These notes refer to the Trustee Act (Northern Ireland) 2001 (c.14) which received Royal Assent on 20 July 2001

Trustee Act (Northern Ireland) 2001

EXPLANATORY NOTES

COMMENTARY ON CLAUSES

Part II: Investment

Section 4: Standard investment criteria

Section 4(1) provides that, in exercising any power of investment, whether arising under *section 3* or otherwise, a trustee must have regard to the standard investment criteria. There are two factors to be taken into account, as defined in *section 4(3)*, namely the suitability of the investments and the need for diversification.

Section 4(2) requires a trustee to review the investments from time to time and consider whether, in the light of the standard investment criteria, they should be varied. This accords with the present position at common law where a trustee is obliged to keep investments under review: see Nestle v National Westminster Bank plc No (2) [1993] 1 WLR 1260.

Section 4(3) defines the standard investment criteria. The definition is modelled on section 6(1) of the Trustee Investments Act 1961 and reflects modern portfolio theory. Firstly, the trustee must consider the suitability to the trust of the kind of investment proposed and also the suitability of the particular investment proposed as an investment of that kind. Secondly, the trustee must consider the need for diversification of investments to the extent that that is appropriate for the trust. Along with the duty of care, attention to the standard investment criteria will be of central importance in protecting beneficiaries.