

Private trusts – comparison between current provisions and relevant provisions of the Trustee Act 1925 that will apply

Provision	Trustees of Schools of Arts Enabling Act 1902	Trustee Act 1925
Sale and other dealings with land	<p>Will no longer be required to:</p> <ol style="list-style-type: none"> 1. advertise intention to deal, 2. have meetings of members confirming resolution to deal; 3. obtain Minister's consent to dealing, <p>as required under sections 5 to 9 of School of Arts Act.</p>	<p>Trustees for sale (ie trustees who are authorised under the terms of their trust deeds or statutes to sell land), will be able to do so and will have the powers incidental to sale as set out in the Trustee Act section 26.</p> <p>Section 36 of the Trustee Act provides a limited power to lease for 3 years or less. In addition, trustees with powers to manage or sell land in their trust deeds will be able to lease for 5 years or less.</p> <p>Trustees not authorised to deal with their land under the terms of their trust deed would need to apply to the Supreme Court to vary their trust deed or to authorise the relevant dealing. Accordingly, where a trust's trust deed can not be located or does not contain powers for sale etc, we are exploring mechanisms to allow for the Minister to approve replacement trust deeds or amendments to trust deeds prior to the repeal of the School of Arts Act.</p>
Appointment of trustees	<p>Appointment of new trustees will no longer require:</p> <ol style="list-style-type: none"> 1. members to pass a resolution declaring the office vacant; 2. notification of the vacancy to be provided to the Minister; 3. members to elect new trustees; 4. the Minister's approval of the new trustees, <p>as currently provided in section 14.</p>	<p>Appointment of new trustees and additional trustees may be effected under sections 6 and 7 of the Trustee Act.</p> <p>The requirements in those sections would need to be followed, including the requirement for a registered deed.</p>

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Resignation of trustees	Trustees will no longer have to give notice to the Minister as set out in section 13.	<p>Subject to the following sentence, trustees will need to comply with section 8 of the Trustee Act relating to retirement, including the requirement for a registered deed to effect retirement.</p> <p>Section 8 only applies if and as far as a contrary intention is not expressed in the instrument, if any, creating the trust.</p>