

*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 5: Advice

Section 5 provides another safeguard for beneficiaries. In choosing or reviewing any investments, apart from exceptional cases described below, a trustee must obtain and consider proper advice, bearing in mind the standard investment criteria. For these purposes “proper advice” is defined in *section 5(4)* to mean the advice of a person reasonably believed to be qualified in terms of ability and practical experience in financial or other relevant matters.

Section 5(3) recognises that it would be expensive and wasteful to insist upon trustees seeking advice in even the simplest cases, or in cases where the trustees themselves have the desirable skills and knowledge. Some flexibility is needed. Hence the exception - there is no requirement to seek this kind of advice if the trustee reasonably concludes that in all the circumstances it is unnecessary or inappropriate to do so.