

The Official Trustees Act, 1913

(ACT NO. II OF 1913)

¹An Act to consolidate and amend the Law constituting the office of Official Trustee.

WHEREAS it is expedient to consolidate and amend the law constituting the office of the Official Trustee; It is hereby enacted as follows:-

PART I

PRELIMINARY

- Short title, extent and commencement**
1. (1) This Act may be called the Official Trustees Act, 1913.
- (2) It extends to the whole of ²[Bangladesh].
- (3) It shall come into force on such date as the ³[Government] by notification in the official Gazette may direct.
- Interpretation clause**
2. In this Act, unless there is anything repugnant in the subject or context,-
- ⁴[* * *]
- (3) [Repealed by the Government of India (Adaptation of Indian Laws) Order, 1937.]
- (4) "Prescribed" means prescribed by rules under this Act:
- (5)-(7) [Repealed by the Government of India (Adaptation of Indian Laws) Order, 1937.]
- ⁵[* * *]
- Extent of jurisdiction of High Court Division**
3. For the purposes of this Act the High Court Division shall have jurisdiction throughout ⁶[Bangladesh].

PART II

Official Trustees

4. ⁷[(1) The Government shall appoint an Official Trustee for the whole of Bangladesh.

(2) No person shall be appointed to the office of the Official Trustee who is not an advocate within the meaning of clause (a) of Article 2 of the Bangladesh Legal Practitioners and Bar Council Order, 1972.]

Appointment and powers of Deputy Official Trustee

5. The Government may appoint a Deputy or Deputies to assist the Official Trustee; and any Deputy so appointed shall, subject to the control of the Government and the general or special orders of the Official Trustee, be competent to discharge any of the duties and exercise any of the powers of the Official Trustee, and, when discharging such duties or exercising such powers, shall have the same privileges and be subject to the same liabilities as the Official Trustee.

Official Trustee to be corporation sole, to have perpetual succession and official seal, and to sue and be sued in his corporate name

6. The Official Trustee shall be a corporation sole by the name of the Official Trustee of ⁸[Bangladesh] and, as such Official Trustee, shall have perpetual succession and an official seal, and may sue and be sued in his corporate name.

PART III**RIGHTS, POWERS, DUTIES AND LIABILITIES OF OFFICIAL TRUSTEE****General powers and duties of Official Trustee**

7. (1) Subject to, and in accordance with, the provisions of this Act and the rules made thereunder, the Official Trustee may, if he thinks fit,-

(a) act as an ordinary trustee;

(b) be appointed trustee by a Court of competent jurisdiction.

(2) Save as hereinafter expressly provided, the Official Trustee shall have the same powers, duties and liabilities, and be entitled to the same rights and privileges and be subject to the same control and orders of the Court as any other trustee acting in the same capacity.

(3) The Official Trustee may decline, either absolutely or except on such conditions as he may impose, to accept any trust.

(4) The Official Trustee shall not accept any trust under any composition or scheme of arrangement for the benefit of creditors, nor of any estate known or believed by him to be insolvent.

(5) The Official Trustee shall not, save as provided by any rules made under this Act, accept any trust for a religious purpose or any trust which involves the management or carrying on of any business.

(6) The Official Trustee shall not administer the estate of a deceased person, unless he is expressly appointed sole executor of, and sole trustee under, the will of such person.

(7) The Official Trustee shall always be sole trustee, and it shall not be lawful to appoint the Official Trustee to be trustee along with any other person.

Official Trustee may with consent be appointed trustee of settlement by grantor

8. (1) Any person intending to create a trust other than a trust which the Official Trustee is prohibited from accepting under the provisions of this Act may by the instrument creating the trust and with the consent of the Official Trustee, appoint him by that name or any other sufficient description to be the trustee of the property subject to such trust:

Provided that the consent of the Official Trustee shall be recited in the said instrument and that such instrument shall be duly executed by the Official Trustee.

(2) Upon such appointment the property subject to the trust shall vest in such Official Trustee, and shall be held by him upon the trusts declared in such instrument.

Appointment of Official

Trustee as trustee by will

9. When the Official Trustee has by that name or any other sufficient description been appointed trustee under any will, the executor of the will of the testator or the administrator of his estate shall, after obtaining probate or letters of administration, notify in the prescribed manner the contents of such will to such Official Trustee; and, if such Official Trustee, consents to accept the trust, then upon the execution by such executor or administrator of an instrument in writing transferring the property subject to the trust to the Official Trustee such property shall vest in such Official Trustee, and shall be held by him upon the trusts expressed in the said will:

Provided that the consent of the Official Trustee shall be recited in the said instrument and that such instrument shall be duly executed by the Official Trustee.

Power of High Court Division to appoint Official Trustee to be trustee of property

10. (1) If any property is subject to a trust other than a trust which the Official Trustee is prohibited from accepting under the provisions of this Act, and there is no trustee within the local limits of the ordinary or extraordinary original civil jurisdiction of the High Court Division willing or capable to act in the trust, the High Court Division may on application make an order for the appointment of the Official Trustee by that name with his consent to be the trustee of such property.

(2) Upon such order such property shall vest in the Official Trustee and shall be held by him upon the same trusts as the same was held previously to such order, and the previous trustee or trustees (if any) shall be exempt from liability as trustees of such property save in respect of acts done before the date of such order.

(3) Nothing in this section shall be deemed to affect the provisions of the Trustees' and Mortgagees' Powers Act, 1866, or the Trusts Act, 1882.

Power of private trustees to appoint Official

11. (1) If any property is subject to a trust other than a trust which the Official Trustee is prohibited from accepting under the provisions of this Act, and all the trustees of the surviving or continuing trustee or trustees and all persons beneficially interested in the trusts are desirous that the

Trustee to be trustee of property

Official Trustee shall be appointed in the room of such trustee or trustees, it shall be lawful for such trustee or trustees, by an instrument in writing to appoint the Official Trustee by that name or any other sufficient description with his consent to be the trustee of such property:

Provided that the consent of the Official Trustee shall be recited in the said instrument and that such instrument shall be duly executed by him.

(2) Upon such appointment such property shall vest in the Official Trustee and shall be held by him upon the same trusts as the same was held previously to such appointment, and the previous trustee or trustees shall be exempt from all liability as trustees of such property save in respect of acts done before the date of such appointment.

Executor or administrator may pay to Official Trustee legacy, share, etc., of infant or lunatic

12. (1) If any infant or lunatic is entitled to any gift, legacy or share of the assets of a deceased person, it shall be lawful for the person by whom such gift is made, or executor or administrator by whom such legacy or share is payable or transferable or any trustee of such gift, legacy or share, to transfer the same by an instrument in writing to the Official Trustee by that name or any other sufficient description with his consent:

Provided that the consent of the Official Trustee shall be recited in the said instrument and that such instrument shall be duly executed by the Official Trustee.

(2) Any money or property transferred to the Official Trustee under this section shall vest in him and shall be subject to the same provisions as are contained in this Act as to other property vested in such Official Trustee.

Official Trustee not to be required to give bond or security

13. (1) No Official Trustee shall be required by any Court to enter into any bond or security on his appointment in any capacity under this Act.

(2) No Official Trustee or Deputy Official Trustee shall be required to verify otherwise than by his signature any petition presented by him under the provisions of this Act, and if the facts stated in any such petition are not within the Official Trustee's personal knowledge, the petition may be verified and subscribed by any person competent to make the verification.