

Words struck out by the Statutes Revision Committee are shown in italics within bold round brackets or in roman enclosed in panel: words inserted are shown in roman underlined with a double rule, or with double rule down side.

Hon. Mr Mason

UNIT TRUSTS

ANALYSIS

Title	15. Trust deed to state conditions for buying back interests
1. Short Title and commencement	16. Interests in unit trust to be transferable
2. Interpretation	17. Meeting of unit holders
3. Unit trust to have manager and trustee	18. Removal of manager
4. Restriction as to manager	19. Accounts, etc., to be filed
5. Restrictions as to trustee	20. Appointment of inspectors
6. Prospectus	21. Court may confer additional powers of management
7. Appointment of trustee	22. Temporary managers
8. Copy of deed to be lodged with District Registrar	23. Trust deed not to exempt trustee or manager from liability
9. Removal of trustee	24. Offences
10. Trustee to keep accounts	25. Power of Court to assess damages against delinquent directors of manager
11. Implied provisions in trust deed	26. Regulations
12. Certificate of interest to be issued	27. Amendment
13. Duty of manager with respect to subscriptions	28. Existing unit trusts
14. Subscriptions, etc., to become subject to trusts	Schedule

A BILL INTITULED

An Act to provide for regulating the operations of unit trusts

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title and commencement—(1) This Act may be cited as the Unit Trusts Act 1960.

(2) This Act shall come into force on the 1st day of April, nineteen hundred and sixty-one.

2. Interpretation—(1) In this Act, unless the context otherwise requires,—

“Bank” means a bank within the meaning of the Banking Act 1908:

“Company” means a company within the meaning of the Companies Act 1955: 5

“District Registrar”, in relation to any unit trust, means the District Registrar of Companies in the district where the company that is the manager of the unit trust is registered: 10

“Interest in a unit trust” means a beneficial interest in the money, investments, and other property that are subject to the trusts governing that unit trust:

“Manager”, in relation to a unit trust, means the company (howsoever it is described) in which is vested the powers and functions of the manager of a unit trust under this Act: 15

“Minister” means the Minister of Justice:

New

“Nominated company”, in relation to any trustee, means a company nominated by that trustee under section 5A of this Act: 20

“Registrar” means the Registrar of Companies; and includes the Deputy Registrar of Companies:

“Trust” means a trust within the meaning of the Trustee Act 1956: 25

“Trust deed”, in relation to any unit trust, means the trust deed that sets out the trusts governing the unit trust; and includes every instrument that varies those trusts, or affects the powers, duties, or functions of the trustee or manager of the unit trust: 30

“Trustee”, in relation to any unit trust, means the trustee in which or in the nominated company of which is vested the money, investments, and other property that are for the time being subject to the trusts governing the unit trust: 35

“Unit holder”, in relation to any unit trust, means any person (other than the manager) who is the lawful holder of a certificate evidencing that he has an interest in the unit trust; and includes a purchaser of or a subscriber for such an interest who is entitled to have a certificate issued to him in accordance with section 12 of this Act: 40

“Unit trust” means any scheme or arrangement, whether made before or after the commencement of this Act, that is made for the purpose or has the effect of providing facilities for the participation, as beneficiaries 45

under a trust, by subscribers or purchasers as members of the public, in income and gains (whether in the nature of capital or income) arising from the money, investments, and other property that are for the time being subject to the trust (*and also providing for the bearing by them of losses so arising*); but does not include—

- 5
10
15
- (a) A trust for the benefit of debenture holders; or
 - (b) The Common Fund of the Public Trustee; or
 - (c) The Common Fund of the Maori Trustee; or
 - (d) Any Group Investment Fund established under the Trustee Companies Act 1960; or

(e) Any friendly society registered under the Friendly Societies Act 1909; or

15

New

(f) Any superannuation fund which has been approved by the Commissioner of Inland Revenue under section 2 of the Land and Income Tax Act 1954.

- 20 (2) Section 63 of the Companies Act shall apply to interests in a unit trust as if they were shares.

3. Unit trust to have manager and trustee—(1) There shall be a manager and a trustee of every unit trust.

(2) Subject to the provisions of this Act, the company that is the manager of any unit trust—

- 25
30
35
- (a) Shall have vested in it the powers of management of the investments and other property that are subject to the trusts governing that unit trust; and
 - (b) Shall have the function (whether as principal or by an agent) of issuing or offering interests in the unit trust to the public for subscription or purchase, or of inviting the public to subscribe for or purchase such interests, or both of those functions; and
 - (c) Shall have the same liability for its acts and omissions in the exercise of its powers and functions as manager of the unit trust as it would if it exercised those powers and functions as a trustee.

(3) Subject to the provisions of this Act, the trustee of a unit trust shall have vested in it or in its nominated company the investments and other property that are for the time being subject to the trusts governing the unit trust.

New

, and the trustee shall hold the register of unit holders, which shall be available for inspection at all reasonable times on payment of the prescribed fee.

45

(4) No trustee corporation or company or bank shall act as trustee of a unit trust, and no company shall act as manager of a unit trust if, under section 3 of the Land and Income Tax Act 1954, the manager or proposed manager and the trustee corporation or company or bank acting or proposed as trustee are deemed to be under the control of substantially the same persons or to consist of substantially the same shareholders. 5

4. Restriction as to manager—(1) Every manager of a unit trust shall be a company other than a private company within the meaning of the Companies Act 1955. 10

Struck out

<p>(2) No company shall be appointed as manager of a unit trust unless it has a capital for the time being issued of not less than twenty thousand pounds, of which not less than fifteen thousand pounds has been paid up. 15</p>
--

New

(2) No company shall act as manager of a unit trust unless a person approved by the Minister has given a bond to Her Majesty the Queen in the sum of twenty thousand pounds conditioned to secure the due discharge by the manager of its obligations. 20

(3) The sum of twenty thousand pounds named in a bond given under this section shall not be deemed to be a penalty, but shall be liquidated damages, and shall accordingly be recoverable in full as a debt due by the surety to Her Majesty the Queen unless the surety proves performance of every condition upon which the bond is defeasible. 25

(4) Every sum so recovered shall be paid into the Public Account to the credit of the Consolidated Fund, and the residue, after the deduction of costs and other expenses, shall, without further appropriation than this section, be paid to the trustee and applied by it towards the discharge of the obligations of the manager; and any balance not required for that purpose shall be refunded to the surety. 30

5. Restrictions as to trustee—Every trustee of a unit trust shall be— 35

- (a) A trustee corporation within the meaning of the Trustee Act 1956; or
- (b) A company or bank approved for that purpose by the Minister either generally or in respect of a particular unit trust. 40

New

5 **5A. Nomination of holding company**—(1) Any trustee of a unit trust shall have power to nominate another company in which shall be vested the investments and other property referred to in subsection (3) of section 3 of this Act.

(2) No company shall be so nominated by the trustee unless the trustee is the registered holder or beneficial owner of all the shares in that company.

10 (3) Upon the nomination of any such company by the trustee, the trustee, in addition to its own obligations as trustee in relation to the unit trust, shall thenceforth be jointly and severally liable with the nominated company for the due and faithful performance and observance by the nominated company of all the duties and obligations imposed
15 on the nominated company in relation to the unit trust either by this Act or by law.

6. Prospectus—(1) Before any interest in a unit trust is issued or offered to the public for subscription or purchase, or the public is invited to subscribe for or purchase such an
20 interest, the manager of the unit trust shall, within the immediately preceding thirteen months, have issued a statement in writing setting out the matters specified in the Schedule to this Act.

(2) It shall not be lawful to issue any form of application
25 for any interest in a unit trust unless the form is issued with a statement in respect of the unit trust that complies with the requirements of this section and the statement was issued within the immediately preceding thirteen months:

30 Provided that this subsection shall not apply if it is shown that the form of application was issued either—

(a) In connection with a bona fide invitation to a person to enter into an underwriting agreement with respect to the interests in the unit trust; or

35 (b) In relation to interests in the unit trust which were not offered to the public.

(3) Every statement that is issued pursuant to the foregoing provisions of this section, and every notice, circular, advertisement, or other invitation offering to the public for subscription or purchase any interest in a unit trust, shall be deemed to be a
40 prospectus within the meaning of section 2 of the Companies Act 1955 and to have been issued by the manager; and section 55 of the Companies Act 1955, subsection (2) of section 457 of that Act, and all the provisions of that Act

and all other enactments and rules of law relating to prospectuses and to liability in respect of statements in and omissions from prospectuses shall, with the necessary modifications, apply accordingly as if the interests in the unit trust were shares, and the required contents of any prospectus were those specified in the Schedule to this Act. 5

(4) This section shall not apply in connection with any interest in a unit trust at any time after that interest has first been subscribed for or purchased by a member of the public. 10

New

¶ (5) The trustee shall not be liable for any omissions or misstatements by the manager in any such statement.

7. Appointment of trustee—No manager of a unit trust, and no person as agent of such a manager, shall issue or offer to the public for subscription or purchase any interest in a unit trust, or invite the public to subscribe for or purchase such an interest, unless— 15

- (a) Provision has been made in a deed for the appointment of a trustee of the unit trust and for such other matters as are prescribed by this Act and by any regulations made thereunder; and 20
- (b) A trustee eligible in accordance with section 5 of this Act has accepted appointment as trustee of the unit trust and has executed the trust deed; and 25
- (c) The trust deed has been approved for the purposes of this Act by the Registrar and an authenticated copy thereof has been lodged with the District Registrar as required by section 8 of this Act.

8. Copy of deed to be lodged with District Registrar— 30

(1) Notwithstanding anything to the contrary in section 125 of the Companies Act 1955, the manager of each unit trust shall lodge an authenticated copy of the trust deed in respect thereof and of every amendment of that deed with the District Registrar. 35

(2) Every such copy shall be authenticated by a director or responsible officer of the company that is trustee of the unit trust.

(3) Where an authenticated copy of any amendment of the trust deed in respect of any unit trust has to be lodged with the District Registrar as aforesaid, it shall be so lodged within fourteen days after the date of the execution of the amendment or (if the trust deed has not been so lodged at that date) within fourteen days after the date on which the trust deed is so lodged. 45

- 9. Removal of trustee**—(1) Notwithstanding any rule of law or anything to the contrary in the trust deed governing any unit trust, the manager of the unit trust shall not have power to remove the trustee thereof; but may apply to the Court for an order providing for the removal of that trustee.
- (2) The Minister shall have power—
- (a) To remove the trustee of any unit trust in any case where the trustee was approved by the Minister under paragraph (b) of section 5 of this Act; or
- (b) To apply to the Court for the removal of the trustee of any unit trust.
- (3) Notwithstanding anything to the contrary in the trust deed governing the unit trust, no trustee of a unit trust shall, except as provided in subsection (2) of this section, be discharged or retire from that trust until another trustee has been appointed to and assumed that office in accordance with the provisions of the trust deed or the Trustee Act 1956.

- 10. Trustee to keep accounts**—Every trustee of a unit trust shall cause proper books of account to be kept either by the trustee or the manager in respect of the unit trust, and shall cause to be sent annually, to every person who is a unit holder at the date of the statement, an audited statement of accounts in respect of the unit trust, together with a summary of any amendments of the trust deed that have been made since the date of the last statement.

- 11. Implied provisions in trust deed**—(1) The following provisions shall be implied in every trust deed relating to a unit trust, notwithstanding anything to the contrary in the deed:
- (a) That the manager of the unit trust shall use its best endeavours to ensure that the unit trust is carried on in a proper and efficient manner:
- (b) That the manager of the unit trust shall—
- (i) Make available upon demand to the trustee thereof or to its nominated company for inspection the whole of the manager's books and papers and all books and papers relating to the unit trust;
- (ii) Give to the trustee of the unit trust or to its nominated company such information as that trustee or nominated company requires with respect to all matters relating to the unit trust or to any business of the manager, or to any property of the manager (whether acquired before or after the date of the trust deed), or otherwise relating to the affairs of the manager:

- (c) That the trustee of the unit trust shall not act on any direction of the manager to acquire any property for the unit trust or dispose of any property of the unit trust if, in the trustee's opinion conveyed in writing to the manager, the proposed acquisition or disposal is manifestly not in the interests of the unit holders, and the trustee shall not be liable to the unit holders or to the manager for so refusing to act on any direction of the manager: 5
- (d) That the manager of a unit trust shall,— 10
- (i) On request in writing of the trustee, or of either one-tenth in number of the unit holders, or of a unit holder or unit holders holding (at the date of the receipt by the manager of the request) not less than one-tenth of the value of the interests in the unit trust then held by unit holders, summon a meeting of unit holders to be held in accordance with section 17 of this Act, by sending by post a notice specifying the time and place of the meeting to every unit holder at his last known address not later than fourteen days before the date of the proposed meeting: 15
- (ii) Lay before the meeting copies of the last statements and summaries filed with the District Registrar in accordance with paragraph (b) of subsection (1) of section 19 of this Act and subsection (2) of that section. 20 25
- (2) Every provision implied in the trust deed relating to any unit trust in accordance with this section shall be enforceable by the trustee or any unit holder of the unit trust. 30

12. Certificate of interest to be issued—(1) Upon the purchase of an interest in any unit trust from the manager, or upon a subscription for an interest in the unit trust, the manager of the unit trust shall as soon as practicable issue or cause to be issued to the purchaser or subscriber a certificate as evidence of that interest, which certificate shall be **(signed)** given by the trustee of the unit trust or by someone other than the manager authorised in writing by that trustee. 35

New

(2) On any such certificate, a facsimile of the signature of any person, by whatever process it is produced, shall be deemed to be the signature of that person. 40

13. Duty of manager with respect to subscriptions—

(1) The manager of any unit trust shall pay into a separate bank account all money received by that manager or any agent of that manager in respect of purchases of or subscriptions for interests in that unit trust.

(2) The manager of any unit trust shall, within such period not exceeding seven days as the trust deed provides, pay to the trustee or its nominated company all money received by that manager or any agent of that manager in respect of purchases of or subscriptions for interests in that unit trust, except so much thereof as the manager is entitled to deduct or retain in accordance with the trust deed.

14. Subscriptions, etc., to become subject to trusts—

All money required to be paid to the trustee or its nominated company in accordance with subsection (2) of section 13 of this Act shall, upon receipt by the manager or any agent of the manager, become subject to the trusts declared in the trust deed governing the unit trust.

15. Trust deed to state conditions for buying back

interests—(1) The trust deed in respect of each unit trust shall state whether the manager has an obligation to buy back interests in the unit trust if requested to do so.

(2) Where the manager has such an obligation, the trust deed shall also state the manner in which and the conditions on which such interests are to be bought back, including the method of calculating the minimum price at which interests are to be bought back.

16. Interests in unit trust to be transferable—

(1) Every interest in a unit trust shall be transferable:

30 *Struck out*

Provided that nothing in this subsection shall cause an interest in a unit trust to be transferable where the unit trust is exclusively or principally for the purpose of providing superannuation benefits for the unit holders.

35 (2) Where interests in a unit trust are transferable as aforesaid, the trust deed in respect of the unit trust shall state the manner in which transfers of interests in the unit trust shall be made and recorded.

17. Meeting of unit holders—(1) Where a meeting of the unit holders of any unit trust is held in accordance with subparagraph (i) of paragraph (d) of subsection (1) of section 11 of this Act, the meeting shall be under the chairmanship of a nominee of the trustee, and shall be conducted in accordance with any provisions in that connection in the trust deed and otherwise as directed by the Chairman of the meeting. 5

(2) A unit holder or unit holders holding not less than three-quarters of the value of the interests in the unit trust held by the unit holders who are present in person or by proxy at any such meeting and vote, and who hold not less than one-quarter of the value of all the interests in the unit trust held by unit holders, shall have the power by resolution to give such directions to the trustee of the unit trust as they think proper concerning the unit trust, being directions that are consistent with the provisions of the trust deed and this Act. 10

(3) Where any direction is so given to the trustee of a unit trust, the trustee may comply with the direction, and shall not be liable for anything done or omitted by it by reason of its following that advice or direction. 15

(4) In any case where the trustee of a unit trust is of opinion that any direction so given conflicts with the trusts or any rule of law or is otherwise objectionable, the trustee may apply to the Supreme Court for directions in the matter, and the decision and order therein shall be final: 25

Provided that nothing in this subsection shall make it necessary to apply to the Court for directions.

(5) Where a unit holder is a company or other corporation its properly appointed representative may be its proxy. 30

18. Removal of Manager—(1) The Court may, on the application of the trustee of a unit trust, or any unit holder, or of the Minister, order that the manager be removed from that office. 35

(2) The manager of any unit trust shall cease to hold that office if—

(a) The trustee certifies that it is in the interest of the unit holders that the manager should do so; or

(b) The unit holders, at a meeting held pursuant to section 17 of this Act, so direct. 40

(3) If the Court orders the removal of the manager of any unit trust, or if any manager of a unit trust ceases to hold office under subsection (2) of this section, that manager shall immediately desist from all activities related to the unit trust. 45

19. **Accounts, etc., to be filed**—(1) The manager of each unit trust shall, before the thirty-first day of May in every year, or such other date as the District Registrar may approve, file or cause to be filed with the District Registrar—

- 5 (a) A list of the names and addresses of all persons who on the thirty-first day of March of that year, or such other date as the District Registrar may approve, were unit holders of the unit trust, which list shall show the extent of the interests held by every such
10 unit holder:
- (b) A statement setting out the number and dates of distributions to unit holders in respect of each unit of interest in the unit trust during the immediately preceding five years, the amount of each such distribution, and the extent to which each such
15 distribution consisted of anything other than dividends, interest, or bonuses, with particulars of the nature and amount of the other components.

(2) The manager of each unit trust shall file or cause to be
20 filed with the District Registrar annually an audited statement of the accounts of the trust, and a summary of purchases and sales of property under the unit trust, and a list of all the investments of the unit trust as at the *(date on which the accounts were filed,)* end of the period to which the accounts
25 relate, together with particulars of the cost and the estimated market value as at that date of the investments and other property.

(3) Where a new trustee or a new manager of a unit trust is appointed at any time after the commencement of the
30 trust, that trustee or manager shall give notice of the appointment to the District Registrar within twenty-eight days after the date of the appointment.

(4) The documents lodged with the District Registrar pursuant to section 8 of this Act and the foregoing provisions
35 of this section shall be open for public inspection on payment of the prescribed fee.

(5) Every list, statement, summary, and document filed with the District Registrar under this section shall be verified
40 by a statutory declaration made by a director of the company that is manager of the unit trust or by a responsible officer of the company.

20. Appointment of inspectors—(1) One or more inspectors to investigate and report on the affairs of any unit trust and its manager may be appointed by—

(a) The Minister; or

(b) The Supreme Court on application made either by one-tenth in number of the unit holders of the unit trust or by a unit holder or unit holders holding at the date of the application not less than one-tenth of the value of the interests in the unit trust then held by unit holders.

(2) Every such inspector shall have in relation to the unit trust and its manager and affairs all the powers conferred on an inspector in relation to a company and its affairs by section 171 of the Companies Act 1955 (except subsection (3) of that section); and those provisions, so far as they are applicable and with the necessary modifications, shall apply accordingly. The report of every such inspector who is appointed by the Minister shall be made to the Minister; and the report of every such inspector who is appointed by the Supreme Court shall be made to that Court.

(3) If any officer or agent of a company that is manager of a unit trust in respect of which an inspector has been appointed under this section refuses to produce to the inspector any book or paper which it is his duty under this section so to produce, or refuses to answer any question which is put to him by the inspector with respect to the affairs of the company or unit trust, that officer or agent commits an offence and is liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred pounds.

(4) No such officer or agent shall be excused from answering any question put to him by an inspector with respect to the affairs of the company or unit trust on the ground that the answer may incriminate or tend to incriminate him, but no statement made by him in answer to any such question shall be admissible against him in criminal proceedings, except proceedings under the Crimes Act 1960 for making a false statement upon oath.

21. Court may confer additional powers of management—

(1) Subject to any contrary intention expressed in the trust deed in respect of any unit trust, where in the opinion of the Supreme Court any sale or other disposition, or any purchase, investment, acquisition, retention, expenditure, or other transaction is expedient in the management or administration of any money, investments, or other property for the time being

subject to the trusts governing a unit trust or would be in the best interests of the unit holders of the unit trust, but it is inexpedient or difficult or impracticable to effect the same without the assistance of the Court, or the same cannot be
5 effected by reason of the absence of any power for that purpose vested in the trustee or manager of the unit trust by the trust deed or by law, the Supreme Court may by order confer upon the trustee or manager, either generally or in any particular instance, the necessary power for the purpose, on such terms
10 and subject to such provisions and conditions (if any) as that Court may think fit, and may give such directions as it thinks fit to the trustee or manager in respect of the exercise of any power conferred by the order.

(2) An application to the Court under this section may be
15 made by either the manager or the trustee or any unit holder.

22. Temporary managers—(1) If any vacancy occurs in the office of manager of a unit trust, the trustee thereof shall have the power to appoint a qualified company as temporary manager thereof, which temporary manager shall have all
20 the powers conferred on the manager by the trust deed or by law until a manager is appointed.

(2) Upon any such vacancy occurring, the trustee of the unit trust shall summon a meeting of the unit holders of the unit trust, and shall take such steps as that meeting or any
25 subsequent meeting of those unit holders may require to secure the appointment of that company or some other qualified company as manager of the unit trust.

23. Trust deed not to exempt trustee or manager from liability—(1) The trustee of a unit trust and the manager
30 thereof shall each have the same duty to observe care and diligence in the performance of its duties as any other trustee and shall each be entitled to the same indemnities and relief
as any other trustee.

(2) Any provision in a trust deed governing a unit trust
35 or in any other instrument shall be void so far as it would have the effect of—

(a) Exempting the trustee or manager or any director or officer of the trustee or manager from liability for breach of trust where it or he fails to show the
40 degree of care and diligence required of it or him in that capacity, having regard to the provisions of the trust deed and the powers, authorities, or discretions conferred thereby:

(b) Indemnifying the trustee or manager or any such
45 director or officer from any such liability.

24. Offences—(1) Every person commits an offence and is liable on summary conviction to a fine not exceeding five hundred pounds who—

- (a) Issues any interest in a unit trust or offers any such interest to the public for subscription or purchase, or invites the public to subscribe for or purchase such an interest, in contravention of any provision of this Act; or 5
- (b) Issues any form of application for an interest in a unit trust in contravention of subsection (2) of section 6 10 of this Act, or continues any activities related to any unit trust in contravention of subsection (3) of section 18 of this Act.

(2) Every person commits an offence and is liable on summary conviction to a fine not exceeding one hundred pounds who fails to comply with any of the provisions of sections 8, 10, 12, 13, and 19 of this Act. 15

(3) Every person who has at any time, whether before or after the commencement of this Act, been convicted of a crime involving dishonesty within the meaning of the Crimes Act 1960 commits an offence and is liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred pounds, if, after the commencement of this Act, without the consent of the Minister, proof whereof shall lie on the person alleging consent, he acts as a director, officer, or responsible employee of a company that is the manager of a unit trust. 20 25

New

24A. Restriction on personal benefits by directors or officers—(1) Every person who is a director or officer of a company that is the manager of a unit trust, or of a trustee corporation or company or bank that is the trustee of a unit trust, shall be a trustee for the benefit of the unit holders of any personal profit or benefit which he gains by availing himself of his position, whether by buying or selling or joining in buying or selling investments or securities or otherwise: 30 35

Provided that nothing in this subsection shall affect the right of any such director or officer to receive and retain remuneration from the trustee corporation or company or bank of which he is a director or officer. 40

(2) Any such personal profit shall be transferred to the trustee of the unit trust, and may be recovered by that trustee from the person who gained it.

25. Power of Court to assess damages against delinquent directors of manager—(1) If, in the course of winding up any company that is the manager of a unit trust, it appears that the company has misapplied or retained or become liable or accountable for any money or property of the unit trust, or committed any misfeasance or breach of trust in relation to the unit trust, the Court may, on the application of the Official Assignee or of the liquidator or of the trustee or of any unit holder, examine into the conduct of any past or present director, manager, or liquidator, or any officer of the company who has been a party to or knowingly permitted the misapplication, retention, misfeasance, or breach of trust, and compel him to repay or restore the money or property or any part thereof respectively with interest at such rate as the Court thinks just or to contribute such sum to the assets of the trust by way of compensation in respect of the misapplication, retention, misfeasance, or breach of trust as the Court thinks just.

(2) The provisions of this section shall have effect notwithstanding that the act is one for which the offender may be criminally liable.

(3) Where an order for payment of money is made under this section, the order shall be deemed to be a final judgment within the meaning of paragraph (f) of section 26 of the Bankruptcy Act 1908.

26. Regulations—(1) The Governor-General may from time to time, by Order in Council, make all such regulations as may in his opinion be necessary or expedient for giving full effect to the provisions of this Act and for the due administration thereof.

(2) Without limiting the general power to make regulations conferred by subsection (1) of this section, regulations may be made under this section for all or any of the following purposes:

(a) Prescribing the maximum commission that may be charged, and the maximum charge for administration and other expenses that may be made, by the manager or trustee of any unit trust:

(b) Prescribing the fees to be paid on the lodging or filing of any documents in respect of a unit trust with the Registrar or District Registrar, and on the inspection of any such documents:

(c) Prescribing the manner in which the accounts of the unit trust are to be kept.

(3) All regulations made under this section shall be laid before Parliament.

27. Amendment—Section 2 of the Trustee Companies Protection Act 1934–35 is hereby amended by adding the words “and includes any other company that is for the time being lawfully acting as trustee of a unit trust after being approved for that purpose by the Minister of Justice under paragraph (b) of section 5 of the Unit Trusts Act 1960, and any company that is for the time being lawfully acting as manager of a unit trust”.

28. Existing unit trusts—The terms of any trust created before the commencement of this Act in pursuance of a unit trust scheme or arrangement may, notwithstanding anything in any deed or other instrument, be varied or supplemented by a deed made between the trustee and manager under the scheme or arrangement, or otherwise as the Minister may approve, to enable compliance with the requirements of this Act.

SCHEDULE

Section 5 (1)

PARTICULARS TO BE INCLUDED IN STATEMENT BY MANAGER

1. The date of the statement.
2. The date of and parties to the trust deed under this Act.
3. The date of and parties to any deed or instrument by which any of the provisions of the trust deed has been amended or abrogated.
4. The name of the trustee and the address of the trustee's registered office, and the name of any nominated company of the trustee and the address of that nominated company's registered office.
5. A summary of the provisions of the trust deed and of this Act regulating the retirement, removal, and replacement of the trustee.
6. The name of the manager and the address of its registered office, and the names of the directors of the company that is the manager.
7. A summary of the provisions of the trust deed and of this Act regulating the retirement, removal, and replacement of the manager.
8. The name and address of the auditor of the trust.
9. A summary of the provisions (if any) of the trust deed regulating the appointment, retirement, removal, and replacement of the auditor.
10. The period of the trust, if that is declared by the trust deed, and a summary of the provisions (if any) of the trust deed for the winding up of the trust on its termination.
11. The method of calculation (if any) provided by the trust deed of the price at which the manager may sell any interest.
12. Whether or not the trust deed imposes upon the manager any obligation to buy back the interest of any unit holder, and if so a summary of the conditions attaching to that obligation and the method provided by the trust deed for the calculation of the minimum purchase price of an interest in the unit trust payable by the manager.
13. A summary of the investments and property and classes of investments and property that may be held or acquired under the trust, including particulars of the companies and classes of companies whose securities may be so held or acquired, and a statement of the percentage of the assets of the trust that may be invested in any one company or class of companies or investments or property. If there is no such percentage limitation, this shall be expressly stated.
14. Full information regarding the remuneration of the trustee and the manager, and the provisions (if any) of the trust deed governing the manner in which provision is made for their remuneration, and regarding the charges (if any) that are made in respect of their remuneration upon the sale of or subscription for or purchase of an interest in the unit trust and upon the distribution of income and capital under the trust deed.
15. Whether or not an interest in the unit trust is transferable by the holder thereof and, if so, a summary of the provisions of the trust deed regulating the transfer thereof.

SCHEDULE—*continued*

16. A summary of the provisions (if any) of the trust deed regulating the distribution to the unit holders of the income and gains (whether in the nature of capital or income) of the unit trust.

17. If any reference is made in the statement to the yield of income obtained by unit holders, a statement as to whether and to what extent anything other than cash receipts by way of dividends, interest, or bonuses has been taken into account in calculating the yield.

18. A summary of the provisions of the trust deed and of this Act regulating the convening of meetings of unit holders.

19. The names and the date of commencement of operation of any other unit trusts conducted by the manager during the five years immediately preceding the date of the statement.

20. If the statement by the manager of the unit trust is issued after any date on which the manager is required to file a statement under paragraph (b) of subsection (1) of section 19 of this Act with the District Registrar, the statement by the manager shall set out the particulars required to be set out in the last statement required to be so filed under that paragraph.