

CHAPTER 53

An Act to extend the jurisdiction of courts of law to vary trusts in the interests of beneficiaries and sanction dealings with trust property. [23rd July, 1958]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Jurisdiction of courts to vary trusts.

1.—(1) Where property, whether real or personal, is held on trusts arising, whether before or after the passing of this Act, under any will, settlement or other disposition, the court may if it thinks fit by order approve on behalf of—

(*a*) any person having, directly or indirectly, an interest, whether vested or contingent, under the trusts who by reason of infancy or other incapacity is incapable of assenting, or

(*b*) any person (whether ascertained or not) who may become entitled, directly or indirectly, to an interest under the trusts as being at a future date or on the happening of a future event a person of any specified description or a member of any specified class of persons, so however that this paragraph shall not include any person who would be of that description, or a member of that class, as the case may be, if the said date had fallen or the said event had happened at the date of the application to the court, or

(*c*) any person unborn, or

(*d*) any person in respect of any discretionary interest of his under protective trusts where the interest of the principal beneficiary has not failed or determined,

any arrangement (by whomsoever proposed, and whether or not there is any other person beneficially interested who is capable of assenting thereto) varying or revoking all or any of the trusts, or enlarging the powers of the trustees of managing or administering any of the property subject to the trusts:

Provided that except by virtue of paragraph (*d*) of this subsection the court shall not approve an arrangement on behalf of any person unless the carrying out thereof would be for the benefit of that person.

(2) In the foregoing subsection " protective trusts " means the trusts specified in paragraphs (i) and (ii) of subsection (1) of section thirty-three of the Trustee Act, 1925, or any like trusts, " the principal beneficiary " has the same meaning as in the said subsection (1) and " discretionary interest " means an interest arising under the trust specified in paragraph (ii) of the said subsection (1) or any like trust.

15 & 16 Geo. 5. c. 19.

(3) Subject as hereinafter provided the jurisdiction conferred by subsection (1) of this section shall be exercisable by the High Court, except that the question whether the carrying out of any arrangement would be for the benefit of a person falling within paragraph (*a*) of the said subsection (1) shall be determined by order of the Judge or Master in Lunacy if a committee has been appointed of that person's estate or a receiver has been appointed of his income.

(4) In section fifty-two of the County Courts Act, 1934 (which confers equity jurisdiction on county courts) in paragraph (*b*) of subsection (1) after the word " subsists " there shall be inserted the words " or proceedings under section one of the Variation of Trusts Act, 1958, being (in any case) proceedings "; but section fifty-three of that Act (which enables jurisdiction to be conferred on the county court by agreement between the parties irrespective of the sum involved) shall not apply to proceedings under this section.

24 & 25 Geo. 5. c. 53.

(5) Nothing in the foregoing provisions of this section shall apply to trusts affecting property settled by Act of Parliament.

(6) Nothing in this section shall be taken to limit the powers conferred by section sixty-four of the Settled Land Act, 1925, section fifty-seven of the Trustee Act, 1925, or section one hundred and seventy-one of the Law of Property Act, 1925, or the powers of the Judge in Lunacy.

15 & 16 Geo. 5. c. 18.

15 & 16 Geo. 5. c. 20.

2.—(1) This Act shall not extend to Scotland. Extent and provisions as to Northern Ireland.

(2) The foregoing section shall not extend to Northern Ireland, but, notwithstanding anything in the Government of Ireland Act, 1920, the Parliament of Northern Ireland shall have power to make laws for purposes similar to any of the purposes of the foregoing section. 10 & 11 Geo. 5. c. 67.

3. This Act may be cited as the Variation of Trusts Act, 1958. Short title.

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