

# New South Wales.



ANNO VICESIMO

# GEORGI II V REGIS.

\*\*\*\*\*

## Act No. 60, 1929.

An Act to amend the law with respect to trusts and powers; to cure defects in titles; to amend the Trustee Act, 1925, and certain other Acts; and for purposes connected therewith. [Assented to, 24th December, 1929.]

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

**1.** This Act may be cited as the "Trustee (Amendment) Act, 1929." Short title.

*Trustee (Amendment).*

Amendment  
of Act No. 14,  
1925, s. 27.

**2.** The Trustee Act, 1925, is amended by inserting in subsection one of section twenty-seven after the word "notwithstanding" the words "any lapse of time or."

Amendment of  
Act No. 14, 1925.  
New sections.

Rule against  
perpetuities

*Re Allott*,  
1924, 2 ch.  
498; *Davis v.*  
*Samuel*, 28  
S.R. 1.

**3.** The Trustee Act, 1925, is amended by inserting after section twenty-seven the following new sections:—

27A. (1) The rule of law known as the rule against perpetuities shall not render void—

- (a) a trust or power to sell property in any case where a trust of the proceeds of sale is valid;
- (b) a trust or power to lease or to exchange property in any case where the lease or exchange directed or authorised by the trust or power is ancillary to the carrying out of a valid trust.

(2) This section applies to trusts or powers created, and to the execution or exercise thereof, either before or after the commencement of this Act.

27B. (1) A power to postpone sale shall be implied in every trust for sale, unless a contrary intention appears.

(2) Where there is a power to postpone sale, then (subject to any express direction to the contrary in the instrument, if any, creating the trust for sale) the trustee for sale shall not be liable in any way for postponing the sale, in the exercise of his discretion, for any indefinite period; nor shall a purchaser be concerned in any case with any directions respecting the postponement of sale.

(3) The provisions of subsections one and two of this section apply to trusts created either before or after the commencement of this Act.

(4) Where a disposition or settlement coming into operation after the commencement of the Trustee (Amendment) Act, 1929, contains a trust either to retain or sell any property, the same shall be construed as a trust to sell the property with power to postpone the sale.

Postpone-  
ment of sale.  
cf. 15 Geo. V,  
c. 20, s. 25.

---

*Trustee (Amendment).*

---

27c. (1) A trust for sale shall, so far as regards the safety and protection of any purchaser, be deemed to subsist notwithstanding any lapse of time until the property is conveyed to or under the direction of the persons interested in the proceeds of sale, and in the case of land until the conveyance is duly registered.

Purchaser  
under a trust  
for sale.  
cf. 15 Geo. V,  
c. 20, s. 23.

(2) Nothing in this section shall prevent any court from making an order restraining a sale.

(3) This section applies to trusts created and to the execution thereof either before or after the commencement of this Act.

4. Any alteration of the law by this Act shall not affect any action or proceeding concluded before or pending at the commencement of this Act.

Saving  
clause.

---

By Authority:

ALFRED JAMES KENT, I.S.O., Government Printer, Sydney, 1929.

[3d.]

The first section of the law is the most important. It is the one which is most likely to be misunderstood. It is the one which is most likely to be misapplied. It is the one which is most likely to be misinterpreted. It is the one which is most likely to be misread. It is the one which is most likely to be misheard. It is the one which is most likely to be miswritten. It is the one which is most likely to be misprinted. It is the one which is most likely to be misdelivered. It is the one which is most likely to be misused. It is the one which is most likely to be mismanaged. It is the one which is most likely to be miscontrolled. It is the one which is most likely to be misregulated. It is the one which is most likely to be misgoverned. It is the one which is most likely to be misruled. It is the one which is most likely to be misjudged. It is the one which is most likely to be misdecided. It is the one which is most likely to be misexecuted. It is the one which is most likely to be misperformed. It is the one which is most likely to be misconducted. It is the one which is most likely to be mismanaged. It is the one which is most likely to be miscontrolled. It is the one which is most likely to be misregulated. It is the one which is most likely to be misgoverned. It is the one which is most likely to be misruled. It is the one which is most likely to be misjudged. It is the one which is most likely to be misdecided. It is the one which is most likely to be misexecuted. It is the one which is most likely to be misperformed. It is the one which is most likely to be misconducted.

The second section of the law is the most important. It is the one which is most likely to be misunderstood. It is the one which is most likely to be misapplied. It is the one which is most likely to be misinterpreted. It is the one which is most likely to be misread. It is the one which is most likely to be misheard. It is the one which is most likely to be miswritten. It is the one which is most likely to be misprinted. It is the one which is most likely to be misdelivered. It is the one which is most likely to be misused. It is the one which is most likely to be mismanaged. It is the one which is most likely to be miscontrolled. It is the one which is most likely to be misregulated. It is the one which is most likely to be misgoverned. It is the one which is most likely to be misruled. It is the one which is most likely to be misjudged. It is the one which is most likely to be misdecided. It is the one which is most likely to be misexecuted. It is the one which is most likely to be misperformed. It is the one which is most likely to be misconducted.

*I Certify that this PUBLIC BILL, which originated in the LEGISLATIVE COUNCIL, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.*

W. L. S. COOPER,  
*Clerk of the Parliaments.*

*Legislative Council Chamber,  
Sydney, 18th December, 1929.*

## New South Wales.



ANNO VICESIMO

## GEORGII V REGIS.

\*\*\*\*\*

Act No. 60, 1929.

An Act to amend the law with respect to trusts and powers; to cure defects in titles; to amend the Trustee Act, 1925, and certain other Acts; and for purposes connected therewith. [Assented to, 24th December, 1929.]

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

**1.** This Act may be cited as the "Trustee (Amend- Short title. ment) Act, 1929."

**2.**

*Trustee (Amendment).*

Amendment  
of Act No. 14,  
1925, s. 27.

**2.** The Trustee Act, 1925, is amended by inserting in subsection one of section twenty-seven after the word "notwithstanding" the words "any lapse of time or."

Amendment of  
Act No 14, 1925.  
New sections.  
Rule against  
perpetuities  
*Re Allott*,  
1924, 2 ch.  
498; *Davis v.*  
*Samuel*, 28  
S.R. 1.

**3.** The Trustee Act, 1925, is amended by inserting after section twenty-seven the following new sections:—

27A. (1) The rule of law known as the rule against perpetuities shall not render void—

- (a) a trust or power to sell property in any case where a trust of the proceeds of sale is valid;
- (b) a trust or power to lease or to exchange property in any case where the lease or exchange directed or authorised by the trust or power is ancillary to the carrying out of a valid trust.

(2) This section applies to trusts or powers created, and to the execution or exercise thereof, either before or after the commencement of this Act.

Postpone-  
ment of sale.  
cf. 15 Geo. V,  
c. 20, s. 25.

27B. (1) A power to postpone sale shall be implied in every trust for sale, unless a contrary intention appears.

(2) Where there is a power to postpone sale, then (subject to any express direction to the contrary in the instrument, if any, creating the trust for sale) the trustee for sale shall not be liable in any way for postponing the sale, in the exercise of his discretion, for any indefinite period; nor shall a purchaser be concerned in any case with any directions respecting the postponement of sale.

(3) The provisions of subsections one and two of this section apply to trusts created either before or after the commencement of this Act.

(4) Where a disposition or settlement coming into operation after the commencement of the Trustee (Amendment) Act, 1929, contains a trust either to retain or sell any property, the same shall be construed as a trust to sell the property with power to postpone the sale.

---

*Trustee (Amendment).*

---

27c. (1) A trust for sale shall, so far as regards the safety and protection of any purchaser, be deemed to subsist notwithstanding any lapse of time until the property is conveyed to or under the direction of the persons interested in the proceeds of sale, and in the case of land until the conveyance is duly registered. Purchaser under a trust for sale. ct. 15 Geo. V, c. 20, s. 23.

(2) Nothing in this section shall prevent any court from making an order restraining a sale.

(3) This section applies to trusts created and to the execution thereof either before or after the commencement of this Act.

**4.** Any alteration of the law by this Act shall not affect any action or proceeding concluded before or pending at the commencement of this Act. Saving clause.

*In the name and on behalf of His Majesty I assent to this Act.*

D. R. S. DE CHAIR,  
Governor.

*Government House,  
Sydney, 24th December, 1929.*

1870

1871

1872  
1873  
1874  
1875  
1876  
1877  
1878  
1879  
1880  
1881  
1882  
1883  
1884  
1885  
1886  
1887  
1888  
1889  
1890  
1891  
1892  
1893  
1894  
1895  
1896  
1897  
1898  
1899  
1900

1901

1902

1903

1904

1905

1906

1907

1908

1909

1910

1911

1912

1913

1914

1915

1916

1917

1918

1919

1920

1921

1922

1923

1924



*This PUBLIC BILL originated in the LEGISLATIVE COUNCIL, and, having this day passed, is now ready for presentation to the LEGISLATIVE ASSEMBLY for its concurrence.*

W. L. S. COOPER,  
*Clerk of the Parliaments.*

*Legislative Council Chamber,  
Sydney, 1st November, 1929.*

## New South Wales.



ANNO VICESIMO

## GEORGII V REGIS.

\*\*\*\*\*

Act No. , 1929.

An Act to amend the law with respect to trusts and powers; to cure defects in titles; to amend the Trustee Act, 1925, and certain other Acts; and for purposes connected therewith.

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of  
5 the same, as follows:—

**1.** This Act may be cited as the "Trustee (Amend- Short title, ment) Act, 1929."

5623

C 42

**2.**

*Trustee (Amendment).*

2. The Trustee Act, 1925, is amended by inserting in subsection one of section twenty-seven after the word "notwithstanding" the words "any lapse of time or."

Amendment of Act No. 14, 1925, s. 27.

5 3. The Trustee Act, 1925, is amended by inserting after section twenty-seven the following new sections:—

Amendment of Act No. 14, 1925. New sections.

27A. (1) The rule of law known as the rule against perpetuities shall not render void—

Rule against perpetuities

10 (a) a trust or power to sell property in any case where a trust of the proceeds of sale is valid;

Re Allott, 1924, 2 ch. 498; Davis v. Samuel, 28 S.R. 1.

15 (b) a trust or power to lease or to exchange property in any case where the lease or exchange directed or authorised by the trust or power is ancillary to the carrying out of a valid trust.

(2) This section applies to trusts or powers created, and to the execution or exercise thereof, either before or after the commencement of this Act.

20 27B. (1) A power to postpone sale shall be implied in every trust for sale, unless a contrary intention appears.

Postponement of sale. cf. 15 Geo. V, c. 20, s. 25.

25 (2) Where there is a power to postpone sale, then (subject to any express direction to the contrary in the instrument, if any, creating the trust for sale) the trustee for sale shall not be liable in any way for postponing the sale, in the exercise of his discretion, for any indefinite period; nor shall a purchaser be concerned in any case with any directions respecting the postponement of sale.

30 (3) The provisions of subsections one and two of this section apply to trusts created either before or after the commencement of this Act.

35 (4) Where a disposition or settlement coming into operation after the commencement of the Trustee (Amendment) Act, 1929, contains a trust either to retain or sell any property, the same shall be construed as a trust to sell the property with power to postpone the sale.

40

---

*Trustee (Amendment).*

---

- 5        27c. (1) A trust for sale shall, so far as regards the safety and protection of any purchaser, be deemed to subsist notwithstanding any lapse of time until the property is conveyed to or under the direction of the persons interested in the proceeds of sale, and in the case of land until the conveyance is duly registered. Purchaser under a trust for sale. ct. 15 Geo. V, c. 20, s. 23.
- 10        (2) Nothing in this section shall prevent any court from making an order restraining a sale.
- 15        (3) This section applies to trusts created and to the execution thereof either before or after the commencement of this Act.
- 4.** Any alteration of the law by this Act shall not affect any action or proceeding concluded before or pending at the commencement of this Act. Saving clause.

1872

1872

1872

1872

1872

1872

1872

1872

1872

1872

1872

1872

1872

1872

1872

1872

1872

1872

1929.

---

Legislative Council.

---

## Trustee (Amendment) Bill, 1929.

---

### EXPLANATORY NOTE.

THE Bill amends the law with respect to a trust or power to sell, lease, or exchange property, where the duration of the trust or power is not expressly limited. It appears from *Davis v. Samuel* (28 S.R. 1) that in some circumstances the rule against perpetuities may make the trust or power void, and so defeat the intention of a testator, although the sale, lease, or exchange was only directed or authorised in connection with the carrying out of valid trusts. The proposed new section 27A removes difficulties arising from this operation of the rule.

The proposed new section 27B authorises a trustee to postpone a sale where there is a trust for sale, unless a contrary intention appears.

The proposed new section 27C protects a purchaser under a trust for sale.

The amendment proposed in clause 2 is in effect a consequential amendment.

---

THE UNIVERSITY OF CHICAGO

1923

THE UNIVERSITY OF CHICAGO  
DEPARTMENT OF CHEMISTRY  
CHICAGO, ILLINOIS

Legislative Council.

No. , 1929.

---

---

## A BILL

To amend the law with respect to trusts and powers; to cure defects in titles; to amend the Trustee Act, 1925, and certain other Acts; and for purposes connected therewith.

[MR. BOYCE;—12 *November*, 1929.]

---

---

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of  
5 the same, as follows:—

**1.** This Act may be cited as the "Trustee (Amend- Short title, ment) Act, 1929."

Amendment  
of Act No. 14,  
1925, s. 27.

**2.** The Trustee Act, 1925, is amended by inserting in subsection one of section twenty-seven after the word "notwithstanding" the words "any lapse of time or."

Amendment of  
Act No. 14, 1925.  
New sections.  
Rule against  
perpetuities  
*Re Allott*,  
1924, 2 ch.  
498; *Davis v.*  
*Samuel*, 28  
S.R. 1.

**3.** The Trustee Act, 1925, is amended by inserting after section twenty-seven the following new sections:— 5

27A. (1) The rule of law known as the rule against perpetuities shall not render void—

- (a) a trust or power to sell property in any case where a trust of the proceeds of sale is valid; 10
- (b) a trust or power to lease or to exchange property in any case where the lease or exchange directed or authorised by the trust or power is ancillary to the carrying out of a valid trust. 15

(2) This section applies to trusts or powers created, and to the execution or exercise thereof, either before or after the commencement of this Act.

Postpone-  
ment of sale.  
cf. 15 Geo. V,  
c. 20, s. 25.

27B. (1) A power to postpone sale shall be 20 implied in every trust for sale, unless a contrary intention appears.

(2) Where there is a power to postpone sale, then (subject to any express direction to the contrary in the instrument, if any, creating the 25 trust for sale) the trustee for sale shall not be liable in any way for postponing the sale, in the exercise of his discretion, for any indefinite period; nor shall a purchaser be concerned in any case with any directions respecting the postponement of 30 sale.

(3) The provisions of subsections one and two of this section apply to trusts created either before or after the commencement of this Act.

(4) Where a disposition or settlement 35 coming into operation after the commencement of the Trustee (Amendment) Act, 1929, contains a trust either to retain or sell any property, the same shall be construed as a trust to sell the property with power to postpone the sale. 40



5        27c. (1) A trust for sale shall, so far as regards the safety and protection of any purchaser, be deemed to subsist notwithstanding any lapse of time until the property is conveyed to or under the direction of the persons interested in the proceeds of sale, and in the case of land until the conveyance is duly registered.

Purchaser  
under a trust  
for sale.  
ct. 15 Geo. V,  
c. 20, s. 23.

10        (2) Nothing in this section shall prevent any court from making an order restraining a sale.

10        (3) This section applies to trusts created and to the execution thereof either before or after the commencement of this Act.

15        4. Any alteration of the law by this Act shall not affect any action or proceeding concluded before or pending at the commencement of this Act.

Saving  
clause.





