

SINGAPORE

TRUST COMPANIES ACT

(Revised 1985)

(CHAPTER 336)

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Short title.

1. This Act may be cited as the Trust Companies Act.

Interpretation.

2. In this Act, unless the context otherwise requires —

«court» means the High Court or any judge thereof in all cases where proceedings are taken in the High Court and means the District Court in all cases where proceedings are taken in a District Court;

«Registrar» means the Registrar or other officer performing under the Companies Act the duty of registration of companies;

«trust company» means a company registered as a trust company under this Act.

REGISTRATION OF TRUST COMPANIES

Application by company to be registered as a trust company.

3. Any public company incorporated in Singapore may apply to the Registrar to be registered as a trust company provided that —
 - (a) the objects of the company are restricted to some or all of the objects set out in section 8;
 - (b) the authorised capital of the company is not less than \$500,000 divided into shares of not less than \$10 each;
 - (c) at least one-half of the amount of every share issued by the company remains unpaid and is not liable to be called up, except in the event of and for the purpose of the winding up or dissolution of the company;
 - (d) the board of directors has been duly appointed in accordance with the articles of association of the company;
 - (e) at least \$150,000 of the authorised capital has been bona fide paid up;
 - (f) the company has deposited with the Accountant-General securities to be approved by the Minister to the value of \$100,000; and
 - (g) the company is able to meet its obligations, apart from its liability to its shareholders, without taking into account the securities so deposited with the Accountant-General.

Issue of certificate.

4.(1) On receipt of an application under section 3, the Registrar shall make such inquiry as he thinks necessary, and if satisfied that all the requirements of that section have been complied with, shall register the company applying for registration in the register prescribed by section 6 and issue to it a certificate that the company is registered as a trust company, and thereupon the company shall be invested with all the powers, privileges and immunities and shall be subject to all the liabilities imposed by this Act.

(2) Notice of the issue of such certificate shall be published by the Registrar in the *Gazette* for 4 consecutive weeks next following the issue.

(3) If the Registrar is not satisfied that all the requirements of section 3 have been complied with, he shall refuse to register the company as a trust company:

Provided that the company may appeal from such refusal to the Minister, whose decision shall be final.

Registration of a company incorporated in Malaysia as a trust company.

5.(1) Any public company incorporated in Malaysia and registered in Singapore under Division 2 of Part XI of the Companies Act, which obtains from the Registrar a declaration that he is satisfied —

- (a) that it is registered as a trust company in Malaysia under any law for the time being in force there relating to the registration of trust companies; and
- (b) that in accordance with such law it has deposited with the Accountant-General of Malaysia securities to the value of at least \$100,000 to be held by that Accountant-General for the same purposes as are set out in section 7 (1),

shall be deemed to have complied with all the requirements of section 3 and shall be entitled to apply to the Registrar for and obtain registration as a trust company in Singapore in accordance with section 4, and may thereupon carry on all the business of a trust company in Singapore in accordance with the provisions of this Act so long as it remains registered as a trust company in Malaysia and retains such deposit with the Accountant-General of Malaysia:

Provided that where the Registrar is of opinion that by reason of the amount of gross liability of any such company in Singapore additional security should be furnished by that company, he may order the company to make a deposit with the Accountant-General of Singapore in the manner and subject to the right of appeal provided by section 7 (2), and upon such deposit being made it shall be subject to the provisions of this Act relating to deposits.

(2) Any certificate issued to such a company under section 4 shall state that the company is incorporated in Malaysia and shall specify with whom the company has made any required deposit of securities.

(3) This section shall have effect only if and so long as reciprocal provisions are contained in the law of Malaysia relating to trust companies.

Register of trust companies to be kept.

6. There shall be kept in the office of the Registrar a register, to be called the Register of Trust Companies in which shall be entered the names of all trust companies registered under this Act, together with such other particulars as the Registrar may think necessary.

DEPOSIT BY TRUST COMPANIES

Deposit to be held as security.

7.(1) From the time of the issue to any company of a certificate under section 4 the securities deposited by the company with the Accountant-General under section 3 shall be held by the Accountant-General as security for the depositors and creditors of the company and for the faithful execution of all trusts which may be accepted by or imposed upon the company and for its obligations generally.

(2) If at any time, by reason of the decline in value of any securities so held by the Accountant-General or of the increase of the gross liabilities of any trust company, the Registrar is of the opinion that additional security ought to be furnished by a trust company, he may order the company to make, within a period to be stated in the order, a further deposit of a specified value with the Accountant-General:

Provided that the company may appeal from such order to the Minister, whose decision shall be final.

(3) Any trust company may from time to time, with the approval of the Minister, substitute other securities for all or any of the securities deposited by it with the Accountant-General.

(4) The interest accruing due on the securities deposited shall be paid to the company.

OBJECTS OF TRUST COMPANIES

Objects.

8.(1) The objects of a trust company may be some or all of, but shall not exceed, the following:

Trustee.

- (a) to accept and execute the offices of executor, administrator, trustee, receiver, receiver and manager, assignee, liquidator, guardian of the property of an infant, committee of the estate of a mentally disordered person or other like office of a fiduciary nature;

Agency.

- (b) to act as attorney or agent for the collection, receipt and payment of money, and for winding up estates, and for the sale or purchase of any movable or immovable property;

Managing agent.

- (c) to act as agent for the management and control of movable and immovable property for and on behalf of the owners thereof, or for or on behalf of executors, administrators or trustees;

Investing agent, etc.

- (d) to act as investing and financial agent for and on behalf of executors, administrators and trustees or any other persons whatsoever, and to receive money in trust for investment and to allow interest thereon until invested; and to undertake for and on behalf of executors, administrators and trustees or any other persons whatsoever the negotiation of loans of all descriptions and the procuring and lending of money on the security of any description of property immovable or movable or without taking any security on such terms as may be arranged, and to advance and lend moneys to protect any estate, trust or property entrusted to the company and to charge interest upon any such advances:

Provided that nothing herein contained shall be held either to restrict or extend the powers of the company as trustee or agent under the terms of any trust or agency that may be conferred upon it;

Securities for debts.

- (e) to take securities of such nature as are deemed expedient for any moneys owing to the company;

Custodian.

- (f) to be the custodian on such terms as are agreed upon of any moneys, securities, jewellery, plate or other valuable property and of papers, documents, deeds, wills, debentures and other evidence of title or indebtedness;

Sinking funds, etc.

- (g) to receive and manage any sinking, redemption, guarantee or any other special fund or deposit and to act as agent for countersigning, registering or otherwise ascertaining and certifying to the genuineness of any issue of shares, stocks, bonds, debentures or other securities for

money of any Government, municipal or other corporate body or of any association, whether incorporated or not, duly authorised to issue and make such issue and to hold any such securities as agent or trustee, and to act generally as agent for any such Government, municipal or corporate body or association;

To hold land for company's use.

- (h) to acquire and hold immovable property for the actual use and occupation of the company or of any of its officers and employees; and to erect, construct, enlarge, alter and maintain any buildings necessary or convenient for those purposes; and to sell or otherwise dispose of any such immovable property if not required for those purposes;

To hold other land.

- (i) to hold land which, having been mortgaged to the company, is acquired by it for the protection of its investments; and from time to time sell, mortgage, lease or otherwise dispose thereof;

To deposit and invest the moneys of the company in authorised investments.

- (j) to deposit the moneys of the company not immediately required with any bank or banks at interest until such moneys can be more permanently invested, and to invest the moneys of the company in accordance with section 18;

To borrow moneys.

- (k) to borrow moneys, and secure the repayment thereof with interest, in accordance with section 20;

Remuneration.

- (l) to receive and collect such remuneration for its services as is agreed upon or as fixed or allowed from time to time by law, and all usual and customary charges, costs and expenses;

To contribute to charities.

- (m) to support and subscribe to any charitable or public object and any institution, society or club which may be for the benefit of the company or its employees or may be connected with any town or place where the company carries on business; to give pensions, gratuities or charitable aid to any person or persons who may serve or have served the company or to the wives, children or other relatives of such persons; to make payments towards insurance and to form and contribute to provident and benefit funds for the benefit of any persons employed by the company:

Provided that no such subscription, gift, payment or contribution shall be given or made, except out of profits of the company available for distribution as dividend;

To carry on business in Malaysia and Brunei Darussalam.

- (n) to carry on in Malaysia and Brunei Darussalam or in either of them, but not elsewhere except in so far as may be incidental to and necessary for the performance of the duties of any office held by the company in Malaysia or Brunei Darussalam or Singapore, any business or to hold any office which a trust company is by this Act authorised to carry on or to hold in Singapore;

To acquire other businesses.

- (o) to acquire and undertake the whole or any part of the business of any person or company of a like nature to any business which a trust company is authorised to carry on, and in consideration for such acquisition to undertake all or any of the liabilities of that person or company and to issue shares to that person or company;

To do things conducive to objects.

- (p) to do all other things as are incidental or conducive to the attainment of the before-mentioned objects or any of them.

(2) Nothing in this section shall be construed to authorise any trust company to engage in the business of banking, or insurance business, or the business of a deposit, provident or benefit society.

(3) No trust company shall carry on any business or execute any office other than the businesses or offices included in the objects set out in subsection (1).

PROBATE AND ADMINISTRATION

Company may act as executor.

9. If at any time a trust company is appointed executor of the will of any testator, it shall be lawful for the company to apply to the court for probate of the will and, if probate is granted, to exercise and discharge all the powers and duties of an executor.

Company may be authorised to apply for probate or administration.

10.(1) If and whenever any person is entitled to apply for probate of the will of any testator without leave being reserved to any other person to apply for probate, it shall be lawful for the person, whether absent from Singapore or not, and notwithstanding the provisions of any other Act, instead of himself applying for probate, to authorise a trust company to apply to the court for a grant of administration with the will annexed of the estate of the testator, and such a grant may be made to the company upon its own application, when so authorised, but this section does not apply to any case in which a will provides that the company shall not act as executor or in the trusts thereof.

(2) If and whenever any person is entitled to apply for letters of administration with the will of any testator annexed of the estate of the testator, it shall be lawful for the person, whether absent from Singapore or not, and notwithstanding the provisions of any other Act, to authorise a trust company, either alone or jointly with any other person, to apply to the court for a grant of letters of administration with the will annexed of the estate of the testator, and such a grant may be made to the company upon its own application, when so authorised, but this section does not apply to a case in which a will provides that the company shall not act as executor, or in the trusts thereof.

(3) It shall be lawful for any person or persons entitled to apply for letters of administration of the estate of any intestate, whether the person or persons are absent from Singapore or not, and notwithstanding the provisions of any other Act, to authorise a trust company to apply to the court for such letters of administration, either alone or jointly with any other person, and administration of the estate of the intestate may be granted to the company, either alone or jointly, upon its own application, when so authorised.

(4) For the purposes of any application to the court for letters of administration to the estate of any deceased person, the court shall consider a trust company, when authorised under subsection (3), to be in law entitled equally with any other person or class of persons to apply for and obtain a grant, but a trust company, being so entitled, shall not on that account alone be preferred to the widower, widow, or next of kin of any intestate.

Probate, etc., not to be granted to nominee.

(5) No grant of probate or of letters of administration shall be granted to a syndic or nominee of behalf of a trust company.

Procedure as to petitions, etc.

11.(1) In all cases in which a trust company is empowered under this Act to apply for probate or for letters of administration, any petition, declaration, account or affidavit or other necessary document may be made or sworn by any officer of the company duly authorised by the company in that behalf.

(2) Any officer of the company appointed by the company for that purpose may on behalf of the company sign any petition, account or statement, take any oath, swear any affidavit, make any declaration, verify any act, give personal attendance at any court or place, and do any act or thing whatsoever, which may be required to be signed, taken, sworn, made, verified, given, or done on behalf of the company:

Provided that nothing in this Act shall confer upon any person, not otherwise entitled thereto, any right to appear or be heard before or in any court on behalf of the company or to do any act whatsoever on behalf of the company which could otherwise be lawfully done only by an advocate and solicitor of the Supreme Court.

TRUSTEESHIP

Appointment of company to be trustee.

12. In all cases in which the court or any person or persons has or have power to appoint a trustee, whether as an original or new or additional trustee, to perform any legal trust or duty, a trust company may be appointed in the same manner as if the company were a private individual:

Provided that no trust company shall be appointed in any case in which the instrument creating the trust, or the power authorising the appointment, forbids the appointment of a company.

Joint tenancy.

13. A trust company, acting in a fiduciary capacity, is capable of acquiring and holding any property in joint tenancy in the same manner as if it were a private individual.

AGENCY

Company may act as agent.

14. It is lawful for a trust company to act under any deed or instrument by which the company is appointed agent or attorney for any person, and all the powers conferred upon the company by any such deed or instrument may be exercised by such officer of the company as the company may appoint for that purpose:

Provided that nothing in this section shall be deemed to authorise any person to confer upon a trust company any power which may not lawfully be delegated by him.

EXEMPTION FROM GIVING SECURITY

Trust company not to furnish security.

15.(1) Notwithstanding the provisions of the Probate and Administration Act, no trust company to which a grant of letters of administration has been made shall be required to furnish security for the due administration of the estate.

(2) Notwithstanding the provisions of the Probate and Administration Act or any other Act, no trust company appointed by the court to perform the duties of receiver, guardian, committee, or any other office or trust shall be required to furnish security for the due performance of such duties.

INVESTMENT OF TRUST FUNDS

Trust funds to be kept separate.

16. All moneys, property and securities received or held by any trust company in a fiduciary capacity shall always be kept distinct from those of the company, and in separate accounts, and so marked in the books of the company for each particular trust as always to be distinguished from any other in the registers and other books of account to be kept by the company, so that at no time shall trust moneys form part of or be mixed with the general assets of the company, and all investments made by the company as trustee shall be so designated that the trusts to which the investments belong can be readily identified at any time.

Investment of trust funds.

17.(1) A trust company may invest trust moneys in its hands in or upon any securities in which private trustees may by law invest trust moneys, and may from time to time vary any such investment for others of the same nature; but the company shall not in any case invest the moneys of any trust in or upon securities prohibited by the instrument creating the trust, and whenever any special directions are given in any order, judgment, decree, or will, or in any other instrument creating the trust, as to the particular class or kind of securities or property in or upon which any investment shall be made, the company shall follow those directions. The company may also, in its discretion, retain and continue any investment and securities coming into its possession in any fiduciary capacity.

(2) No trust company shall directly or indirectly invest any trust moneys otherwise than in accordance with subsection (1).

INVESTMENT OF COMPANY'S FUNDS

Investment of company's funds.

18.(1) A trust company may invest moneys forming part of its own capital or reserve or accumulated profits —

- (a)* in or upon any securities in or upon which private trustees may by law invest trust moneys; and
- (b)* in or upon such other securities as the Minister may from time to time approve.

(2) A trust company may acquire and hold immovable property for the actual use and occupation of itself or of any of its officers or employees, and may sell and dispose of the property.

(3) A trust company may, for the protection of its investments, acquire land which has been mortgaged to it, but shall sell any land so acquired within 3 years after the acquisition thereof, unless that time is extended by the Minister.

(4) No trust company shall directly or indirectly invest any of its moneys otherwise than in accordance with subsections (1), (2) and (3):

Provided that nothing in this section shall be deemed to prevent the acceptance by a trust company of any securities whatsoever to secure the payment of a debt previously contracted in good faith; but any security so acquired by the company which it would otherwise be prohibited from taking or holding shall, within two years from the time of its acquisition, or within such further time as may be allowed by the Registrar, be sold or disposed of.

Loans to company's officers prohibited.

19. No loan shall be made by any trust company to any director or other officer or employee thereof, or to any company or firm in the management of which any such director or other officer or employee is actively engaged.

BORROWING POWER

Borrowing.

20.(1) For the purpose of attaining the objects of the company as set out in section 8 (or such of them as the company may have adopted), and for no other purpose, a trust company may from time to time borrow money:

Provided that the aggregate of the sums of money borrowed shall at no time exceed the amount of the company's capital for the time being paid up.

(2) Moneys borrowed by a trust company shall not be secured, by debenture or otherwise, on its capital or general undertaking, but may be secured on any of the company's property (not being property held by it on any trust), other than the securities deposited by it with the Accountant-General under the provisions of this Act.

ANNUAL STATEMENT

Annual statement.

21.(1) Every trust company shall forward annually to the Registrar, together with the return required by section 197 of the Companies Act, a statement of the liabilities of the company to

the public in its trustee capacity, and of the investments and holdings of the company on trust account.

(2) The statement shall be verified by the affidavit of the chairman or vice-chairman and of the manager or secretary of the company.

(3) Every document purporting to be certified by the Registrar to be a copy of any such statement or of part thereof shall be deemed to be a copy of that statement or of part thereof, and shall be received in evidence as if it were the original statement or part thereof, unless some variation between it and the original statement is proved.

INVESTIGATION

Investigation by inspector.

22.(1) The Minister may at any time appoint an inspector to investigate the affairs and management of any trust company and may prescribe the manner in which and the extent to which the investigation shall be conducted.

(2) It shall be the duty of all officers and employees of the company to produce for examination by the inspector all books, accounts, vouchers and other documents in their custody or control in relation to the matters under investigation, and to answer truly all enquiries addressed to them by the inspector respecting any matter affecting the affairs of the company.

(3) The inspector shall make a report of his investigation to the Minister.

(4) All expenses of and incidental to any such investigation shall be paid by the company, if the Minister so directs.

WINDING UP

Special provision as to winding up.

23. The court may order the winding up of a trust company in accordance with the Companies Act and the provisions of that Act shall apply accordingly, subject, however, to the modification that the company may be ordered to be wound up on application made on behalf of the Minister showing —

- (a) that the company has made default in complying with a requirement of this Act and the default has continued for a period of two months after notice of default has been served upon the company; or

- (b) that from the consideration of the report of an inspector appointed under section 22 it appears to him that the company is insolvent or has committed a breach of trust.

LIABILITY OF OFFICERS

Personal liability of officers.

24. Where a trust company holds the office of executor, administrator or trustee, every person employed by the company to discharge any of the duties of that office is, in respect of the duties entrusted to him, personally responsible to the court and is subject to the process of the court, as though he had been personally appointed to the office.

Loan to director, etc.

25. If any loan is made by a trust company to any director or other officer or employee thereof in contravention of section 19, all directors and officers of the company who made the loan or assented thereto are jointly and severally liable to the company for the amount thereof with interest.

Liability on winding up.

26. Upon the winding up of a trust company, every person who has been a director of the company at any time within the period of two years immediately preceding the commencement of the winding up becomes liable for the balance unpaid on every share which he may have transferred during the two years.

PENALTIES

Wilful neglect to make entry.

27. Any director, officer or employee of a trust company who wilfully and with intent to defraud neglects to make any entry in the books of the company which it is his duty to make shall be guilty of an offence and shall be liable on conviction before a District Court to imprisonment for a term not exceeding 2 years.

False statements in accounts.

28. Any director, officer or employee of a trust company who wilfully and with intent to defraud makes or abets the making of any false entry in the books of the company or

subscribes or exhibits any false document with intent to deceive any person appointed under this Act to investigate the affairs and management of the company shall be guilty of an offence and shall be liable on conviction before a District Court to imprisonment for a term not exceeding 2 years.

Refusal to produce books.

29. Any director, officer or employee of a trust company who refuses to produce for examination to any person appointed under this Act to investigate the affairs and management of the company all books and documents relevant to the investigation which are in his custody or control shall be guilty of an offence and shall be liable on conviction before a District Court to a fine not exceeding \$1,000 or to imprisonment for a term not exceeding 12 months or to both.

Neglect to forward annual statement.

30. Any trust company which makes default in forwarding to the Registrar the verified statement as required by section 21 shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50 for every day during which the default continues, in addition to any penalty which it may incur under the Companies Act; and any director or manager of the company who knowingly and wilfully authorises or permits the default shall be liable to the like penalty.

GENERAL

Guardianship of person prohibited.

31. No trust company shall be appointed to be guardian of the person of an infant or committee of the person of a mentally disordered person.

Restriction on holding of shares.

32. No member of a trust company shall at any time hold shares in the capital of the company to an amount exceeding one fifth of the issued capital of the company for the time being.

Voluntary winding up or disposal of shares may be restrained.

33. So long as any estate in respect of which a trust company is trustee remains in whole or in part unadministered, it shall not be lawful to proceed to wind up the company voluntarily, unless with the sanction of the court, and it shall be lawful for any person

interested in the estate, or who may have any claim in respect thereof, to apply to the court in a summary way by motion to restrain any director or any shareholder from disposing of any shares which that director or shareholder may hold in the company or to restrain the winding up voluntarily of the company, and the court shall have power to make such order as it thinks just.

Liability and powers of company.

34. Subject to the provisions of this Act, the liability of every trust company to the person or persons interested in any estate held by the company as executor, administrator, trustee, receiver, liquidator, assignee, guardian, or committee, or in any other official or business capacity is the same as if the estate had been held by a private person in the like capacity, and the powers of the company are the same as those of a private person in the like capacity.

Registration of trust company as shareholder, etc., not notice of a trust.

35. Neither the application by a trust company for registration as a member or shareholder in the books of any company or corporation nor the entry of the name of a trust company in the books of any company or corporation constitutes notice of trust, and no company or corporation is entitled to object to enter the name of a trust company on its books by reason only that the company may be or is a trustee, and, in dealings with property, the fact that the person or one of the persons dealt with is a trust company does not of itself constitute of a trust.

Unclaimed money to be paid into court.

36.(1) All money and securities which remain in the hands of a trust company, as trustee, unclaimed by the person entitled to them for a period of 6 years after the time when they became payable to that person (except where payment has been restrained by order of a court of competent jurisdiction), together with such interest, if any, as has been received by the company in respect thereof, less any commission or other charges properly chargeable by the company, shall be paid by the company into court under and in accordance with section 65 of the Trustees Act.

(2) It is not necessary for the company to comply with this section more often than once in any year nor is it necessary for the company to obtain the concurrence or consent of any person to such payment into court.

Fees.

37.(1) There shall be paid to the Registrar in respect of the matters mentioned in the Schedule the several fees specified therein.

(2) All such fees shall be paid by the Registrar into the Consolidated Fund.

(3) The Minister may from time to time, by notification in the *Gazette*, add to or alter the Schedule.

THE SCHEDULE

Section 37.

FEES TO BE PAID TO THE REGISTRAR

\$	c.
1. On application for registration 00	5
2. For certificate of registration -	
(a) where the authorised capital does not exceed \$500,000 00	100
(b) where the authorised capital exceeds \$500,000 but does not exceed 1,000,000	150 00
(c) where the authorised capital exceeds \$1,000,000 00	200
3. On filing annual statement under section 21 00	10