family Court will have jurisdiction and this will be a significant benefit when it is relationship property matters that need to be resolved.

9. In certain limited circumstances rather than going to Court with all the cost and delay that results, Trustees and Beneficiaries can utilise an alternative dispute resolution process (for example mediation).

