
Fifth Session First Parliament Republic of Trinidad
and Tobago



REPUBLIC OF TRINIDAD AND TOBAGO

Act No. 26 of 1981

AN ACT to provide for the establishment of a Unit Trust Corporation, to define the powers and duties thereof, and for matters incidental thereto.

[Assented to 26th August, 1981]

ENACTED by the Parliament of Trinidad and Tobago as Enactment follows:—

PART I

SHORT TITLE AND INTERPRETATION

1. This Act may be cited as the Unit Trust Corporation of Trinidad and Tobago Act, 1981, and shall come into force on such date as the President may appoint by proclamation published in the *Gazette*. Short title and commencement

Interpretation

2. In this Act:—

- “Board”, “Chairman”, “Executive Director” and “Director”, mean the Board of Directors, the Chairman, the Executive Director and a director respectively appointed under section 7;
- Act No. 23 of 1964 “Central Bank” means the Central Bank established by the Central Bank Act, 1964;
- Act No. 26 of 1964 “commercial bank” means any domestic or foreign company licensed under the Banking Act, 1964 to carry on the business of banking;
- “contribution certificate” means a certificate issued to a contributing institution under section 19;
- “contributing institution” means any of the institutions mentioned in section 17, and includes all institution to which a contribution certificate has been transferred in accordance with section 20;
- Act No. 52 of 1979 “financial institution” means a financial institution licensed under the Financial Institutions (Non-Banking) Act, 1979;
- Act No. 24 of 1966 “insurance business” shall have the same meaning attributed to that expression in section 2 of the Insurance Act, 1966, except that it shall not include life insurance business;
- Act No. 24 of 1966 “insurance company” means a company registered to carry on insurance business under the Insurance Act, 1966 or any other Act for the time being in force, except that it shall not include a life insurance company;
- First Schedule “life insurance business” shall have the same meaning attributed to that expression in the First Schedule to the Insurance Act, 1966;
- “life insurance company” means a company registered to carry on life insurance business under the Insurance Act, 1966 or any other Act for the time being in force;
- “Minister” means the Minister to whom responsibility for the subject of finance has been assigned;
- Act No 35 of 1971 “National Insurance Board” means the Board of Management established under the National Insurance Act, 1971;

- “prescribed” means prescribed by regulations made under this Act;
- “securities” includes shares, debentures, bonds or stock of any company or body corporate, whether incorporated in or outside of Trinidad and Tobago, and stock, bonds or debentures issued by the Government of Trinidad and Tobago or any local authority in Trinidad and Tobago or by any other Government or local authority;
- “trust” means the Unit Trust established under section 3;
- “unit” means a unit issued under a unit scheme;
- “unit capital” means the aggregate of the face value of units sold under a unit scheme and not repurchased by the Trust;
- “unit certificate” means a certificate issued under this Act to the purchaser of one or more units;
- “unit holder” means a person recognised by the Trust as the holder for the time being of a unit certificate;
- “unit scheme” means a scheme established under this Act.

PART II

ESTABLISHMENT AND MANAGEMENT OF UNIT TRUST

3. (1) Notwithstanding any other law for the time being in force, there is hereby established a Unit Trust to be called the Trinidad and Tobago Unit Trust Corporation. Establishment of Unit Trust

(2) The Unit Trust hereby established shall be a body corporate, and shall have a common seal.

4. (1) The Trust shall have its head office in the City of Port-of-Spain. Registered office and other places of business

(2) The Trust may establish branches and agencies and appoint agents and correspondents in Trinidad and Tobago and elsewhere.

(3) The establishment of branches and agencies shall be notified by publication in the *Gazette*.

**Custody and use
of seal**

5. (1) The seal of the Unit Trust shall be kept in the custody of the Chairman or the Executive Director, and shall be authenticated by the Chairman or Executive Director and one other director authorised by the Board to act in that behalf.

(2) All documents other than those required by law to be under seal made by, and all decisions, of the Board, may be signed under the hand of the Chairman, or the Executive Director.

**Management of
Trust**

6. (1) The superintendence, direction and management of the affairs and business of the Trust shall vest in the Board who may perform all functions on behalf of the Trust as are authorised by this Act and do all things incidental to the performance of such functions.

(2) The Board shall, in the discharge of its functions, act on principles of sound business practice, regard being had to the interests of the unit holders.

Board of Directors

7. (1) The Board shall consist of—

- (a) a Chairman appointed by instrument in writing by the President upon the recommendation of the Central Bank;
- (b) an Executive Director appointed by the Board in consultation with the Central Bank;
- (c) a person appointed by the Central Bank;
- (d) a person appointed by the Minister;
- (e) a person appointed by the National Insurance Board;
- (f) subject to subsection (3), four persons of whom two shall be appointed by the group of institutions referred to in paragraph (b) of section 17(2) and two by the group of institutions referred to in paragraph (d) of section 17(2), provided that not less than three of such persons shall have special knowledge of or experience in commerce, industry, labour, banking, finance or investment.

(2) The Board may appoint additional persons to be directors but so that the total does not exceed twelve in number.

(3) Upon the commencement of this Act, the Central Bank shall appoint four Directors in lieu of the Directors mentioned in subsection (1)(f) who shall hold office for a

period of twelve months from the date of their nomination or until directors are appointed under the said subsection whichever is earlier.

(4) Subject to subsection (3), a director appointed under paragraph (c), (d), (e) or (f) of subsection (1), shall hold office for four years or until a successor has been appointed whichever is earlier.

(5) Where a vacancy occurs on the Board for whatever cause, such vacancy shall be filled in accordance with this section, but a person appointed to fill the unexpired term of office of a member shall hold office only for such unexpired term unless reappointed in accordance with this section.

(5A) A Director appointed under subsection (2) shall hold office for one (1) year from the date of his appointment.

(6) A director shall be eligible for reappointment.

(7) The appointment of any person as Chairman, Executive Director or director shall be notified by publication in the *Gazette*.

8. (1) The Board shall appoint an Investment Committee Investment and other committees comprising—

- (a) the Chairman who shall be Chairman of the Investment Committee;
- (b) the Executive Director;
- (c) no less than two and no more than three other Directors.

(2) The Investment Committee shall, subject to section 6(1), advise the Board of any of the matters set out in section 13, advise on the investment policy of the Board, and perform such other functions as may be delegated by the Board.

(3) The Board may constitute such other committees consisting wholly of Directors or wholly of other persons, or partly of "such" Directors and partly of other persons as it thinks fit, and for such purposes as it may decide.

(4) Members of committees other than the Investment Committee may be paid such fees and allowances as may be fixed by the Board after consultation with the Central Bank. Disqualification of directors

9. (1) A person shall not be eligible to be appointed as a Director under this Act or to hold such office if he—

- (a) is a Member of Parliament or of the Tobago House of Assembly or any municipal corporation or county council;
- (b) is, except in the case of the Chairman or the Executive Director, an officer or other employee of the Trust;
- (c) is or has at any time been adjudicated an insolvent, or has suspended payment to or has compounded with his creditors;
- (d) has been declared to be of unsound mind by a competent authority;
- (e) has been convicted of an offence and sentenced to a term of imprisonment;
- (f) has been convicted of an offence involving dishonesty.

(2) Where a Director—

- (a) becomes disqualified under subsection (1); or
- (b) is absent without leave of the Board for more than three consecutive meetings thereof;

he shall cease to be a Director.

(3) Where a Director is a director, officer or other employee of any financial institution, commercial bank, or an insurance company or has any interest as a shareholder in a financial institution, commercial bank or insurance company, such Director shall not vote upon any matter in which he or the institution with which he is associated has an interest.

(4) The termination of office of any person as a Director whether under this subsection, or by reason of death, resignation, effluxion of time or for any other reason shall be published by notice in the *Gazette*.

Chairman
Executive Director

10. (1) Subject to the provisions of section 9 the Chairman and the Executive Director shall hold office for five years or such shorter term as the Minister in consultation with the Central Bank may specify;

(2) The Chairman and Executive Director shall receive such salary, fees and allowances from the Trust and be governed by such terms and conditions of service as the Board may in consultation with the Central Bank determine, and shall perform such functions as the Board may from time to time entrust or delegate to them.

(3) If the Chairman or the Executive Director is by infirmity or otherwise rendered incapable of carrying out his duties or is absent on leave or otherwise in circumstances not involving the vacation of his appointment, in the case of the Chairman the Board in consultation with the Central Bank may appoint another director to act in his place, and in the case of the Executive Director, the Board may appoint any other person to act in his place, until the officers mentioned above resume their duties.

11. Directors other than the Chairman and the Executive Director shall be paid such fees and allowances for attending the meetings of the Board or of any of its Committees and for attending to any other work of the Trust, as may be determined by the Board in consultation with the Central Bank. Other directors

12. (1) The Board shall meet not less than six times a year and at least once every two months and shall observe such rules of procedure in the transaction of business at its meetings as may be made by the Board. Meetings of Board

(2) Six Directors shall constitute a quorum, but only if included among the six Directors is either the appointee of the Central Bank, or of the Minister, or of the National Insurance Board.

(3) The Chairman shall preside at all meetings of the Board.

(4) In the event of his inability to attend any meeting of the Board, the Chairman may nominate another director to preside in his stead, or in the event that such nominated director is himself unable to attend, or that no such nomination has been made, then any other director present at the meeting and elected from among those present shall preside.

(5) All questions to be determined by the Board shall be decided by a majority of votes of the directors present and voting, and in the event of equality of votes the Chairman or in his absence the person presiding shall have a second or casting vote.

PART III

ESTABLISHMENT OF UNIT SCHEMES

Establishment of unit schemes and selling and purchasing of units, etc.

13. (1) The Board shall establish a unit scheme (hereinafter referred to as "the first unit scheme") and may establish other unit schemes under this Act generally for the purpose of providing facilities for participation by members of the public in the income, profits, and gains that may be derived from the acquisition, holding, management or disposal of securities or any other property whatever, and may in particular carry on and transact any of the following kinds of business—

- (a) investing in, acquiring, holding, or disposing of securities, and exercising and enforcing all powers and rights incidental thereto;
- (b) selling, purchasing and repurchasing of units;
- (c) keeping money on deposit with commercial banks or with such other institutions as the Board may determine;
- (d) formulating in relation to any unit scheme plan or plans under which a person may acquire an interest in units;
- (e) generally doing all such things as may promote the acquisition, holding and sale of securities or units, or as may be incidental to or consequential upon the discharge of its functions under this Act.

(2) The Trust may purchase, acquire or lease real property where the Board considers it necessary or expedient for the provision or future provision of business premises for the Trust, its branches or agencies, and may dispose of such property when the same is no longer required for such purpose, but the Trust shall not trade in real property.

(3) In investing in securities the Board shall not invest more than ten per cent of the funds of any one unit scheme in the purchase of securities in any one company or other corporation, nor shall the investments of all Unit Schemes established by the Board include at any time more than ten per cent of the securities issued by any company or other corporation.

(4) Where in the pursuit of any of the objectives set out in subsection (1), the Trust enters into an agreement with any other organisation or company, such agreement

may provide for the appointment by the Board of one of its directors to the governing body of such organisation or company.

(5) Any director appointed in accordance with subsection (4) shall hold that appointment during the pleasure of the Board, and so long as he remains a Director of the Board.

14. (1) In respect of any unit scheme the Board may, with the approval of the Central Bank, make regulations ^{Regulations for unit scheme} for—

- (a) the issue of units and the face value of each unit, the initial face value of each unit not to be less than ten dollars and not more than one hundred dollars;
- (b) the form and manner in which an application may be made for the purchase of a unit from the Trust and the manner in which payment may be made therefor;
- (c) the maximum number of units that may be purchased by any one person;
- (d) the issue of unit certificates and the form and manner in which such certificates may be issued;
- (e) the issue of a duplicate of any unit certificate in the event of loss or destruction of the original and the fee payable on such issue;
- (f) the procedure for determining the value at which the units may be sold or purchased from time to time by the Trust;
- (g) the recognition of persons as unit holders;
- (h) the application for and the holding of or dealing with units by any parent or guardian on behalf of a minor;
- (i) the persons to whom, the time at which, and the manner in which any payments in respect of a unit shall be made by the Trust;
- (j) the preparation and maintenance of a register of unit holders;
- (k) the conditions subject to which a unit holder may transfer the unit;
- (l) any other matter which the Board may consider to be necessary or proper for the effective implementation of the particular unit scheme.

(2) Subject to section 6(2) the Board may from time to time add to or otherwise amend the terms and conditions of any unit scheme as it sees fit.

(3) The particulars of every unit scheme established, varied or otherwise amended shall be published in the *Gazette*.

(4) Where a unit holder desires to dispose of his units by sale, he shall sell such units only to the Trust and the Trust shall purchase the units in accordance with regulations which provide for the determination of the value of units.

Borrowing by
Trust

15. (1) Subject to section 6(2) and to this Section the Trust may borrow money from any authority, organisation or person against such security and on such terms and conditions as may be agreed upon between the Board and such authority, organisation or person as may be necessary for the sole purpose of redeeming its Units.

(2) The Trust may borrow money from the Central Bank on the following conditions—

(a) such sums of money shall be repayable on demand or on the expiry of a fixed period not exceeding ninety days from the date of borrowing and shall be secured against stocks, funds and securities vested in the Trust; or

(b) such sums of money shall be repayable on demand or within eighteen months from the date of borrowing against the security of bonds which the Trust may issue; or

(c) in the case of a unit scheme other than the first unit scheme on such terms and conditions as may be specified by the Central Bank.

(3) Bonds issued under subsection (2)(b) shall be guaranteed by the Government as to the repayment of principal and the payment of interest at such rate as may be agreed upon by the Government at the time of issue.

(4) The Board may borrow from the Government on such terms and conditions as may be agreed between the Board and the Government.

Units held on
behalf of minors

16. Where the payment of any sum of money becomes due on or in respect of any unit held on behalf of a minor,

such payment shall, subject to the terms and conditions of the unit scheme, be made to the parent or guardian as the case may be who holds the said unit.

PART IV

CAPITAL AND INCOME OF UNIT TRUST

17. (1) The initial Capital of the Trust shall be five million dollars divided into such sums as may be prescribed under section 45(1) (b) as the face values of contribution certificates. Initial capital of Unit Trust

(2) Such capital shall be contributed by—

- (a) the Central Bank;
- (b) the life insurance companies;
- (c) the National Insurance Board; and
- (d) commercial banks and financial institutions,

in such proportions as may be agreed upon in writing between the Trust and the respective institutions named above.

(3) If the aggregate of the contributions made by the institutions referred to in subsection (2)(d) exceeds one million dollars, the Trust shall refund the excess amount to such institutions, so, however, that the amount to be refunded to each such institution bears, as far as possible, the same proportion to the contribution made by it as the excess amount bears to the aggregate of the contributions and where the aggregate of the contributions is less than one million dollars the Central Bank shall contribute the deficiency.

(4) If at any time the Board is of the opinion that the amount of the initial capital is in excess of the requirements of the Trust, it may refund the whole or any part of such capital to the contributing institutions, and in making any such refund, the Board shall ensure that the amount refunded to each contributing institution bears, as far as possible, the same proportion to the contribution made by it as the excess amount bears to the aggregate of the contributions.

18. The Board shall maintain a register containing the names of the contributing institutions, the amount contributed or deemed to have been contributed by each such institution and such other particulars as may be prescribed. Maintenance of register of contributions

19. (1) As soon as may be after a contribution has been made by any contributing institution, the Board shall issue to such institution a contribution certificate or certificates in such form and containing such particulars as may be prescribed. Issues of contribution certificates, and refund of contributions

(2) Where the whole or any part of a contribution has been refunded to a contributing institution, that institution shall, as soon as may be after the refund has been made, forward the contribution certificate or certificates to the Board for cancellation or amendment as the case may be and the Board shall cancel or amend the certificate or certificates accordingly, and shall cause the particulars of such cancellation or amendment to be entered in the register.

Transfer of
contribution
certificates

20. (1) A contributing institution referred to in paragraph (b) or (d) of section 17(1) may transfer a contribution certificate to another institution referred to in the respective paragraph, and thereupon such other institution shall be deemed to be a contributing institution for the purposes of this Act.

(2) Where a transfer of a contribution certificate has been effected under this section, the Board shall recall the certificate and amend it accordingly, and shall cause the particulars of such transfer to be entered in the register of contributing institutions.

(3) Save as provided in subsection (1) a contribution certificate shall not be transferable.

Capital of the
Trust

21. (1) The capital of the Trust in relation to the first unit scheme shall consist of—

- (a) the initial capital;
- (b) the unit capital of the said scheme;
- (c) any reserves created in respect of that scheme;
- (d) any amount borrowed for the purposes of that scheme;
- (e) any amounts received for the purposes of that scheme by way of gifts, grants, donations or other benefactions from whatever source and treated by the Board as capital of that scheme;
- (f) any other capital allocated to that scheme by the Board.

(2) The capital of the Trust in relation to any subsequent unit scheme shall consist of—

- (a) the unit capital of that scheme;
- (b) any reserves created in respect of that scheme;
- (c) any amount borrowed for the purposes of that scheme;

- (d) any amount received for the purposes of that scheme by way of gifts, grants, donations or other benefactions from whatever source and treated by the Board as capital allocated to that scheme by the Board.

(3) The capital in respect of each unit scheme shall be held separately, and all capital so held shall be applied solely for the purposes of the unit scheme in respect of which it is held.

22. (1) In relation to the first unit scheme the income of the Trust shall consist of— Income of the Trust

- (a) the income arising out of the capital referred to in section 21(1);
- (b) any gifts, grants, donations or other benefactions treated by the Board as income of that scheme; and
- (c) any other income allocated to that scheme by the Board.

(2) In relation to any subsequent unit scheme the income of that unit scheme shall consist of—

- (a) the income arising out of the capital referred to in section 21(2);
- (b) any gifts, grants, donations or other benefactions treated by the Board as income of that scheme;
- (c) any other income allocated to that scheme by the Board.

23. The income of the Trust in any year arising out of the first unit scheme shall be allocated to the initial capital and the unit capital thereof in the same proportion as the former bears to the latter based on the monthly average of the respective capitals of that year. Allocation of income in respect of first unit scheme

24. (1) The interest payable for any year in respect of any borrowings by the Board and the total amount of other expenses incurred by the Board for that year for the purposes of the first unit scheme shall be allocated and charged to the initial capital and the unit capital thereof in the same proportion as is referred in section 23. Allocation of interest and other expenses

(2) Notwithstanding anything contained in subsection (1) the Trust shall determine the proportion of expenses to be charged to unit capital. Any amount exceeding that proportion shall be charged to initial capital.

(3) The Interest payable for any year in respect of any borrowing by the Trust and the total amount of other expenses incurred by the Trust in that year for the purposes of any subsequent unit scheme shall be charged to the unit capital of such scheme in such manner and to such extent as the Board may determine.

(4) Where expenses are incurred in common by the Board in relation to more than one unit scheme, such expenses may be allocated to the different schemes to such extent and in such manner as the Board may determine.

Distribution of
Income

25. (1) The income allocated to the initial capital in any year reduced by the interest and the amount of other expenses charged for that year to the initial capital may be distributed among the contributing institutions in each case in proportion to their respective contributions.

(2) The income allocated in any year to the unit capital relating to the first unit scheme reduced by the interest and the amount of other expenses charged for that year to such unit capital may, but not less than ninety per cent of such income so reduced, shall be distributed in respect of that year to the unit holders under that unit scheme.

(3) The income allocated in any year to the unit capital relating to each of the subsequent unit schemes reduced by the interest and the amount of other expenses charged for that year to such unit capital may, having regard to the purposes of that scheme and other relevant factors—

- (a) be distributed in respect of that year to the unit holders under that scheme in such manner and at such percentage of the income so reduced as the Board may determine; or
- (b) be carried forward and re-invested or otherwise utilised for the benefit of the unit holders in accordance with the provisions of that scheme.

Reserve funds

26. (1) The Board may establish one or more reserve funds by transferring such sums as it may deem fit out of the amount of the income of the Trust not distributed to the contributing institutions or to unit holders.

(2) The amount in any reserve fund created specifically for the purposes of any unit scheme shall be applied or utilised only for the benefit of the unit holders under that unit scheme and for such purposes and in such manner as the Board may determine.

27. The Central Bank may from time to time pay to the Trust from out of the amount payable to the Central Bank under the income allocated to initial capital in any year, any sum to be utilised by the Trust solely for meeting the losses arising out of the sale or repurchase of units.

Special contribu-
tion by Central
Bank

28. The Trust may accept gifts, grants, donations or other benefactions from any source.

Grants, donations,
etc., to Trust

29. (1) The balance sheet and accounts of the Trust shall be prepared and maintained in such form and manner as may be prescribed.

Preparation of
Balance Sheet, etc.,
of Trust

(2) The Trust shall cause its books and accounts to be balanced and closed each year on the 31st December.

30. (1) The accounts of the Trust shall be audited by the Auditor General or by a duly qualified auditor nominated by the Auditor General in that behalf.

Audit

(2) The Auditor General or his nominee shall be supplied with a copy of the annual balance sheet of the Trust and it shall be his duty to examine it together with the accounts and vouchers relating thereto and he shall have a list delivered to him of all books kept by the Trust and shall at all reasonable times have access to the books, accounts, vouchers and other documents of the Trust.

(3) The Auditor General or his nominee may, in relation to such accounts, examine a director or any other officer or employee of the Trust, and shall be entitled to require from the Executive Director or other officers or employees of the Trust such information and explanation as he may think necessary to assist him in the performance of his duties.

(4) The Auditor General or his nominee shall make a report to the Board upon the annual balance sheet and accounts examined by him, and in every such report he shall state whether in his opinion the balance sheet is a full and fair balance sheet containing all necessary particulars and properly drawn up so as to exhibit a true and fair view of the state of affairs of the Trust, and where he has called for any information from the Board or any officer or other employee of the Trust, whether it has been given and whether it is satisfactory.

(5) Upon being requested by the Board, the Auditor General or his nominee shall attend the Annual General Meeting called in pursuance of section 31(2), and shall provide the Board with all explanations in connection with matters arising out of his report as may be required by the Board.

(6) Upon the completion of the audit, and as soon thereafter as possible, the Board shall forward to the Minister a copy of the balance sheet and accounts together with the report of the Auditor General.

(7) The Minister shall thereupon cause a copy of the balance sheet and accounts and the report of the Auditor General to be laid before Parliament.

Publication of
annual accounts
and Annual
General Meeting

31. (1) The Board shall furnish to each of the contributing institutions and the unit holders a copy of the balance sheet and accounts together with a copy of the Auditor General's report and shall publish the same in the *Gazette* within four months from the date upon which its financial year ends.

(2) Not later than six months after the date upon which the financial year of the Trust ends, the Board shall convene an Annual General Meeting which all directors shall attend and to which all unit holders shall be invited, and at such meeting the Board shall receive the audited balance sheet and accounts and the report of the Auditor General, and shall deal with such other business as it thinks fit of which notice has been given.

(3) The notice required to be given under subsection (2) shall be given at least one month before the date fixed for the meeting.

Provision of
information
Act No. 23 of 1964

32. The Board shall provide such information as may be required by the Central Bank under the Central Bank Act, 1964, or under any other Act of Parliament for the time being in force.

Power of Central
Bank to give
instructions

33. In the discharge of its functions under this Act the Board shall be guided by such board directions in matters of monetary and financial policy, involving the public interest as the Central Bank may give to it in writing from time to time.

Staff of Trust

34. (1) The Board may appoint and employ such number of officers and other employees as it considers necessary or desirable for the efficient performance of its functions and shall determine the terms and conditions of their appointment and service.

(2) The Trust may utilise the services of such staff of the Central Bank on such terms and conditions as may be agreed upon between the Board and the Central Bank.

PART V

INCOME TAX AND OTHER TAXES

35. Notwithstanding any other law for the time being in force— Exemption of Trust from income and other taxes

- (a) the Trust shall not be liable to pay income tax or any other tax including unemployment levy in respect of any income, profits or gains derived by it from any source whatever;
- (b) no deductions in respect of income tax shall be made from any interest or dividend payable to the Trust in respect of any securities or shares owned by it or in which it has a full beneficial interest.

36. Notwithstanding the provisions of the Income Tax Ordinance and the Finance Act, 1966:— Exemption of unit holder and contributing institutions Ch. 33. No. 1

- (a) where the chargeable income or profits of a unit holder who is a resident of Trinidad and Tobago is being ascertained for the purposes of that Ordinance, or that Act, there shall not be included in such chargeable income, or profits, any dividend not exceeding five thousand dollars or such other sum as the Minister may from time to time fix by order published in the *Gazette*, received from the Trust by the unit holder in respect of his holding;
- (b) no deduction of income tax or any other tax including unemployment levy shall be made by the Trust from any income or dividend distributed to a unit holder who is a resident of Trinidad and Tobago;
- (c) where the chargeable income or profits of any of the institutions mentioned in section 17 is being ascertained for purposes of tax or unemployment levy, any profit, interest or gain received by any such institution in respect of its contribution to the initial capital of the Trust shall not be included in such income.

Exemption from
estate duty
Ch. 33. No. 5

37. Notwithstanding the provisions of the Estate and Succession Duties Ordinance, in the aggregation of the principal value of the estate of a deceased unit holder for the purposes of levying estate duty under that Ordinance, there shall not be included in that estate the value of units held by the unit holder

PART VI WINDING-UP OF TRUST

Appointment of
liquidator

38. (1) Upon a special resolution being passed by the Board at a meeting summoned for that purpose after consultation with the Central Bank, the Board may with the approval of the Minister appoint a liquidator for the purpose of winding up the affairs of the Trust.

(2) No member of the Board nor any other officer or employee of the Trust shall be eligible for appointment as a liquidator.

(3) The Board shall cause the particulars of an appointment made in accordance with subsection (1) to be published in the *Gazette*.

Powers of
liquidator

39. (1) A liquidator appointed under section 38 shall have the power to:—

- (a) take immediate possession of all the assets of the Trust and of all books, records and other documents relating to the business thereof, and to carry on the business of the Trust as far as may be necessary for winding it up beneficially;
- (b) take such steps as may be necessary for the realisation of the assets of the Trust;
- (c) appoint a day by notice published in the *Gazette* and in a daily newspaper for three consecutive days before which creditors whose claims are not already recorded in the books of the Trust shall state their claims for admission, or be excluded from any distribution made;
- (d) decide any question of priority which arises between creditors;

- (e) compromise any claim by or against the Trust provided the sanction of the Central Bank has first been obtained;
- (f) sell the property of the Trust;
- (g) arrange for the distribution of the assets of the Trust in a convenient manner when a scheme of distribution has been approved by the Central Bank.

(2) Upon the realisation of the assets of the Trust, and subject to a scheme of distribution having been approved by the Central Bank, the order of priority of distribution of the assets of the Trust shall be as follows:—

- (a) claims by creditors of the Trust accepted by the liquidator;
- (b) the value of units to unit holders;
- (c) the outstanding contributions made by contributing institutions.

PART VII

MISCELLANEOUS

40. (1) Every Director, officer or other employee of the Trust, or any employee of the Central Bank whose services are utilised by the Trust shall before entering upon his duties, take and subscribe to the declaration of secrecy in the form set out in the Schedule.

Declaration of
secrecy

Schedule

(2) Any person mentioned in subsection (1) who communicates or condones the communication to any person not legally entitled thereto of any information relating to the affairs of any person having any dealings with the Trust, or relating to the affairs of the Trust shall be guilty of an offence, and shall be liable upon summary conviction thereof to a fine not exceeding one thousand dollars or to imprisonment for one year or to both such fine and imprisonment.

41. (1) No Director shall incur any obligation or liability by reason only of his being a director or for anything done or omitted to be done by him in good faith in the discharge of his duties as a director.

Exemption from
liability and
indemnity of
directors

(2) Every Director shall be indemnified by the Trust against all losses and expenses incurred by him in or in relation to the discharge of his duties except such as are caused by his own unlawful act or default.

(3) A Director shall not be liable for any loss or expense resulting to the Trust from the insufficiency or deficiency of the value of title to any property or security acquired or taken on behalf of the Trust by any other director, or any officer or other employee of the Trust, or by the insolvency or wrongful act of any debtor or any person under obligation to the Trust.

Delegation of powers

42. Subject to section 8 the Board may delegate to any of its officers such of its powers and duties under this Act as it may deem necessary, subject to such conditions and limitation as the Board may specify.

Nomination by unit holders

43. (1) Where a unit holder has nominated any person to receive any monies in respect of units held by him, such monies shall, upon the death of the unit holder, and subject to any right, title, or other interest of any other person, and to any charge, encumbrance, tax or duty of any nature, payable in respect of the said units, be payable to the nominee.

(2) A payment by the Trust under subsection (1) shall be a full discharge of the Trust, from all liability in respect of the units.

Repayment of contribution in case of winding-up of contributing institution

44. (1) In the event of a contributing institution mentioned in paragraph (b) or (d) of section 17(2) or any institution to which a contribution certificate has been transferred under section 20(1) being wound up, the Trust shall on demand in that behalf made by the authority in charge of the winding up proceedings pay to such authority an amount equivalent to the value of the contribution to the initial capital made by that institution.

(2) The value of the contribution shall be determined by the Trust.

Regulations

45. (1) The Board may, in consultation with the Central Bank and subject to the approval of the Minister, make regulations generally for giving effect to the provisions and purposes of this Act, and in particular to provide for—

- (a) the form and manner of maintenance of the register of contributing institutions and the particulars to be contained therein;
- (b) the face value of a contribution certificate, its form and the particulars to be contained therein;

- (c) the manner of transfer of a contribution certificate;
- (d) the times and places of the meetings of the Board or of any committee constituted under this Act and the procedure to be followed at such meetings;
- (e) the institution or institutions with which money may be kept on deposit;
- (f) the manner of distribution of income to the contributing institutions;
- (g) the form and manner in which the balance sheet and the accounts of the Trust shall be prepared and maintained;
- (h) the duties and conduct, salaries and allowances and other conditions of service of officers and other employees of the Trust;
- (i) the establishment and maintenance of pension, provident or other benefit funds for officers and other employees of the Trust;
- (j) the form to be used for a nomination under section 43;
- (k) any other matter which is required by this Act to be prescribed.

(2) Regulations made under this section shall be laid before Parliament, and shall be subject to a negative resolution of Parliament.

Laying of
Regulations in
Parliament

(Section 40)

SCHEDULE

THE UNIT TRUST CORPORATION OF TRINIDAD AND TOBAGO ACT, 1981

Declaration of Secrecy

I.....do hereby declare that I will faithfully, truly and to the best of my skill and ability execute and perform the duties required of me as director/officer/employee* of the Unit Trust Corporation of Trinidad and Tobago and which properly relate to the office or position held by me in the said Trust.

I further declare that I will not communicate or condone any communication to any person not legally entitled thereto any information relating to the affairs of any person having any dealing with the said Trust; nor will I allow any person not legally entitled so to do to inspect or have access to any books or documents belonging to or in the possession of the Unit Trust of Trinidad and Tobago and relating to the business of the said Trust or the business of any person having any dealing with the said Trust.

(Signature)

Declared before me:

.....

*Delete whichever is not applicable.

Passed in the Senate this 29th day of April, 1981

M. CARRINGTON
Acting Clerk of the Senate

Passed in the House of Representatives this 6th day of July, 1981.

J. E. CARTER
Clerk of the House

Act No. 27 OF 1981
SUCCESSION ACT, 1981

Arrangement of Sections

Section

1. Short Title and Commencement

PART I

INTERPRETATION

2. Interpretation

PART II

WILLS

3. Property Disposable by Will
4. Capacity to Make Will
5. Formalities for Execution
6. Wills with a Foreign Element
7. Testamentary Execution of Power
8. Incompetency of Witness
9. Gift to Witness
10. Attestation by Creditor
11. Attestation by Executor
12. Revocation by Marriage
13. Alteration in Circumstances
14. Revocation Generally
15. Alteration after Execution
16. Revival of Revoked Will
17. Subsequent Conveyance or Acts
18. Will Speaks from Death
19. Lapsed and Void Devises
20. Meaning of Certain Expressions
21. Contingent and Future Testamentary Gifts
22. General Powers of Appointment
23. Words of Limitation Unnecessary
24. Lapsing of Gifts to Issue
25. Secret Trusts
26. Abolition of Doctrine of Conversion
27. General Rules of Construction
28. Application of this Part

PART III

ADMINISTRATOR GENERAL

- 29. Office and Functions
- 30. Security
- 31. Transitional Provisions
- 32. Fees
- 33. Doubts as to *bona vacanita*
- 34. Regulations

PART IV

DEVOLUTION

- 35. Realty to Devolve as Personalty
- 36. Further Assimilation of Real and Personal Estates
- 37. Construction of Certain References

PART V

GRANT OF REPRESENTATION

- 38. Jurisdiction of Court
- 39. Number of Representatives
- 40. Trust Corporations
- 41. Proof of Will
- 42. Solemn Form
- 43. Cesser of Right to Prove
- 44. Withdrawal of Renunciation
- 45. Executor of Executor
- 46. Proving Executor
- 47. Disclaimer by Executor
- 48. Grant of Administration
- 49. Order of Persons Entitled to Administration
- 50. Administration *Pendente Lite*
- 51. Continuance of Legal Proceedings
- 52. Administration during Minority of Executor
- 53. Administration with Will Annexed
- 54. Voidable Administration
- 55. Citation of Persons with Prior Right
- 56. Creditors
- 57. Special Administration
- 58. Administration by Administrator General
- 59. Small Estate
- 60. Form of Applications
- 61. Contentious Business
- 62. Administration Bonds
- 63. Discharge and Removal of Personal Representatives
- 64. Caveats
- 65. Certificate as to Death Duties
- 66. Interim Orders
- 67. Appeals
- 68. Filing of Accounts
- 69. Re-sealing of Foreign Grants
- 70. Custody and Registration of Wills
- 71. Depositories

PART VI

ADMINISTRATION OF ASSETS

- 72. General Duty of Personal Representatives
- 73. Protection of Persons Acting on Probate or Administration
- 74. Executor *de son Tort*
- 75. Liability of Estate of Personal Representatives
- 76. Assets for Payment of Debts
- 77. Administration of Assets
- 78. Charges of Property
- 79. Power of Sale
- 80. Power to Assent or Convey
- 81. Power to Deal with Land
- 82. Right to Follow Property
- 83. Powers of Appropriation
- 84. Minor's Property
- 85. Power to give Possession of Land
- 86. Powers of Court
- 87. Distribution of Estate

PART VII

DISTRIBUTION ON INTESTACY

- 88. Rules for Distribution on Intestacy
- 89. Statutory Trusts for Issue and Other Relatives
- 90. Redemption of Surviving Spouses' Life Interests
- 91. Powers in respect of Surviving Spouses' Interests
- 92. Partial Intestacy
- 93. Disposition of *Bona Vacantia*

PART VIII

FAMILY PROVISION

- 94. Interpretation of this Part
- 95. Application for Financial Provision
- 96. Court Orders
- 97. Matters to be Considered
- 98. Time-limit for Applications
- 99. Interim Orders
- 100. Variation and Discharge of Orders
- 101. Payment by Instalments
- 102. Property Part of Net Estate
- 103. Property Held on a Joint Tenancy
- 104. Anti-Avoidance Provisions
- 105. Contracts to Leave Property by Will
- 106. Supplementary Provisions
- 107. Provisions as to Trustees
- 108. Provisions after Divorce or Separation
- 109. Restrictions on Divorce and Separation Proceedings
- 110. Variation and Discharge of Periodical Payments Orders
- 111. Variation and Revocation of Maintenance Agreements

PART VIII—CONTINUED

112. Availability of Powers under this Part in other Proceedings
113. Effect, Duration and Form of Orders
114. Provisions as to Personal Representatives
115. Admissibility of Evidence
116. Date of Grant of Representation

PART IX

GENERAL PROVISIONS

117. Savings Bank Deposits and Insurance Policies
118. Access to Documents
119. Rules or Regulations
120. Rules of Court
121. Fees
122. Application of Act
123. Repeals and Amendments
124. Adaptation of References

FIRST SCHEDULE—ADMINISTRATION OF ASSETS

SECOND SCHEDULE—REPEALS

THIRD SCHEDULE—AMENDMENTS