



Removal of a Trustee

Section 9 of the Trust Property Control Act, Act 57 of 1988.(the “Act”) provides that a trustee shall in the performance of his / her duties and in the exercise of his / her powers act with the care, diligence and skill which can reasonably be expected of a person who manages the affairs of another.

In the light of the above, a trustee must administer and manage the trust property to the benefit of the beneficiaries and in accordance with the provisions of the trust deed. However, should a trustee fail the aforesaid, the following options may be available to remove such a trustee from office:

1. Consider the provisions of the trust deed relating to the removal of trustees and follow the said process; or
2. In terms of Section 20(1) of the Act which stipulates that a trustee may, on application by the Master or any person having an interest in the trust property, be removed from his / her office by an order of Court if the Court is satisfied that such removal will be in the best interest of the trust and its beneficiaries; or
3. In terms of Section 20(2) of the Act stipulating that a trustee may be removed from office by application to the Master, if, amongst others, he / she fails to perform satisfactorily, any duty imposed upon him / her by or under the Act or to comply with any lawful request of the Master of the High Court (subject to specific instances).

In succeeding with an application to remove a trustee it will be imperative to provide supporting evidence based on his / her failure to perform the duties as set out above.

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