

Trustee Delegation Act 1999

Chapter 15

Attorney of trustee with beneficial interest in land

1 Exercise of trustee functions by attorney

- (1) The donee of a power of attorney is not prevented from doing an act in relation to—
 - (a) land;
 - (b) capital proceeds of a conveyance of land; or
 - (c) income from land,by reason only that the act involves the exercise of a trustee function of the donor if, at the time when the act is done, the donor has a beneficial interest in the land, proceeds or income.
- (2) In this section references to a trustee function of the donor are to a function which the donor has as trustee (either alone or jointly with any other person or persons).
- (3) Subsection (1) above—
 - (a) applies only if and so far as a contrary intention is not expressed in the instrument creating the power of attorney; and
 - (b) has effect subject to the terms of that instrument.
- (4) The donor of the power of attorney—
 - (a) is liable for the acts or defaults of the donee in exercising any function by virtue of subsection (1) above in the same manner as if they were acts or defaults of the donor; but
 - (b) is not liable by reason only that a function is exercised by the donee by virtue of that subsection.
- (5) Subsections (1) and (4) above—
 - (a) apply only if and so far as a contrary intention is not expressed in the instrument (if any) creating the trust; and
 - (b) have effect subject to the terms of such an instrument.
- (6) The fact that it appears that, in dealing with any shares or stock, the donee of the power of attorney is exercising a function by virtue of subsection (1) above does not affect with any notice of any trust a person in whose books the shares are, or stock is, registered or inscribed.
- (8) The donee of a power of attorney is not to be regarded as exercising a trustee function

by virtue of subsection (1) above if he is acting under a trustee delegation power; and for this purpose a trustee delegation power is a power of attorney given under—

- (a) a statutory provision; or
- (b) a provision of the instrument (if any) creating a trust,

under which the donor of the power is expressly authorised to delegate the exercise of all or any of his trustee functions by power of attorney.

2 Evidence of beneficial interest

- (1) This section applies where the interest of a purchaser depends on the donee of a power of attorney having power to do an act in relation to any property by virtue of section 1(1) above.

In this subsection—

- (a) "purchaser" means a purchaser in good faith for money or money's worth and includes a lessee, mortgagee or other person who for money or money's worth acquires an interest in property;
 - (b) where the context so requires "purchaser" includes an intending purchaser; and
 - (c) "purchase" has a meaning corresponding with that of "purchaser".
- (2) Where this section applies an appropriate statement is, in favour of the purchaser, conclusive evidence of the donor of the power having a beneficial interest in the property at the time of the doing of the act.
 - (3) In this section "an appropriate statement" means a signed statement made by the donee—
 - (a) when doing the act in question; or
 - (b) at any other time within the period of three months beginning with the day on which the act is done;

that the donor has a beneficial interest in the property at the time of the donee doing the act.

Authority of attorney to act in relation to land

10 Extent of attorney's authority to act in relation to land

- (1) Where the donee of a power of attorney is authorised by the power to do an act of any description in relation to any land, his authority to do an act of that description at any time includes authority to do it with respect to any estate or interest in the land which is held at that time by the donor (whether alone or jointly with any other person or persons).
- (2) Subsection (1) above—
 - (a) applies only if and so far as a contrary intention is not expressed in the

- instrument creating the power of attorney; and
- (b) has effect subject to the terms of that instrument.

Supplementary

11 Interpretation

- (2) References in this Act to the creation of a power of attorney are to the execution by the donor of the instrument creating it.

13 Commencement, extent and short title

- (3) This Act may be cited as the Trustee Delegation Act 1999.