INDEPENDENT STATE OF PAPUA NEW GUINEA.

# CHAPTER NO. 289

## *Trustees and Executors.*

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GENERAL ANNOTATION.

ADMINISTRATION.

As at 13 February 1976 (the date of gazettal of the most comprehensive allocation of responsibilities to Ministers and Departments at about the effective date), the administration of this Chapter was not specifically vested in any Minister. It seems, therefore, that under Constitution, Section 148(2), it came within the responsibility of the Prime Minister.

This Chapter does not refer to "the Minister", "the Departmental Head" or "the Department".

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

# CHAPTER NO. 289.

## *Trustees and Executors Act.*

Being an Act relating to trustees and executors.

### PART I.—PRELIMINARY.

**1. Interpretation.**

In this Act, unless the contrary intention appears—

"the commencement date" means 2 August 1962 (being the date of commencement of the pre-Independence *Trustees and Executors Act* 1961);

"contingent right", in relation to land, includes—

(*a*) a contingent or executory interest; or

(*b*) a possibility coupled with an interest, whether or not the object of the gift or limitation of the interest, or the possibility, is ascertained; and

(*c*) a right of entry, whether immediate or future, and whether vested or contingent;

"conveyance" in relation to a person, includes the execution by him of every necessary or suitable assurance for conveying, assigning, appointing, surrendering or otherwise transferring or disposing of land—

(*a*) of which he is seized or possessed; or

(*b*) in which he is entitled to a contingent right,

either for his whole estate or for any less estate, together with the performance of all formalities required by law for the validity of the conveyance;

"devisee" includes the heir of a devisee and the devisee of an heir, and any person who claims right by devolution of title of a similar description;

"instrument" includes an Act of the Parliament;

"land" includes corporeal and incorporeal hereditaments, and an interest in, and an undivided share of, land;

"mortgage" includes every estate or interest regarded by law or equity as merely a security for money;

"mortgagee" includes every person deriving title under the original mortgagee;

"pay", in relation to stocks and shares and payment into court, includes deposit or transfer of the stocks and shares in or into court;

"possessed", in relation to any land, includes—

(*a*) being in receipt of income of any land; or

(*b*) being in possession of a vested estate less than a life estate, legal or equitable, in possession or in expectancy, in the land;

"property" includes an estate or interest in property, and any other right or interest, whether in possession or not;

"rights" includes estates and interests;

"stock" includes—

(*a*) fully paid-up shares; and

(*b*) so far as relates to vesting orders made by the National Court under this Act, any fund, annuity or security transferable—

(i) in books kept by a company or society; or

(ii) by instrument of transfer,

either alone or accompanied by other formalities,

and any share or interest in any such shares fund, annuity or security;

"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;

"trust" includes—

(*a*) an implied or constructive trust; and

(*b*) a case where the trustee has a beneficial interest in the trust property; and

(*c*) the duties incident to the office of representative of a deceased person,

other than the duties incident to an estate conveyed by way of mortgage;

"trustee" includes an administrator of land;

"vesting order" means an order made by the National Court under Division IV.1 vesting property in a person.

**2. Application.**

(1) Subject to Subsection (2), this Act, except as is otherwise expressly provided, applies to trusts created by instruments executed before or after the commencement date.

(2) Except as is otherwise specifically provided, this Act does not authorize a trustee—

(*a*) to do anything that he is in express terms forbidden to do; or

(*b*) to omit to do anything that he is in express terms directed to do,

by the instrument or instruments creating the trust, or to override the terms and provisions of the trust.

## PART II.—INVESTMENTS.

**3. Authorized investments.**

A trustee may invest trust funds in his hands, whether at the time in a state of investment or not, as follows:—

(*a*) in any of the parliamentary stocks, public funds or government securities of the United Kingdom; or

(*b*) on real or heritable securities in the United Kingdom; or

(*c*) in the stock of the Bank of England; or

(*d*) in any securities the interest of which is for the time being guaranteed by—

(i) the State; or

(ii) the Parliament of the United Kingdom; or

(iii) Australia or a State or Territory of Australia; or

(iv) New Zealand; or

(*e*) in debentures or securities of—

(i) the Government of Papua New Guinea; or

(ii) the Government of Australia or of a State or Territory of Australia; or

(iii) the Government of New Zealand; or

(*f*) in interest-bearing deposits with any bank authorized under the *Banks and Financial Institutions Act* to carry on banking business; or

(*g*) on real securities in Papua New Guinea or a State or Territory of Australia; or

(*h*) in any of the stocks, funds or securities authorized for the investment of cash under the control or subject to the order of the National Court; or

(*i*) in any other form of investment authorized by any law,

and may also vary any such investment.

**4. Purchase at a premium of redeemable stock.**

(1) Under the powers conferred by this Act, a trustee may invest in a security referred to in Section 3 notwithstanding that it is redeemable or that the price exceeds the redemption value.

(2) A trustee may retain until redemption any redeemable stock, fund or securities that has or have been purchased in accordance with this Act.

**5. Discretion of trustees.**

A power conferred by Section 3 or 4 shall be exercised according to the discretion of the trustees, subject to any consent required by the instrument (if any) creating the trust with respect to the investment of the trust funds.

**6. Application of Sections 3, 4 and 5.**

The powers conferred by Sections 3, 4 and 5 are in addition to the powers conferred by the instrument (if any) creating the trust.

**7. Saving of certain loans and investments by trustees.**

(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, if it appears to the National Court that—

(*a*) in making the loan the trustee was acting on 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 the owner of the property, whether the surveyor or valuer carried on business in the locality where the property is situated or elsewhere; and

(*b*) the amount of the loan does not exceed two-thirds of the value of the property as stated in the report; and

(*c*) 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 on the ground only that in effecting the purchase of or in lending money on the security of property he has accepted a shorter title than the title that a purchaser is entitled to require in the absence of a special contract,

if in the opinion of the National Court the title accepted is a title that 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 that has ceased to be an investment authorized by the instrument of trust or by the general law.

(4) This section applies—

(*a*) to transfers of existing securities as well as to new securities; and

(*b*) to investments made before or after the commencement date.

**8. Liability for loss by improper investments.**

(1) Where a trustee improperly advances trust money on a mortgage security that would at the time of the investment be a proper investment in all respects for a smaller sum than is actually advanced—

(*a*) the security shall be deemed to be an authorized investment for the smaller sum; and

(*b*) the trustee is liable to make good only the sum advanced in excess of the smaller sum, with interest.

(2) This section applies to investments made before or after the commencement date.

## PART III.—VARIOUS POWERS AND DUTIES OF TRUSTEES

### *Division 1.—Appointment of New Trustees.*

**9. Power of appointing new trustees.**

(1) Where a trustee, whether original or substituted, or appointed by the National Court, or otherwise—

(*a*) is dead; or

(*b*) remains out of the country for more than 12 months; or

(*c*) desires to be discharged from all or any of the trusts or powers reposed in or conferred on him; or

(*d*) refuses to act, is unfit to act or is incapable of acting,

then—

(*e*) the person nominated for the purpose of appointing new trustees in that event by the instrument (if any) creating the trust; or

(*f*) if there is no such person or no such person able or willing to act—

(i) the surviving or continuing trustees; or

(ii) the personal representatives of the last surviving or continuing trustee,

may by instrument appoint another person or other persons to be a trustee or trustees in the place of that first-mentioned trustee.

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

(*a*) the number of trustees may be increased; and

(*b*) a separate set of trustees may be appointed for a part of the trust property held on trusts distinct from those relating to any other part or parts,

notwithstanding that no new trustees or trustee are or is to be appointed for other parts of the trust property; and

(*c*) in a case to which Paragraph (*b*) applies—

(i) any existing trustee may be appointed or remain one of the separate set of trustees; or

(ii) if only one trustee was originally appointed, then one separate trustee may be appointed; and

(*d*) it is not obligatory—

(i) to appoint more than one new trustee when only one trustee was originally appointed; or

(ii) to fill up the original number of trustees when more than two trustees were originally appointed,

but where only one trustee was originally appointed a trustee shall not be discharged from his trust under this section unless there is—

(iii) a trustee company specially authorized by Act to act as sole trustee; or

(iv) at least two trustees to perform the trust; and

(*e*) any assurance or thing necessary for vesting the trust property or any part of the trust property jointly in the persons who are the trustees shall be executed or done.

(3) Where in a case not referred to in Subsection (1) or (2) it is desired to increase the number of trustees of a trust, the existing trustees or trustee may, with the written concurrence of the person or persons (if any) nominated for the purpose of appointing new trustees by the instrument (if any) creating the trust, by instrument appoint another person or other persons to be a trustee or trustees in addition to the existing trustee or trustees.

(4) A new trustee appointed under this section, whether before or after all the trust property becomes by law or by assurance or otherwise vested in him—

(*a*) has the same powers, authorities and discretions; and

(*b*) may act,

as if he had been originally appointed a trustee by the instrument (if any) creating the trust.

(5) The provisions of this section relating to a trustee who is dead apply to a person nominated trustee in a will but dying before the testator, and those relating to a continuing trustee apply to a refusing or retiring trustee if he is willing to act in the executing of the provisions of this section.

(6) This section has effect subject to the terms and provisions of the instrument (if any) creating the trust.

**10. Retirement of trustee.**

(1) Where—

(*a*) there are more than two trustees; and

(*b*) one of them declares by deed that he wishes to be discharged from the trust; and

(*c*) 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,

the trustee wishing to be discharged—

(*d*) shall be deemed to have retired from the trust; and

(*e*) is by the deed discharged from the trust under this Act without a new trustee being appointed in his place.

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

(3) This section has effect subject to the terms and provisions of the instrument (if any) creating the trust.

**11. Devolution of trust and mortgage estates on death.**

(1) Where an estate or interest of inheritance in any hereditaments, corporeal or incorporeal, is vested on a trust or by way of mortgage in a person solely, the estate or interest devolves on his death, notwithstanding any testamentary disposition, on his personal representative from time to time, and is vested in him, as if the estate or interest were a chattel real vested in him.

(2) For the purposes of this section, the personal representative of the deceased shall be deemed 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 interest would vest in, or the power would be exercisable by, his heir or assign.

(3) This section applies only in cases of death after the commencement date.

**12. Vesting of trust property in new or continuing trustees.**

(1) Where a deed by which a new trustee is appointed to perform a trust contains a declaration by the appointor to the effect that—

(*a*) an estate or interest in land or in a chattel subject to the trust; or

(*b*) the right to recover and receive a debt or thing in action subject to the trust,

vests in the persons who by virtue of the deed are the trustees for performing the trust, the declaration operates, without any conveyance or assignment, to vest the estate, interest or right in those persons as joint tenants for the purposes of the trust (subject, in the case of an estate or interest in land, to registration, which the Registrar of Titles is authorized and required to make).

(2) Where a deed by which a retiring trustee is discharged under this Act contains a declaration referred to in Subsection (1) by the retiring and continuing trustees and by the other person (if any) empowered to appoint trustees, the declaration operates, without any conveyance or assignment, to vest the estate, interest or right in the continuing trustees alone as joint tenants for the purposes of the trust (subject, in the case of an estate or interest in land, to registration, which the Registrar of Titles is authorized and required to make).

(3) This section does not extend to—

(*a*) land conveyed by way of mortgage for securing money subject to the trust; or

(*b*) any share, stock, annuity or property that is transferable only—

(i) in books kept by a company or other body; or

(ii) in the manner directed by or under any Act.

(4) For the purposes of the registration of a deed under this section—

(*a*) the person or persons making the declaration shall be deemed to be the conveying party or parties; and

(*b*) the conveyance shall be deemed to be made by him or them under a power conferred by this Act.

(5) This section applies only to deeds executed after the commencement date.

*Division 2.—Purchase and Sale.*

**13. Power of trustee to sell by auction, etc.**

(1) Where 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—

(*a*) subject or not to prior charges; or

(*b*) together or in lots, by public auction or private contract; or

(*c*) subject to any conditions respecting title or evidence of title or any other matter,

as the trustee thinks fit, with power to vary a contract for sale and to buy in at an auction, or to rescind a contract for sale and to resell without being answerable for any loss.

(2) This section has effect subject to the terms and provisions of the instrument (if any) creating the trust or power.

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

**14. Power to sell subject to depreciatory conditions.**

(1) A sale made by a trustee shall not be questioned by a beneficiary on the ground that any of the conditions subject to which the sale was made were unnecessarily depreciatory, unless it also appears that the consideration for the sale was for that reason inadequate.

(2) A sale made by a trustee shall not be questioned, after the execution of the conveyance, as against the purchaser on the ground that any of the conditions subject to which the sale was made were 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 on a sale made by a trustee may not make an objection against the title on the ground referred to in this section.

(4) This section applies only to sales made after the commencement date.

**15. Power to postpone sale and conversion.**

(1) Where—

(*a*) property is vested in a trustee in trust for an infant, or for an infant and any other person; and

(*b*) the trustee is bound by law to sell and convert the property into money,

the trustee may, with the sanction of the National Court and with the consent of and after hearing such other person or persons (if any) as the Court directs—

(*c*) postpone the sale and conversion of the property into money; and

(*d*) manage the property; and

(*e*) carry on any business or undertaking with or in connexion with the property,

for the benefit of the persons entitled to the property, for such period during the minority of the infant as the Court thinks proper.

(2) Where a trustee referred to in Subsection (1)—

(*a*) had, before the commencement date, retained any property without having realized it; and

(*b*) has carried on any business or undertaking by means of the property for the benefit of the persons entitled to the property,

the National Court may sanction the retention or carrying on, and the sanction takes effect as if—

(*c*) this Act had been in force at the time when the retention occured; and

(*d*) the sanction had been obtained before that time.

(3) If a trustee referred to in this section is authorized under this section to carry on any business or undertaking, the National Court may allow the trustee, instead of or in addition to the commission referred to in Section 56, such salary or remuneration as the Court thinks proper for his pains and trouble in carrying on the business or undertaking.

(4) This section has effect subject to the terms and provisions of the instrument (if any) creating the trust.

*Division 3.—Various Powers and Liabilities.*

**16. Trustee's Power of Delegation.**

(1) A trustee who—

(*a*) resides out of the country; or

(*b*) is about to so reside temporarily or otherwise,

may, with the consent of his co-trustees (if any), by power of attorney under seal delegate to any person residing in the country all or any of the powers, authorities and discretions vested in the trustee.

(2) All deeds, acts, matters and things executed, done and performed by an attorney appointed under Subsection (1) are as valid and effectual as if executed, done and performed by the trustee.

(3) A trustee is liable for the acts and defaults of an attorney appointed under this section as if they were his own acts and defaults.

(4) This section does not limit or affect the power of appointment of a new trustee in the place of a trustee absent from the country, or the power of the National Court to make an order because of any such absence.

**17. Trustee's Bank Account.**

(1) Trustees may, by instrument signed by them, authorize a bank to honour—

(*a*) cheques, bills and drafts drawn on the banking account of the trust by one or more of the trustees; and

(*b*) the endorsement by one or more of the trustees on a cheque, bill or draft payable to the order of the trustees,

and, until the authority is withdrawn by written notice to the bank, the bank is entitled—

(*c*) to pay all cheques, bills and drafts so drawn; and

(*d*) to honour all such endorsements.

(2) A trustee who gives or joins in giving an authority referred to in Subsection (1) is liable for the acts and defaults of any trustee to whom the authority is given as if they were his own acts or defaults.

**18. Authorization of receipt of money.**

(1) A trustee—

(*a*) may appoint a lawyer to be his agent to receive and give a discharge for any money, valuable consideration or property receivable by the trustee under the trust, by permitting the lawyer—

(i) to have the custody of; and

(ii) to produce,

a deed or instrument having in its body or endorsed on it a receipt for the money, valuable consideration or property, the deed being executed, or the receipt being signed, by the trustee; and

(*b*) is not chargeable with breach of trust by reason only of his having made or concurred in making any such appointment.

(2) The production by the lawyer of a deed or instrument referred to in Subsection (1) has the same validity and effect as if the person appointing the lawyer had not been a trustee.

(3) A trustee—

(*a*) may appoint a banker or lawyer 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 lawyer to have the custody of and to produce the policy of assurance with a receipt signed by the trustee; and

(*b*) is not chargeable with a breach of trust by reason only of his having made or concurred in making any such appointment.

(4) If a trustee permits any money, valuable consideration or property referred to in this section to remain in the hands or under the control of the banker or lawyer for a period longer than is reasonably necessary to enable the banker or lawyer, as the case may be, to pay or transfer it to the trustee, this section does not exempt the trustee from any liability that he would have incurred if this Act had not been passed.

(5) This section applies only where the money or valuable consideration or property is received after the commencement date.

**19. Insurance of buildings.**

(1) A trustee may—

(*a*) insure against loss or damage by fire any building or other insurable property to any amount, including the amount of any insurance already in force, not exceeding the full insurable value of the building or property; and

(*b*) pay the premium for the insurance out of—

(i) the income from the building or property; or

(ii) the income of any other property subject to the same trusts,

without obtaining the consent of any person who is entitled, wholly or partly, to that income.

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

**20. Renewal of leaseholds.**

(1) Subject to Subsection (3), a trustee for a leasehold for a life or for years that is renewable under a covenant or contract, or by custom or usual practice—

(*a*) may if he thinks fit; and

(*b*) shall if required to do so by a person having a beneficial interest, present, future or contingent, in the leasehold,

use his best endeavours to obtain from time to time a renewed lease on usual and reasonable terms.

(2) Subject to Subsection (3), for the purpose of obtaining a renewed lease in accordance with Subsection (1) a trustee may make or concur in making a surrender of the subsisting lease and do all other acts that are required.

(3) Notwithstanding Subsections (1) and (2), where by the terms of a 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, his written consent shall be obtained to the renewal on the part of the trustee.

(4) If money is required to pay for the renewal—

(*a*) the trustee effecting the renewal may pay it out of any money then in his hands in trust for the persons beneficially interested in the land to be comprised in the renewed lease; and

(*b*) if he has not in his hands sufficient money for the purpose he may raise the money required by mortgage of—

(i) the land to be comprised in the renewed lease; or

(ii) any other land subject to the uses or trusts to which the land to be comprised in the renewed lease is subject.

(5) A person advancing money on a mortgage purporting to be given under the power conferred by Subsection (4) is not bound to see—

(*a*) that the money is wanted; or

(*b*) that no more money is raised than is wanted for the purpose.

**21. Receipts by trustee.**

The written receipt of—

(*a*) the trustee or any person authorized in writing by the trustee; or

(*b*) where there is more than one trustee, one or more of those trustees or a person authorized in writing by the trustees,

for any money, securities or other personal property or effects payable, transferable or deliverable to him or them, as the case may be, under a trust or power—

(*c*) is a sufficient discharge for the money, securities or property; and

(*d*) exonerates the person paying, transferring or delivering the money, securities or property from seeing to the application of, or being answerable for any loss or misapplication of, the money, securities or property.

**22. Power to compound, etc.**

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

(2) An executor or administrator, or two or more trustees acting together, or, where the instrument creating the trust authorizes a sole trustee to execute the trusts and powers of the trust, a sole acting trustee may, if and as he or they think fit—

(*a*) accept any composition or any security for any debt or for any property claimed; or

(*b*) allow time for payment of a debt; or

(*c*) compromise, compound, abandon, submit to arbitration or otherwise settle any debt, account, claim or thing relating to the estate of the testator or intestate or to the trust,

and may for any of those purposes enter into, give, execute and do any agreement, instrument of composition or arrangement, release or other thing that seems suitable to him or them, without being responsible for any loss occasioned by an act or thing so done by him or them in good faith.

(3) This section has effect subject to the terms and provisions of the instrument (if any) creating the trust.

(4) This section applies to executorships, administratorships and trusts constituted or created whether before or after the commencement date.

**23. Liability in respect of rents, etc.**

(1) Where an executor or administrator liable as such for the rents, covenants or agreements in—

(*a*) a lease or agreement for a lease granted or assigned to the testator or intestate; or

(*b*) a conveyance on chief rent or rent charge (whether any such rent is by limitation of use, grant or reservation), or an agreement for any such 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—

(*c*) satisfied all the liabilities under the lease, conveyance or agreement that have accrued due and been claimed up to the time of the assignment or conveyance; and

(*d*) 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, even if the period for laying it out has not arrived,

he may distribute the remainder of the estate of the testator or intestate among the parties entitled to it without appropriating any part or any further part of the estate to meet any future liability under the lease, conveyance or agreement.

(2) An executor or administrator distributing an estate in accordance with Subsection (1) 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 of persons claiming under him, to follow the assets of the testator or intestate into the hands of any person who has received them.

**24. Distribution of assets of testator or intestate.**

(1) An executor or administrator may—

(*a*) by public advertisement, call on all persons having claims against the estate of the testator or intestate to send their claims to him; and

(*b*) at the expiration of the period 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 to them, having regard to the claims of which he then has notice.

(2) If the notices given under Subsection (1) are, in the opinion of the 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 same purpose in an administration action, he is not liable for the assets distributed to any person of whose claim he had no notice at the time of the distribution.

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

**25. Powers of two or more executors or trustees.**

(1) When a power or trust is given to or vested in two or more executors or trustees jointly, unless the contrary intention appears in the instrument (if any) creating the power or trust, the power or trust may be exercised or performed by the survivor or survivors of them.

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

**26. Protection of trustee acting under power of attorney.**

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

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

**27. Implied indemnity of trustee.**

(1) Subject to the instrument creating the trust, a trustee—

(*a*) is chargeable only for money and securities actually received by him notwithstanding that he signed a receipt for the sake of conformity; and

(*b*) is answerable and accountable only for his own acts, receipts, neglects or defaults and not for—

(i) those of any other trustee; or

(ii) any banker, broker or other person with whom any trust moneys or securities may be deposited; or

(iii) the insufficiency or deficiency of any securities; or

(iv) any other loss, unless it happens through his own wilful default.

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

## PART IV.—POWERS OF THE NATIONAL COURT.

### *Division 1.—Appointment of New Trustees and Vesting Orders.*

**28. Appointment of new trustee.**

(1) Where—

(*a*) it is expedient to appoint a new trustee or new trustees; and

(*b*) it is found inexpedient, difficult or impracticable to do so without the assistance of the Court,

the National Court may make an order for the appointment of a new trustee or new trustees in substitution for or in addition to any existing trustee or trustees, or although there is no existing trustee.

(2) In particular, and without limiting the generality of Subsection (1), the National Court may make an order for the appointment of a new trustee in substitution for a trustee who—

(*a*) is convicted of an indictable offence; or

(*b*) is an insolvent; or

(*c*) is of unsound mind.

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

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

**29. Vesting order as to land.**

(1) Subject to Subsection (2), where—

(*a*) the National Court appoints or has appointed a new trustee; or

(*b*) a trustee entitled to or possessed of any land, or entitled to a contingent right in any land, solely or jointly with any other person—

(i) is an infant; or

(ii) is of unsound mind; or

(iii) is out of the jurisdiction of the National Court; or

(iv) cannot be found; or

(*c*) it is uncertain who was the survivor of two or more trustees jointly entitled to or possessed of any land; or

(*d*) it is uncertain whether the last trustee known to have been entitled to or possessed of any land is living or dead; or

(*e*) in the case of a trustee who was entitled to or possessed of any land and who died before the commencement date, it is uncertain—

(i) whether he died intestate as to the land; or

(ii) who is his heir or devisee; or

(*f*) a trustee who was entitled to or possessed of any land dies or died after the commencement date, and—

(i) his personal representative is out of the jurisdiction of the National Court or cannot be found; or

(ii) it is uncertain whether his personal representative is living or dead; or

(iii) he has no personal representative; or

(*g*) a trustee jointly or solely entitled to or possessed of any land, or entitled to a contingent right in any land—

(i) 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

(ii) has wilfully refused or neglected to convey the land or release the right for 28 days after the date of the requirement,

the National Court may make an order—

(*h*) vesting the land in such person, in such manner and for such estate as the Court directs; or

(*i*) releasing or disposing of the contingent right to such person as the Court directs.

(2) Where an order under Subsection (1)—

(*a*) is consequential on the appointment by the National Court of a new trustee the land shall be vested, for such estate as the Court directs, in the persons who on the appointment are the trustees; or

(*b*) relates to a trustee entitled jointly with another person the land or right shall be vested in the other person, alone or with some other person.

**30. Unborn person.**

Where land is subject to a contingent right in an unborn person or class of unborn persons who, on coming into existence, would in respect of the right become entitled to or possessed of the land on a trust, the National Court may make an order—

(*a*) releasing the land from the contingent right; or

(*b*) vesting in a 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.

**31. Infant mortgagee.**

Where a person entitled to or possessed of any land, or entitled to a contingent right in any land, by way of security for money is an infant, the National Court may make an order vesting, releasing or disposing of the land or right in the same manner as in the case of an infant trustee.

**32. Vesting order in place of conveyance by personal representative, etc.**

(1) This section applies in a case where a mortgagee of any land has died without having entered into the possession, or into the receipt of the rents and profits, of the land, and—

(*a*) the money due in respect of the mortgage has been paid to a person entitled to receive it; or

(*b*) a person so entitled consents to an order under this section.

(2) If in a case to which this section applies—

(*a*) the personal representative of the mortgagee is out of the jurisdiction of the National Court or cannot be found; or

(*b*) the personal representative of the mortgagee, on demand made by or on behalf of a person entitled to require a reconveyance of the land—

(i) has stated in writing that he will not endorse on the mortgage deed an acknowledgment of payment; or

(ii) does not sign such an acknowledgement within 28 days after a proper acknowledgement has been tendered to him by or on behalf of the person so entitled; or

(*c*) it is uncertain whether the personal representative of the mortgagee is living or dead; or

(*d*) there is no personal representative of the mortgagee,

the National Court may make an order—

(*e*) vesting the land in such person or persons in such manner and for such estate as the Court directs; or

(*f*) in the case of land subject to the *Real Property Act*, 1913 of the former Territory of Papua (Adopted) or the *Lands Registration Act* 1924 of the former Territory of New Guinea (Adopted), directing that any entry of the discharge of the mortgage be made in the appropriate Register (which entry the Registrar of Titles is authorized and required to make).

**33. Vesting order on judgement for sale, etc.**

(1) Where the National Court gives a judgement or makes an order directing the sale or mortgage of any land, every person who is—

(*a*) entitled to or possessed of the land; or

(*b*) entitled to a contingent right in the land,

and is—

(*c*) a party to the proceedings in which the judgement or order is given or made; or

(*d*) otherwise bound by the judgement or order,

shall be deemed to be so entitled or possessed, as the case may be, as a trustee within the meaning of this Act.

(2) If it thinks fit, the National Court may make an order—

(*a*) vesting the land or any part of the land, for such estate as the Court thinks proper, in the purchaser or mortgagee or in any other person; or

(*b*) in the case of land subject to the *Real Property Act*, 1913 of the former Territory of Papua (Adopted), or the *Lands Registration Act* 1924 of the former Territory of New Guinea (Adopted), declaring that the mortgagee is entitled to a charge on the land.

(3) Where a declaration is made under Subsection (2), the Registrar of Titles is authorized and required to make an entry of the declaration in the appropriate Register, and the entry has the same operation as a registered mortgage to the same effect would have had.

**34. Vesting order on judgement for specific performance, etc.**

Where a judgement is given for—

(*a*) the specific performance of a contract concerning any land; or

(*b*) the partition or sale of any land instead of a partition or exchange,

and generally when a judgement is given for the conveyance of land in cases arising out of the doctrine of election or otherwise, the National Court may declare that—

(*c*) any of the parties to the proceedings are trustees of the land or any part of the land within the meaning of this Act; or

(*d*) the interests of unborn persons who might claim—

(i) under a party to the proceedings; or

(ii) under the will or voluntary settlement of a deceased person who was during his life-time a party to the contract or transaction concerning which the judgement is given,

are the interests of persons who, on coming into existence, would be trustees within the meaning of this Act,

and the Court may make a vesting order relating to the rights of those persons (born and unborn) as if they had been trustees.

**35. Effect of vesting order.**

(1) A vesting order under Section 29, 30, 31, 32, 33 or 34 made consequential on the appointment of a new trustee has the same effect—

(*a*) as if the persons (if any) who were the trustees before the appointment had duly executed all proper conveyances of the land for such estate as the National Court directs to be vested in the new trustee; or

(*b*) if there is no such person or no such person of full capacity—as if such a person—

(i) had existed and had been of full capacity; and

(ii) had duly executed all proper conveyances of the land for such estate as the National Court directs to be so vested.

(2) A vesting order under Section 29, 30, 31, 32, 33 or 34 other than such an order to which Subsection (1) applies has the same effect as if the trustee or other person or description or class of persons to whose rights or supposed rights those sections respectively relate—

(*a*) had been an ascertained and existing person of full capacity; and

(*b*) had executed a conveyance or release to the effect intended by the order.

**36. Appointment of person to convey.**

Where it is possible for a vesting order to be made under any of the preceding provisions of this Act, the National 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 him in accordance with the order has the same effect as an order under the appropriate provision.

**37. Vesting order as to stock and things in action.**

(1) Subject to Subsections (2) and (3), where—

(*a*) the National Court appoints or has appointed a new trustee; or

(*b*) a trustee entitled alone or jointly with another person to stock or to a thing in action—

(i) is an infant; or

(ii) is of unsound mind; or

(iii) is out of the jurisdiction of the Court; or

(iv) cannot be found; or

(v) neglects or refuses—

(A) to transfer stock or receive the dividends or income of stock; or

(B) to sue for or recover a thing in action,

according to the direction of the person absolutely entitled to it, for 28 days after a written request has been made to him by the person entitled; or

(vi) neglects or refuses—

(A) to transfer stock or receive the dividends or income of stock; or

(B) to sue for or recover a thing in action,

for 28 days after an order of the Court for that purpose has been served on him; or

(*c*) it is uncertain whether a trustee entitled, alone or jointly with another person, to stock or to a thing in action is alive or dead,

the Court may make an order vesting the right—

(*d*) to transfer or call for a transfer of the stock; or

(*e*) to receive the dividends or income of the stock; or

(*f*) to sue for or recover the thing in action,

in such person as the Court appoints.

(2) Where an order under Subsection (1) is consequential on the appointment by the National Court of a new trustee, the right shall be vested in the persons who on the appointment are the trustees.

(3) Where the person whose right is dealt with by an order under Subsection (1) was entitled jointly with another person, the right shall be vested in that last-mentioned person either alone or jointly with some other person.

(4) Where a vesting order can be made under this section, the National Court may, if it is more convenient, appoint a proper person to make or join in making the transfer.

(5) The person in whom the right to transfer or call for the transfer of any stock is vested by an order of the National Court under this Act may transfer the stock to himself

or any other person according to the order, and all persons shall obey an order under this section according to its tenor.

(6) Where an order is made under this section vesting in a person the right to sue for or to recover a thing in action or an interest in respect of a thing in action—

(*a*) the right vests accordingly; and

(*b*) the person may commence and carry on in his own name any proceedings for the recovery of the thing in action in the same manner as the person in whom it was previously vested.

(7) After written notice of an order under this section, a person shall not, except in accordance with the order—

(*a*) transfer any stock to which the order relates; or

(*b*) pay dividends on the stock.

(8) The National Court may make declarations and give directions concerning the manner in which the right to any stock or thing in action vested under this Act is to be exercised.

(9) The provisions of this Act as to vesting orders apply to shares in a ship registered under any law, Australian Act or Imperial Act relating to merchant shipping as if they were stock.

**38. Persons entitled to apply for orders.**

(1) An order under this Act for the appointment of a new trustee or concerning any land, stock or thing in action subject to a trust may be made on the application of—

(*a*) any person, whether under disability or not, who is beneficially interested in the land, stock or thing in action; or

(*b*) any person who is duly appointed trustee of the land, stock or thing in action.

(2) An order under this Act concerning any land, stock or thing in action subject to a mortgage may be made on the application of—

(*a*) any person, whether under disability or not, who is beneficially interested in the equity of redemption; or

(*b*) any person interested in the money secured by the mortgage.

**39. Effect of appointment of new trustee.**

A trustee appointed by the National Court—

(*a*) has, both before and after the trust property becomes by law or by assurance or otherwise vested in him, the same powers, authorities and discretions; and

(*b*) may act in all respects,

as if he had been originally appointed a trustee by the instrument (if any) creating the trust.

**40. Costs.**

The National Court may order the costs and expenses of and incidental to—

(*a*) an application for—

(i) an order appointing a new trustee; or

(ii) a vesting order; or

(*b*) any such order; or

(*c*) any conveyance or transfer under any such order,

to be paid or raised—

(*d*) out of the land or personal estate in respect of which the order is made; or

(*e*) out of the income of the land or estate,

or to be borne and paid in such manner and by such persons as to the Court seems just.

**41. Trustees of Charities.**

The powers conferred by this Act as to vesting orders may be exercised for the purpose of vesting any land, stock or thing in action in a trustee of a charity or society over which the National Court would have jurisdiction if proceedings were instituted, whether the appointment of the trustee was made by instrument or by the Court.

**42. Evidentiary effect of vesting order.**

(1) Where a vesting order as to any land is made under this Act or any Act relating to unsoundness of mind, founded on an allegation—

(*a*) of the personal incapacity of a trustee; or

(*b*) that a trustee or the personal representative of a mortgagee is out of the jurisdiction of the National Court or cannot be found; or

(*c*) that it is uncertain which of several trustees was the survivor; or

(*d*) that it is uncertain whether the last trustee or the personal representative of a mortgagee is living or dead; or

(*e*) that there is no personal representative of a trustee or mortgagee; or

(*f*) that a trustee—

(i) has died intestate and it is not known who is his heir; or

(ii) 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 is conclusive evidence of the matter so alleged in any court on any question as to the validity of the order.

(2) Subsection (1) does not prevent the National Court from directing a reconveyance or the payment of costs occasioned by an order referred to in that subsection if it was improperly obtained.

*Division 2.—Payment into Court by Trustees.*

**43. Payment into court.**

(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 money or securities into the National Court, and subject to the Rules of Court of the National Court the money or securities shall be dealt with according to the orders of the Court.

(2) The receipt or certificate of the proper officer of the National Court is a sufficient discharge to trustees for the money or securities paid into court.

(3) Where—

(*a*) money or securities is or are vested in persons as trustees; and

(*b*) the majority wish to pay the money or securities into the National 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.

(4) Where in a case to which Subsection (3) applies any money or securities is or are deposited with a banker, broker or other depositary, the National Court may order payment or delivery of the money or securities to the majority of the trustees for payment into court.

(5) A transfer, payment or delivery made under an order under Subsection (4) takes effect as if the transfer, payment or order had been made on the authority or by the act of all the persons entitled to the money and securities transferred, paid or delivered.

*Division 3.—General.*

**44. Judgement in absence of trustee.**

(1) Where in any proceedings the National Court is satisfied that—

(*a*) diligent search has been made for a person who, in the character of trustee, is made a party to the proceedings, in order to serve him with process of the Court or with any process in the proceedings; and

(*b*) he cannot be found,

the Court may hear and determine the proceedings and give judgement against him in his character of trustee as if he had been duly served or had entered an appearance in the proceedings and had also appeared by his lawyer at the hearing.

(2) A determination or judgement under Subsection (1) is without prejudice to any interest in the matter in question in the proceedings that the person concerned has in any other character.

**45. Indemnity by beneficiary.**

(1) Where a trustee commits a breach of trust at the instigation or request, or with the written consent, of a beneficiary, the National Court may make an order impounding all or part of the interest of the beneficiary in the trust estate by way of indemnity to the trustee or a person claiming through him.

(2) This section applies to breaches of trust committed before, as well as to breaches committed after, the commencement date.

**46. Advice, etc., in management, etc., of trust property.**

(1) A trustee, executor or administrator may apply to the National Court, on a written statement of facts and without an action, for the opinion, advice or direction of the Court on any question relating to the management or administration of the trust property or the assets of the testator or intestate.

(2) Notice of an application under Subsection (1) shall be served on, and the hearing of the application may be attended by, any persons interested in the application, or such of them as the National Court thinks proper.

(3) A trustee, executor or administrator who acts on the opinion, advice or direction given by the National Court shall be deemed, so far as regards his personal responsibility, to have discharged his duty as trustee, executor or administrator in the subject-matter of the application.

(4) This section does not indemnify a trustee, executor or administrator in respect of an act done in accordance with the opinion, advice or direction given by the National Court if he is guilty of fraud, wilful concealment or misrepresentation in obtaining the opinion, advice or direction.

(5) The costs of an application under this section are in the discretion of the National Court.

**47. Advantageous dealings.**

(1) This section applies in a case where, in the management or administration of any property vested in trustees a sale, lease, mortgage, surrender, release or disposition, or a purchase, investment, acquisition, expenditure or transaction, is in the opinion of the National Court expedient but cannot be effected by reason of the absence of any power for that purpose vested in the trustees by the instrument (if any) creating the trust or by any law.

(2) In a case to which this section applies the National Court may, by order—

(*a*) confer on the trustee, generally or in a particular case, the necessary power for the purpose on such terms and subject to such provisions and conditions (including, if necessary, adjustment of the respective rights of the beneficiaries) as the Court thinks proper; and

(*b*) direct in what manner money authorized to be expended, and the costs of any transaction, are to be paid or borne as between capital and income.

(3) Where the National Court is satisfied that an alteration, by extension or otherwise, of the trusts or powers conferred on the trustee by the instrument (if any) creating the trust or by any law is expedient, Subsection (2) empowers the National Court to authorize the trustee to do or abstain from doing an act or thing that would be a breach of trust if it were done or omitted by him without the authorization of the Court or the consent of the beneficiaries, and in particular the Court may authorize the trustee—

(*a*) to sell trust property, notwithstanding that the terms or consideration for the sale—

(i) are or is not within the powers of the trustee; or

(ii) are or is forbidden by the instrument (if any) creating the trust; or

(*b*) to postpone the sale of trust property; or

(*c*) to carry on during any period for which a sale is postponed any business that forms part of the trust property; or

(*d*) to employ capital money subject to the trust in any business which the trustee is authorized to carry on by the instrument (if any) creating the trust or by any law.

(4) The National Court may rescind or vary an order made under this section, or may make a new or further order.

(5) The powers of the National Court under this section are in addition to the powers of the Court under any other law.

**48. Order for accounting by trustee.**

Where a trustee is directed—

(*a*) by order in a particular cause or matter or by general rule, to account to the National Court; or

(*b*) to file a report or account in the office of the Registrar of the National Court, on the application of an interested party or the Registrar or without such an application,

the National Court may—

(*c*) make a special or further order directing compliance with the rule or order; and

(*d*) enforce obedience to the order under Paragraph (*c*), or punish non-compliance with the order, according to the practice of the Court.

PART V.—MISCELLANEOUS.

**49. Power to mortgage, etc.**

(1) Notwithstanding any directions given by the instrument under which the trust arises, with the sanction of the National Court a trustee may raise, by sale, lease or mortgage of the trust property or any part of the trust property, any sum or sums or money that in the opinion of the Court it is necessary to raise—

(*a*) for the purpose of—

(i) the preservation or improvement of the trust property; or

(ii) the insurance of the trust property against damage by fire; or

(*b*) for the discharge of debts or liabilities charged on the trust property, or for the payment of which the trust property may be made available.

(2) A sum raised under Subsection (1) may be raised at such rate of interest and is repayable at such period as the National Court sanctions.

**50. Application of property of infant for maintenance, etc.**

(1) Where property is held by trustees in trust for an infant—

(*a*) whether for life or for a greater interest; and

(*b*) whether absolutely or contingently—

(i) on his attaining the age of 21 years; or

(ii) on the occurrence of any event before that age,

the National Court may, on the application of the infant or any person on his behalf and on being satisfied that the infant's income is inadequate, authorize the trustees—

(*c*) to raise by sale, collection or appropriation of the property or any part of it such amounts as are necessary for the maintenance, education or advancement of the infant; and

(*d*) to pay those amounts to the infant's parent or guardian (if any) or otherwise to apply them to the infant's benefit.

(2) Where property referred to in Subsection (1) consists of an undivided share in land, the National Court may authorize the sale of any other undivided share in the same land that is the property of any other infant, notwithstanding that the income of the other infant is not inadequate.

(3) If the net value of the infant's property does not exceed K1 000.00, the trustees may raise, apply and pay the money necessary for the infant at their sole discretion.

(4) This section has effect subject to the terms and provisions of the instrument (if any) under which the interest of the infant arises.

**51. Application of income of infant for maintenance, etc.**

(1) Where property is held by trustees in trust for an infant—

(*a*) whether for life or for a greater interest; and

(*b*) whether absolutely or contingently—

(i) on his attaining the age of 21 years; or

(ii) on the occurrence of any event before that age,

the trustees may, at their sole discretion—

(*c*) pay to the parent or guardian (if any) of the infant; or

(*d*) otherwise apply for or towards the maintenance, education or benefit of the infant,

the income of the property or any part of the property, whether or not there is—

(*e*) any other fund applicable to the same purpose; or

(*f*) any person bound by law to provide for the maintenance or education of the infant.

(2) The trustees shall—

(*a*) accumulate all the residue of the income referred to in Subsection (1) by way of compound interest, by investing it and the resulting income from time to time on securities in which they are, by the settlement (if any) or by law, authorized to invest trust money; and

(*b*) hold the accumulations for the benefit of the person who ultimately becomes entitled to the property from which they arise,

but the trustees may at any time, if they think fit, apply the accumulations or any part of the accumulations as if they were income arising in the then current year.

(3) This section has effect subject to the terms and provisions of the instrument under which the interest of the infant arises.

**52. Relief from liability for breach of trust.**

If it appears to the National Court that a trustee—

(*a*) is or may be personally liable for a breach of trust; and

(*b*) 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 the breach,

the Court may relieve the trustee, wholly or partly, from personal liability for the breach.

**53. Limitation of actions against trustee, etc.**

(1) Except in the case of a claim that—

(*a*) is founded on fraud or fraudulent breach of trust to which the trustee was party or privy; or

(*b*) is to recover trust property or the proceeds of trust property still retained by the trustee or previously received by the trustee and converted to his use,

in any proceedings against a trustee or a person claiming through a trustee—

(*c*) all rights and privileges conferred by any statute of limitations shall be enjoyed in the same manner and to the same extent as they would have been

enjoyed in the proceedings if he had not been a trustee or a person claiming through a trustee; and

(*d*) subject to Subsection (2), if the proceedings—

(i) are brought to recover money or other property; and

(ii) are proceedings to which no existing statute of limitations applies,

the trustee or person claiming through a trustee is entitled to the benefit of, and may plead, the lapse of time as a bar to the proceedings, in the same manner and to the same extent as if the claim had been against him in an action of debt for money had and received.

(2) Notwithstanding Subsection (1)(*d*), a statute of limitations runs against a married woman entitled in possession for her separate use, whether with or without a restraint on anticipation, but does not begin to run against a beneficiary until the interest of the beneficiary becomes an interest in possession.

(3) A beneficiary against whom there would be a good defence by virtue of this section does not derive any greater or other benefit from a judgement or order obtained by another beneficiary than he could have derived if he had brought the proceedings and this section had been pleaded.

(4) This section does not deprive an executor or administrator of a right or defence to which he is entitled under a statute of limitations.

**54. Expenditure on land.**

(1) This section applies in a case where—

(*a*) land is devised to a trustee on trusts that do not authorize expenditure of money with respect to the land; or

(*b*) a person dies intestate, leaving land,

and any of the persons beneficially interested in the land are not of full legal capacity or are out of the jurisdiction of the National Court.

(2) If in a case to which this section applies it appears to the National Court expedient—

(*a*) for the preservation of any buildings on the land; or

(*b*) for the continuance of the land in cultivation; or

(*c*) for enabling an income to be derived from the land; or

(*d*) 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—

(*e*) authorize the trustee to expend with respect to the land such sums, for such purposes, during such periods and on such conditions as the Court thinks proper; and

(*f*) allow the trustee to retain out of the rents and profits of the land, or out of any money held by him on the same trusts, any money properly expended by him under that authority.

**55. Retrospective sanction by the National Court.**

(1) Where a trustee has expended money or done an act under such circumstances that the National Court might, on a proper application, have authorized the incurring of the expenditure or the doing of the act, the Court may make an order sanctioning the expenditure or act.

(2) An order under Subsection (1) has the same effect as if the expenditure or act had been authorized by the National Court in the first instance.

(3) An order may be made under this section with respect to any expenditure incurred or act done before the commencement date.

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

**56. Commission to trustees.**

The National Court may, by order, authorize a trustee to retain for his own use out of the income of the trust property or, in the 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, subject to this Act, the commission shall not exceed 5% of the income or proceeds.

**57. Indemnity.**

This Act or any order purporting to be made under this Act is a complete indemnity for any acts done under it, and it is not necessary for any person to inquire concerning the propriety of the order or whether the National Court has jurisdiction to make it.

**58. Rules of court[1].**

The Judges may make rules of court—

(*a*) requiring trustees to file and pass accounts of their dealings with the trust property; and

(*b*) regulating the form, verification and passing of accounts by trustees; and

(*c*) regulating the time, form and mode of service of any such accounts; and

(*d*) regulating the practice affecting applications by trustees for commission; and

(*e*) regulating the fees payable in respect of any matter referred to in Paragraph (*a*), (*b*), (*c*) or (*d*); and

(*f*) generally for giving effect to this Act.

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[1] But *see* Constitution, Section 184.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 289.

***Trustees and Executors.***

APPENDIX.

SOURCE OF THE TRUSTEES AND EXECUTORS ACT.

Part A.—Previous Legislation.

*Trustees and Executors Act* 1961 (No. 27 of 1961)

as amended by—

*Trustees and Executors Act (Amendment)* 1970 (No. 25 of 1970)

Transfer of Powers Regulations 1973 (Statutory Instrument No. 49 of 1973).

Part B.—Cross References.

| Section, etc., in Revised Edition. | Previous Reference[1]. | Section, etc., in Revised Edition. | Previous Reference[1]. |
|---|---|---|---|
| 1 | 5 | 30 | 34 |
| 2 | 6 | 31 | 35 |
| 3 | 7 | 32 | 36 |
| 4 | 8 | 33 | 37 |
| 5 | 9 | 34 | 38 |
| 6 | 10 | 35 | 39 |
| 7 | 11 | 36 | 40 |
| 8 | 12 | 37 | 41 |
| 9 | 13 | 38 | 42 |
| 10 | 14 | 39 | 43 |
| 11 | 15 | 40 | 44 |
| 12 | 16 | 41 | 45 |
| 13 | 17 | 42 | 46 |
| 14 | 18 | 43 | 47 |
| 15 | 19 | 44 | 48 |
| 16 | 20 | 45 | 49 |
| 17 | 21 | 46 | 50 |
| 18 | 22 | 47 | 51 |
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| 20 | 24 | 49 | 53 |
| 21 | 25 | 50 | 54 |
| 22 | 26 | 51 | 55 |
| 23 | 27 | 52 | 56 |
| 24 | 28 | 53 | 57 |
| 25 | 29 | 54 | 58 |
| 26 | 30 | 55 | 59 |
| 27 | 31 | 56 | 60 |
| 28 | 32 | 57 | 61 |
| 29 | 33 | 58 | 62 |

[1] Unless otherwise indicated, references are to the Act set out in Part A.