



Isle of Man

Ellan Vannin

AT 9 of 1996

PURPOSE TRUSTS ACT 1996



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**Isle of Man***Ellan Vannin*

PURPOSE TRUSTS ACT 1996

<i>Received Royal Assent:</i>	<i>21 May 1996</i>
<i>Passed:</i>	<i>21 May 1996</i>
<i>Commenced:</i>	<i>22 May 1996</i>

AN ACT to make provision for the creation and validity of trusts for a purpose or purposes; and for connected purposes.

PART 1 – PURPOSE TRUSTS

1 Creating purpose trusts

- (1) Subject to the provisions of this Act, a person may create a valid purpose trust, for a period not exceeding 80 years, if –
 - (a) the purpose or purposes of the trust –
 - (i) are certain, reasonable and possible;
 - (ii) are not unlawful, contrary to public policy or immoral; and
 - (b) the trust is created –
 - (i) by deed; or
 - (ii) by will which is capable of being and is admitted to probate in the Island or in respect of which letters of administration in the Island are capable of being and are granted; and
 - (c) there are two or more trustees, at least one of whom is a designated person; and
 - (d) the instrument creating the trust –
 - (i) appoints a person who is independent of the trustees to enforce the trust (in this Act that person is referred to as “the enforcer”); and
 - (ii) provides for the appointment, as soon as is practicable, of such a person as enforcer in the event of a vacancy in the office of enforcer or in the event of an enforcer ceasing to be independent of the trustees or if for any reason the enforcer is incapable, unable or unwilling to act as enforcer; and

- (e) the instrument creating the trust provides for the enforcer to have an absolute right of access to any information or document which relates to the trust, the assets of the trust or to the administration of the trust; and
 - (f) the instrument creating the trust specifies the event upon the happening of which the trust terminates and provides for the disposition of surplus assets of the trust upon its termination.
- (2) The High Court may on the application of the enforcer of a trust make such orders as it considers necessary or expedient to enable or assist an enforcer —
- (a) to enforce a trust; or
 - (b) to gain access to any information or document which relates to a trust, the assets of a trust or to the administration of a trust.
- (3) Subject to section 4, trusts for a purpose or purposes which do not comply with subsection (1) are invalid.

2 Designated person to keep trust instrument, etc

- (1) Every designated person shall keep in the Island —
- (a) a copy of the instrument which created or evidenced each purpose trust of which he is a trustee and also copies of amending and supplemental instruments; and
 - (b) a register of each such trust specifying in respect of each trust, the name of the person who created the trust, a summary of the purpose or purposes of the trust and the name and address of the enforcer of the trust; and
 - (c) such documents as are sufficient to show the true financial position of each such trust at the end of the trust's last financial year together with details of all applications of principal and income during the financial year.
- (2) A designated person shall permit the Attorney General or a person authorised by him to inspect the instruments, registers and documents referred to in subsection (1).
- (3) This section does not create an obligation to make the instruments, registers and documents referred to in subsection (1) available for public inspection.

3 Incapacity, etc of enforcer

- (1) Where a trustee who is a designated person has reason to believe that —
- (a) there is a vacancy in the office of enforcer; or
 - (b) the enforcer has ceased to be independent of the trustees; or

- (c) the enforcer is for any reason incapable, unable or unwilling to act as enforcer,
then that trustee shall as soon as practicable —
- (i) give written notice of, and the grounds for his belief to the Attorney General; and
 - (ii) provide the Attorney General with a copy of the instrument by which the trust was created.
- (2) On receipt of notice under subsection (1), the Attorney General may apply to the High Court for the appointment of a person as the enforcer of the trust and the High Court may by order declare that person to be the enforcer.
- (3) An order of the High Court under subsection (2) is conclusive evidence of the appointment of the enforcer of a trust.
- (4) The High Court may order that the costs and expenses of the Attorney General shall be paid out of the assets of the trust.
- (5) This section is without prejudice to the provisions of an instrument which are referred to in section 1(1)(d)(ii).

4 Saving

Nothing in this Part affects —

- (a) the creation, variation, termination or validity of any trust created under or in accordance with any statutory provision or any other law;
- (b) any trust for charitable purposes or the law relating to such trusts.

5 Land in the Island

No land or any interest in any land in the Island shall be held, directly or indirectly, in a purpose trust.

PART 2 – SUPPLEMENTAL AND GENERAL

6 Offences by designated persons

- (1) Where a designated person fails to comply with any of the provisions of section 2(1), he is guilty of an offence and is liable on summary conviction to a fine not exceeding £5,000.
- (2) Where a designated person makes or authorises the making of an untrue statement in an instrument, register or document referred to in section 2(1), he is guilty of an offence and is liable on summary conviction to a fine not exceeding £5,000.

- (3) Where a designated person refuses to permit a person mentioned in section 2(2) to inspect an instrument, register or document referred to in section 2(1), the designated person is guilty of an offence and is liable on summary conviction to a fine not exceeding £5,000 and to a further fine of £500 for every day on which the refusal continues.
- (4) Where a designated person fails to comply with section 3(1) the designated person is guilty of an offence and is liable on summary conviction to a fine not exceeding £5,000.

7 Defences

- (1) In proceedings against a person for an offence under section 6(1), (2) or (4) it shall be a defence for him to satisfy the court that he took all reasonable steps and exercised all due diligence to avoid committing the offence.
- (2) A person shall not be entitled to rely on the defence provided by subsection (1) by reason of his reliance on information given by another unless he shows that it was reasonable in all the circumstances for him to have relied on the information, having regard in particular —
 - (a) to the steps which he took, and those which might reasonably have been taken, for the purpose of verifying the information, and
 - (b) to whether he had any reason to disbelieve the information.

8 Offences by bodies corporate

- (1) Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to neglect on the part of, a director, manager, secretary or other similar officer of the body corporate or a person who was purporting to act in such a capacity, he, as well as the body corporate, is guilty of the offence and liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

9 Interpretation

- (1) In this Act —

“**designated person**” means a person in the Island who is —

 - (a) an advocate;
 - (b) a legal practitioner registered under the *Legal Practitioners Registration Act 1986*;
 - (c) a person qualified under section 14(1)(a) of the *Companies Act 1982* for appointment as auditor of a public company;

- (d) a member of the Chartered Institute of Management Accountants;
- (e) a member of the Institute of Chartered Secretaries and Administrators;
- (ea) the holder of a licence under the *Financial Services Act 2008* in respect of trust services;¹
- (f) a fellow or associate member of the Institute of Bankers; or
- (g) a trust corporation;

“**enforcer**” has the meaning given by section 1(1)(d);

“**purpose trust**” means a trust for a purpose or purposes other than a trust —

- (a) that is for the benefit of particular persons whether or not immediately ascertainable; or
- (b) that is for the benefit of some aggregate of persons ascertained by reference to some personal relationship;
- (c) that is for charitable purposes, and for this purpose a trust shall not be treated as being for charitable purposes by reason only of the fact that the instrument creating the trust contains a gift or bequest of any part of the trust assets to a charity;

“**trust corporation**” has the meaning given by section 65A of the *Trustee Act 1961*.

10 Short title and commencement

- (1) This Act may be cited as the Purpose Trusts Act 1996.
- (2) This Act shall come into force on such day as the Treasury may by order appoint and different days may be so appointed for different provisions and for different purposes.²

ENDNOTES

Table of Endnote References

¹ Para (ea) inserted by Fiduciary Services Act 2005 Sch 3 and substituted by Financial Services Act 2008 Sch 6.

² ADO (whole Act) 22/5/1996 (SD363/96).