

No. 49

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1st Session, 15th Legislature, Alberta  
12 Elizabeth II

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## **BILL 49**

A Bill to amend The Trustee Act

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HON. MR. MANNING

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## **Explanatory Note**

**1.** The Trustee Act, R.S.A. 1955, c. 346, amended.

**2.** The new section 31*a* contains the substantive provision of the model Variation of Trusts Act approved in 1961 by the Conference of Commissioners on Uniformity of Legislation in Canada, and which in turn follows the Variation of Trusts Act passed by the United Kingdom Parliament in 1958. The section extends the jurisdiction of the Supreme Court to approve the variation of trusts in the interests of beneficiaries who cannot agree to the variation themselves by reason of legal incapacity or because the actual beneficiaries are not yet determined. It will permit the Court to give relief from consequences flowing from inflexible trust limitations, e.g., to gain income or estate tax advantages for beneficiaries.

**3.** Commencement of Act.

# BILL

No. 49 of 1964

An Act to amend The Trustee Act

(Assented to \_\_\_\_\_, 1964)

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

**1.** *The Trustee Act* is hereby amended.

**2.** The following heading and section are added after section 31:

## Variation of Trusts

**31a.** (1) Where property, real or personal, is held on trusts arising before or after the coming into force of this section under any will, settlement or other disposition, the Supreme Court may, if it thinks fit, by order approve on behalf of,

- (a) any person having, directly or indirectly, an interest, whether vested or contingent, under the trusts who by reason of infancy or other incapacity is incapable of assenting, or
- (b) any person, whether ascertained or not, who may become entitled, directly or indirectly, to an interest under the trusts as being at a future date or on the happening of a future event a person of any specified description or a member of any specified class of persons, or
- (c) any person unborn, or
- (d) any person in respect of any interest of his that may arise by reason of any discretionary power given to anyone on the failure or determination of any existing interest that has not failed or determined,

any arrangement, by whomsoever proposed and whether or not there is any other person beneficially interested who is capable of assenting thereto, varying or revoking all or any of the trusts or enlarging the powers of the trustees of managing or administering any of the property subject to the trusts.

(2) The court shall not approve an arrangement on behalf of any person coming within clause (a), (b) or (c) of subsection (1) unless the carrying out thereof appears to be for the benefit of that person.

**3.** This Act comes into force on the day upon which it is assented to.

No. 49

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FIRST SESSION  
FIFTEENTH LEGISLATURE  
12 ELIZABETH II  
1964

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**BILL**

An Act to amend The Trustee Act

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Received and read the

First time .....

Second time .....

Third time .....

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HON. MR. MANNING

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