

61. Sections 57 to 60 do not apply to trusts created by an Order in Council of Her Majesty.

Judgment against trustee to be binding on beneficiaries.

62. (1) Any order, judgment or finding of law or fact of the Royal Court in an action against a trustee founded on breach of trust is binding on all beneficiaries of the trust, whether or not yet ascertained or in existence, and whether or not minors or persons under legal disability.

(2) Subsection (1) applies in respect of a beneficiary only if –

- (a) he was represented in the proceedings (whether personally, or by his guardian, or as the member of a class, or otherwise), or
- (b) if not so represented, he had notice of the proceedings and a reasonable opportunity of being heard.

"Notice" in paragraph (b) means 14 days' notice or such other period as the Court may direct.

(3) This section is without prejudice to the powers of the Royal Court in respect of representative proceedings and class actions.

Settlement of action against trustee by alternative dispute resolution to be binding on beneficiaries.

63. (1) Where –

- (a) the terms of a trust direct or authorise, or the Court so

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orders, that any claim against a trustee founded on breach of trust may be referred to alternative dispute resolution ("**ADR**"),

- (b) such a claim arises and, in accordance with the terms of the trust or the Court's order, is referred to ADR, and
- (c) the ADR results in a settlement of the claim which is recorded in a document signed by or on behalf of all parties,

the settlement is binding on all beneficiaries of the trust, whether or not yet ascertained or in existence, and whether or not minors or persons under legal disability.

(2) Subsection (1) applies in respect of a beneficiary only if –

- (a) he was represented in the ADR proceedings (whether personally, or by his guardian, or as the member of a class, or otherwise), or
- (b) if not so represented, he had notice of the ADR proceedings and a reasonable opportunity of being heard,

and only if, in the case of a beneficiary who is not yet ascertained or in existence, or who is a minor or person under legal disability, the person conducting the ADR proceedings certifies that he was independently represented by a person appointed for the purpose by a court of law.

"**Notice**" in paragraph (b) means 14 days' notice or such other period as the person conducting the ADR proceedings may direct.

(3) A person who represents a beneficiary in the ADR proceedings for the purposes of subsection (2)(a) is under a duty of care to the beneficiary.

(4) For the avoidance of doubt, the ADR proceedings need not be conducted in Guernsey or in accordance with the procedural law of Guernsey.

(5) In this section –

"**ADR**" includes conciliation, mediation, early neutral evaluation, adjudication, expert determination and arbitration, and

"**proceedings**" includes oral and written proceedings.

PART III

PROVISIONS APPLICABLE ONLY TO FOREIGN TRUSTS

Application of Part III.

64. This Part of this Law applies only to a foreign trust.

Enforceability of foreign trusts.

65. (1) Subject to subsection (2), a foreign trust is governed by, and shall be interpreted in accordance with, its proper law.

(2) A foreign trust is unenforceable in Guernsey to the extent that-