

Index

ABATEMENT

See also LEGACIES
Generally, **5:56 to 5:59**
Inference from
 Relationships, **5:58**
 Will, **5:58**
Legacies for Value, **5:59**
Order of, **5:57**
Valuation for, **5:57**

ABROAD, TRUSTEE MOVING

See REMOVAL; REPLACEMENT; RES-
IGNATION; TRUSTEES

ACCELERATION

Doctrine of, **5:41**

ACCELERATION, BY DIRECTION OF BENEFICIARIES

Termination of Trust, **16:1**
Vesting, **5:41**

ACCIDENTAL LOSS

See BREACH OF TRUST

ACCOUNTANTS

See also AGENTS; DELEGATION OF
POWER
Generally, **9:11**

ACCOUNTS

See RECORDS

ACQUIESCENCE IN BREACH

See BREACH OF TRUST; PENALTIES
FOR BREACH OF TRUST

ACTING EXECUTOR

See also BREACH OF TRUST
Liability of Co-executors, **10:16**

ACTING TRUSTEE

See also BREACH OF TRUST
Liability of Co-trustees, **10:16**

ACTION

Costs of Unsuccessful, **4:9**
see also LEGAL COSTS

ADEMPMENT

Generally, **5:60**
By advancement, **5:41**
Statutory Exceptions, **5:61**

ADMINISTRATION EXPENSES

See EXPENSES OF ADMINISTRATION

ADMINISTRATOR

Standard of a reasonably prudent, **4:12**
With will annexed, **4:11**

ADOPTIONS

See also INTESTACY
Who Takes on Intestacy, **5:66, 5:68**

ADVANCEMENT

Presumption of, **2:1**

ADVANCEMENTS

Generally, **5:80, 5:81**
By Definition, **5:80**
Contrast English, Ontario law, **5:80**
Estates Administration Act, **5:80**
Interest Chargeable on, **5:80**
Requirements of
 Insolvency, **5:81**
 Writing, **5:80**
Term in Will, **5:81**
Valuation, **5:80**

ADVANCES

Presumption against double portions, **2:1**

ADVERTISING FOR CREDITORS

Generally, **3:2 to 3:6**
Effect, **3:6**
Form of, **3:5**
General, **3:2**
Length of Time, **3:4**
Newspaper, **3:4**
Times for, **3:3**
When to Publish, **3:3**
Where to Publish, **3:4**

ADVICE OF THE COURT

See also COURT APPLICATIONS
Business Judgment, **12:7**

ADVICE OF THE COURT—Cont'd

Cases, **12:12 to 12:15**
 Deadlock Among Trustees, **12:6**
 Executor's Discretion, **12:3**
 Failure to Exercise, **12:5**
 Hostility Among Trustees, **12:4**
 Hypothetical or Academic Questions, **12:10**
 Insolvent Estates see **INSOLVENT ESTATES**
 Interpretation and Construction of Wills, **12:14**
 Jurisdiction, **12:2**
 Limitations of Use
 Generally, **12:3 to 12:11**
 Ownership Issues, **12:9**
 Rule, Limits on Use of, for
 Generally, **12:3 to 12:11**
 Trite Law, **12:8**
 Trustee Act, **12:2**
 Trustees, **8:14**

ADVISORS

See also **AGENTS; DELEGATION OF POWER**
 Generally, **9:9**

AGENTS

See also **DELEGATION OF POWER**
 Compensation
 Generally, **9:23, 11:24**
 Delegation to
 Generally, **9:1 to 9:23**
 Fees of see **COMPENSATION; EXPENSES OF ADMINISTRATION**
 Fees Paid by Executor Personally, **9:23**
 Fraud of, **9:1, 9:6**
 Goods Stolen from, **9:1, 9:6**
 Limitation of Power, **9:1, 9:2**
 Power to Bind Executor, **9:5, 9:6**
 Qualification, **9:2**
 Reimbursement
 Generally, **9:23**
 Responsibility of Executor for, **9:1**
 Selection of, **9:2, 9:3**
 Supervision of, **9:2, 9:3**
 Types of
 Generally, **9:8 to 9:22**
 Accountants, **9:11**
 Attorneys, **9:19**
 Auctioneers, **9:15**

AGENTS—Cont'd

Types of—Cont'd
 Bankers, **9:10**
 Co-executors, **9:8**
 Courts, **9:22**
 Debt Collectors, **9:13**
 Employees, **9:20**
 Investment Counsel, **9:12**
 Mortgage Collectors, **9:16**
 Real Estate, **9:17**
 Rent Collectors, **9:14**
 Solicitors, **9:9**
 Stockbrokers, **9:12**
 Valuers, **9:18**

AGREEMENT, EXECUTOR'S FEES

Generally, **11:3**

ALLOWANCE TO TRUSTEES

See **COMPENSATION; EXPENSES OF ADMINISTRATION**

ALTERATIONS

See **REPAIRS**

AMORTIZATION

See also **DISBURSEMENTS; INVESTMENTS; RECEIPTS**
 Generally, **7:21**

ANNUITIES

See **BEQUESTS; LEGACIES**
 Generally, **5:23, 5:52; 7:11**
 Apportionment, **7:13**
 Capital, **7:12**
 Created before Testator's Death, **7:12**
 Created by Will, **7:13**
 Deficiency of Assets, **7:13**
 Income, **7:13**
 Interest on Arrears, **7:13**
 Investment, as an, see **INVESTMENTS**
 Life, **2:35**
 Obligation of Testator Before Death, **7:12**
 Payable out of Income of Residue, **7:13**
 Right to Commute, **5:41, 7:13**
 Valuation for Abatement, **5:57**
 When Due, **5:41**

APPEALS

Compensation Awards, **11:20**
 Litigation Generally see **LEGAL COSTS**
 Passing of Accounts Orders see **PASSING ACCOUNTS**

APPLICATION

For directions, **4:9**

**APPOINTMENT OF ESTATE
TRUSTEE PENDING LITIGATION**

Generally, **15:11**

APPOINTMENT OF NEW TRUSTEES

See REMOVAL; REPLACEMENT; RES-
IGNATION; TRUSTEES

APPORTIONMENT

Fire Insurance Premiums, **4:28**

Rents, **7:16**

Residue and, **2:1**

Taxes see TAXES

ASSETS

See also ESTATE ASSETS

Generally, **2:1**

Allowing Limitation Period to Run on
Claims see STATUTE OF LIMITA-
TIONS

Animals, **2:42**

Burial Plot, **2:13**

Businesses see also BUSINESSES

Generally, **2:17 to 2:25**

Capital Infusion, **2:20**

Carrying on

Debts, **2:21**

Expenses, **2:21**

Contract Benefits, **2:24**

Estate Freezes, **2:25**

Goodwill, **2:17**

Incorporation, **2:22**

Loan Guarantees, **2:20**

Obligation to Sell, **2:18**

Partnership, **2:23**

Power to Continue, **2:19**

Choses in Action, **2:45**

Family Law Act, **2:45**

Loss of Expectation of Life, **2:45**

Trustee Act, **2:45**

Claims

Generally, **2:44**

Against Executor, **2:44, 2:45**

For Money, **2:44**

For Tort, **2:45**

Clothes, **2:11**

Co-mingling of, **10:6**

see also BREACH OF TRUST

ASSETS—Cont'd

Constructive Trust, **2:59**

Joint Ownership, **2:59**

Contracts, **2:24**

Conversion

Generally, **2:3**

Income Pending, **2:3**

Crops, **2:42**

Custody, **2:2**

Loss of Assets, **2:2**

Possession of Deceased's Property, **2:2**

Damage, **10:2**

Debts

Generally, **2:46**

Charged on, **2:46**

Of Executor, **2:46**

Defined, **2:1**

Digital Assets, **2:71**

Donatio Mortis Causa, **2:60**

Equalization Payment, **2:15**

Exchanging, **2:9**

Exempted Goods

Burial Plot, **2:13**

Household

Allowances, **2:12**

Goods, **2:11**

Profits, **2:12**

Personal Goods, **2:11**

Pin-Money, **2:12**

Residence, **2:14**

Tools of Trade, **2:11**

Exemption of Goods

For Family Privileges, **2:11 to 2:15**

Property, **2:15**

Support, **2:15**

For Maintenance of Widow and Chil-
dren, **2:11 to 2:15**

Property, **2:15**

Support, **2:15**

Failure to

Collect Debts, **2:44**

see also PENALTIES FOR
BREACH OF TRUST

Sue for Debts see PENALTIES FOR
BREACH OF TRUST

Farm Quotas, **2:42**

Fatal Accidents, **2:34**

Foreign, **2:62**

Frequent Flyer Points, **2:68**

Gifts, **2:60**

ASSETS—Cont'd

Home, **2:14**
 Household Allowances and Profits, **2:12**
 Household Goods, **2:11**
 Income Pending Conversion, **2:3**
 Incomplete Gifts, **2:60**
 Insurance see INSURANCE
 Inventory, **2:2**
 RRSP Moneys, **2:2**
 Statement of Original Inventory, **2:2**
 Joint Ownership, **2:47 to 2:59**
 Constructive Trust, **2:47 to 2:59**
 Land, **2:65**
 Leases, **2:64**
 Life
 Insurance, **2:42**
 see also INSURANCE
 Insured, **2:30**
 Loss of see BREACH OF TRUST;
 PENALTIES FOR BREACH OF
 TRUST
 Mixing with Private Funds see BREACH
 OF TRUST
 Mortgages see MORTGAGES
 Mortgaging
 Generally, **2:3, 2:10**
 Options, **2:67**
 Order of Sale of, for Debts, see SALE
 Pin-Money, **2:12**
 Pledging
 Generally, **2:3, 2:10**
 Powers of Appointment, **2:63**
 Real Estate, **2:74**
 Rebuttal of presumption
 Subject to, **2:1**
 Registered Retirement Savings Plans,
 2:69
 Residence, **2:14**
 Resulting Trust, **2:48 to 2:58**
 Presumption of Advancement, **2:49 to**
 2:58
 Between Parents and Children, **2:50**
 Between Spouses, **2:55**
 Right of Action, **2:44**
 see also PENALTIES FOR BREACH
 OF TRUST
 Royalties, **2:66**
 Sale
 Generally, **2:3**
 Duties, **2:4 to 2:6**

ASSETS—Cont'd

Sale—Cont'd
 For credit, **2:3**
 Powers
 Generally, **2:4 to 2:6**
 Discretion, **2:7**
 Exercise of, **2:7**
 Postpone
 Direction to, **2:6**
 No power to, **2:4**
 Power to, **2:5**
 Terms of Payment, **2:8**
 Selling Below Value, **2:2**
 Shares, **2:77**
 Situs see SITUS
 Specific
 Generally, **2:16 to 2:72**
 Stock see INVESTMENTS
 Time for Conversion, **2:3**
 Valuation, **2:2**
 Wasting, **7:22, 7:23**
 Waste, **10:1**
 What Constituting Estate Asset, **2:1**
 Pension Plan, **2:1**
 Personal Property, **2:1**
 Real Property, **2:1**
 Wife's and Children's Privileges, **2:11 to**
 2:15

ASSIGNMENT OF LEGACIES

See LEGACIES

ATTORNEYS

See also AGENTS; DELEGATION OF
 POWER
 Generally, **9:19**

AUCTION

See SALE

AUCTIONEERS

See also AGENTS; DELEGATION OF
 POWER
 Generally, **9:15**

AUDIT OF ACCOUNTS

See PASSING ACCOUNTS; RECORDS

BANKERS

See also AGENTS; DELEGATION OF
 POWER
 Generally, **9:10**

BANKRUPT ESTATE

See **INSOLVENT ESTATES**

BENEFICIARIES

Generally, **5:1 to 5:101**

Advantages to One at Expense of Another, **5:4**

Annuities, **5:42**

Appropriation of Shares to, **5:4**

Ascertainment of, **5:43**

Persons Born Outside of Marriage, **5:44**

Right of Guardian to Infant's Property, **5:51**

Assignment of Interest, **5:49**

Benefits Generally, **5:1 to 5:31**

Executor Entitled to Release, **5:5**

Fraudulent legatees, **5:38**

General, **5:1**

Loss of, to Beneficiary Who Commits Murder, **5:37**

Loss of Right to Inherit by Release or Agreement, **5:40**

Payment in Specie, **5:7**

Reserves for Contingencies, **5:6**

Unequal Treatment by Executor, **5:4**

When Due, **5:2**

Breach of Trust Instigated by, **10:17**

Cemeteries, **5:97**

Charities

Generally, **5:89**

Accounting, **14:6**

Ceasing to Exist

Generally, **5:35**

Application of Cy-pres, **5:35**

Lapse, **5:35**

Purposes

Educational, **5:91**

Poverty relief, **5:92**

Public, **5:93**

Religious, **5:90**

Claimants Born Outside Marriage, **2:37**

Collectively Extinguishing Trust see

VARIATION OF TRUSTS

Compromise of Claim, **3:39; 10:3**

Conflict of Laws, **5:98 to 5:101**

see also **CONFLICTS OF LAWS**

Death of

Generally, **5:26 to 5:31**

Disappointed Beneficiaries, **5:32**

Implications in Will, **5:30**

BENEFICIARIES—Cont'd

Death of—Cont'd

Legacies in

Satisfaction of Legal Obligations, **5:29**

Satisfaction of Moral Obligations, **5:29**

Proof of, **5:31**

Survivorship, Presumptions of

Fictitious, **5:27**

General, **5:75**

Statutory, **(b), 5:27**

Designation of, **2:29**

Designation of, **2:69**

Discretionary Use of Funds for Maintenance

Generally, **5:83 to 5:87**

Discretion in Will, **5:87**

Maintenance of Infants from Their Own Funds

Generally, **5:83 to 5:86**

Discretion in Will, **5:87**

General Principles, **5:83**

Other Means of Support, **5:85**

Past Maintenance, **5:86**

Standard of, **5:84**

Executor

Beneficiaries Receiving Unequal Treatment by, **5:4**

Entitled to Release, **5:5**

Legacies, **5:53**

Right of Retainer for Debts Due Him From the Testator, **5:48**

Expenses of Payment, **5:42**

Currency Exchange, **5:42**

Guardian's Right to Infant's Property, **5:51**

Identification, **5:43**

Income beneficiaries, **3:43, 4:20**

Infants see **INFANTS**

Informing, **5:43**

Life Insurance On, **2:42; 16:9**

Limitations Act, **3:20**

Loss of Benefit to Beneficiary Who Commits Murder, **5:37**

Notice to, **5:43**

Overpayment to, **5:53**

Receipt by, for Benefit, **5:7**

Receiving Unequal Treatment by Executor, **5:4**

Refund Overpayments, **5:55**

BENEFICIARIES—Cont'd

Residual beneficiaries, **2:1**
 Stepchildren, **5:45**
 Uncertainty of, **5:43**
 Unequal Treatment, **5:4**
 Vesting, **5:41**

BENEFITS

Generally, **5:1**
 Abatement see ABATEMENT
 Acceleration of Distribution, **5:41**
 Advancement see ADVANCEMENTS
 Annuities see ANNUITIES
 Assignment, of, **5:49**
 Conditional Gifts, **2:60**
 Conflict of Laws see CONFLICTS OF LAWS
 Currency Exchange, **5:42**
 Discretionary
 Benefits see EXERCISE OF DISCRETION
 Payment Date, **5:13**
 Distributions in Specie, **2:3**
 Encroachments, **8:7**
 Even-hand, **8:7**
 Executors' Year, **5:2**
 Expenses of Payment, **5:42**
 Foreign Executors, Payment to, **14:34**
 Guardian of Infant Entitled to, **5:51**
 Infants, to see INFANTS
 In Satisfaction of Debt, **3:34**
 Interest on Legacies, **5:9 to 5:25**
 In Terrorem Clauses, **5:33**
 Intestacies see INTESTACY
 Lapse, **5:35**
 Legacies
 Charged on Land, **5:20**
 For Value, **5:59**
 Maintenance of Infants see INFANTS
 Notice of Assignment, **5:49**
 Overpayment, **5:55**
 Partial Distributions, **5:4, 5:6**
 Priorities
 With Debts, **3:41**
 see also CLAIMS AGAINST THE ESTATE
 Receipt for, Executor Entitled to, **5:5**
 Refund of, **5:55**
 Release, Executor Entitled to, **10:17**
 Residue see RESIDUE

BENEFITS—Cont'd

Set-Off with Debts, **5:47**
 Specie Distributions, **5:7**
 Unequal Distributions in Specie, **5:4**
 Vesting, **5:41**
 When Due, **5:2**

BEQUESTS

See also BENEFITS; LEGACIES
 Generally, **5:1 to 5:101**
 Ademption of
 Generally, **5:60**
 General, **5:60, 5:61**
 Statutory Exceptions, **5:61**
 Annuities, **5:42**
 Charities see also BENEFICIARIES; CHARITIES
 Discretionary Use of Funds for Maintenance
 Generally, **5:83 to 5:87**
 Discretion in Will, **5:87**
 Maintenance of Infants from Their Own Funds
 Generally, **5:83 to 5:86**
 Discretion in Will, **5:87**
 General Principles, **5:83**
 Other Means of Support, **5:85**
 Past Maintenance, **5:86**
 Standard of, **5:84**
 Expenses of Payment, **5:42**
 Currency Exchange, **5:42**
 Inference from Will
 Generally, **5:10 to 5:17**
 Date Left to Discretion
 Contingent Legacy, **5:17**
 For the Benefit of the Residuary Legatees, **5:16**
 Of a Person Not the Executor, **5:15**
 Of the Executor, **5:14**
 Date of Payment Specified, **5:13**
 Demonstrative Legacies, **5:10**
 General Legacies, **5:10**
 Gift of a Life Interest, **5:11**
 Legacies Postponed for Life Tenancies, **5:12**
 Interest on
 Generally, **5:9 to 5:25**
 Date Left to Discretion
 Contingent Legacy, **5:17**
 For the Benefit of the Residuary Legatees, **5:16**

BEQUESTS—Cont'd

- Interest on—Cont'd
 - Generally, **5:9 to 5:25**—Cont'd
 - Date Left to Discretion—Cont'd
 - Of a Person Not the Executor, **5:15**
 - Of the Executor, **5:14**
 - Date of Payment of Legacy Specified in the Will, **5:13**
 - One Year Rule, **5:9**
 - Exceptions
 - Generally, **3**
 - Charged on Real Estate, **5:20**
 - Creditors, **5:19**
 - Infants, **5:18**
 - In Lieu of Dower, **5:19**
 - Demonstrative Legacies, **5:10**
 - General Legacies, **5:10**
 - Gift of a Life Interest, **5:11**
 - Legacies Postponed for Life Tenancies, **5:12**
 - Summary, **5:25**
 - Rate of Interest, **5:21**
 - Right of Selection, **5:46**
 - Right of Executor to Retain for Debts Due Him from the Testator, **5:48**
 - Set-Off with Debts, **5:47**
 - Specific
 - Generally, **5:22**
 - Annuities, **5:23**
 - Settlement Amounts, **5:24**
 - Summary, **5:25**
 - Vesting, **5:41**

BOOKS OF ACCOUNT

See RECORDS

BREACH OF TRUST

- See also TRUSTEES
- Accidental
 - Loss, **10:7**
 - Theft, **10:7**
- Acquisition of Benefits from Office of Trustee, **10:5**
- Agent's Tort, Responsibility for, see AGENTS; DELEGATION OF POWER
- Co-executors, **9:8**
- Co-mingling Trust Property, **10:6**
- Compensation
 - Generally, **10:8 to 10:10**

BREACH OF TRUST—Cont'd

- Compensation—Cont'd
 - Calculation of Interest, **10:10**
 - Calculation of Profits, **10:10**
 - Dealing with Trust Property for Trustee's Private Purposes, **10:9**
 - Innocent But Negligent Breach, **10:2, 10:3, 10:8**
- Competing with Trust, **10:2, 10:3**
- Conflicts of Interest, **10:4 to 10:7, 10:9**
- Dealing with Trust Property
 - Borrowing from the Trust, **10:4**
 - Buying from the Trust, **10:4**
 - Compensation, **10:9**
 - Innocent but Negligent Breach, **10:2, 10:3, 10:8**
 - Loaning to the Trust, **10:4**
 - Penalties, **10:9**
 - Selling to the Trust, **10:4**
 - Trustee's Private Purposes, for, **10:4 to 10:7, 10:9**
- Debt Collector's Insolvency see DELEGATION OF POWER
- Defenses
 - Generally, **10:17 to 10:21**
 - Applications for Directions, **10:21**
 - Concurrence by Beneficiaries, **10:17**
 - Exculpatory Clauses, **10:20**
 - Indemnity, **10:17**
 - Release, **10:17**
 - Statute of Limitations, **3:19 to 3:23, 10:18**
- Even-hand, **8:7**
- Failure to Keep Books, **13:4**
 - see also RECORDS
- Funeral Expense, Extravagance see BURIAL
- Holding Cash Balances Uninvested, **10:3**
- Imprudent Sale of Assets see ASSETS; SALE
- Indemnity of Trustee, **10:17**
- Innocent but Negligent, **10:2, 10:3, 10:8**
 - General Principles, **10:2**
 - Holding Cash Balances, **10:3**
- Intentional Breach, **10:2, 10:3**
- Investment Errors, **6:7 to 6:18**
 - see also INVESTMENTS
- Liability see also Relief from Liability
 - Generally, **10:16**
 - Co-Executors, **10:16**

BREACH OF TRUST—Cont'd

- Liability see also Relief from Liability—Cont'd
 - Co-Trustees, **10:16**
 - For Agents see also AGENTS
- Loss of Trust Property
 - Accident, **10:7**
 - Robbery, **10:7**
- Mixing Estate Money, **10:6**
- Paying Legacies After Notice of Assignment, **5:49**
- Payment of Claims
 - Barred by Statute of Frauds, **3:24**
 - Barred by Statute of Limitations, **3:19 to 3:23, 10:18**
- Payment of Moral Obligations of Testator, **3:1, 5:28**
- Penalties
 - Generally, **10:8 to 10:10**
 - Calculation of Interest, **10:10**
 - Calculation of Profits, **10:10**
 - Dealing with Trust Property for Trustee's Private Purposes, **10:9**
 - Innocent But Negligent Breach, **10:2, 10:3, 10:8**
- Presumption of Good Faith, **10:1 to 10:7**
- Professional Trustees, **8:19, 10:15**
- Reckless Breach, **10:12**
- Relief from Liability
 - Generally, **10:11 to 10:15**
 - Cases Where Granted, **10:13**
 - Cases Where Not Granted, **10:14**
 - General Principles, **10:11**
 - Meaning of "Wilful Default," **10:12**
 - Professional Trustees, **8:19, 10:15**
 - Release, **10:17**
- Selling Assets
 - For Credit see also ASSETS
- Situations Giving Rise to
 - Generally, **10:1 to 10:7**
 - Acquisition of Benefits from Office of Trustee, **10:5**
 - Co-mingling Trust Property, **10:6**
 - Dealing with Trust Property
 - Borrowing from the Trust, **10:4**
 - Buying from the Trust, **10:4**
 - Compensation, **10:9**
 - Innocent but Negligent Breach, **10:2, 10:3**
 - Loaning to the Trust, **10:4**

BREACH OF TRUST—Cont'd

- Situations Giving Rise to—Cont'd
 - Dealing with Trust Property—Cont'd
 - Penalties, **10:9**
 - Selling to the Trust, **10:4**
 - Trustee's Private Purposes, for, Generally, **10:4 to 10:7, 10:9**
- General Principles, **10:1**
- Innocent but Negligent Breach, **10:2, 10:3, 10:8**
 - General Principles, **10:2**
- Holding Cash Balances, **10:3**
- Loss of Trust Property
 - Accident, **10:7**
 - Robbery, **10:7**
- Trustee's Private Purposes, for, Generally, **10:4 to 10:7, 10:9**
- Wilful Default, **10:12**

BRIBES

- See BREACH OF TRUST; PENALTIES FOR BREACH OF TRUST

BROTHER

- See CLAIMS AGAINST THE ESTATE; INTESTACY
- Generally, **3:29**

BURIAL

- Corpse, **1:1**
- Cremation, **1:1**
- Expenses
 - Generally, **1:3**
 - Liability for Extravagant, **1:3**
 - Not Maintenance, **1:3**
 - Priority of, **1:3**
- First Charge on Estate, **1:3**
- Funeral see FUNERAL
- Gravestones, **1:4**
- Liability for Extravagant Expenses, **1:3**
- Priority of Expenses, **1:3**
- Reimbursement by Estate, **1:3**
- Right in respect of, **1:1**
- Widow not Responsible for, **1:3**
- Wife's Funeral Expense Where Separate Estate, **1:3**
- Wishes of Deceased, **1:1, 1:4**

BURIAL PLOT

- See also BURIAL; FUNERAL
- Generally, **2:13**

BUSINESSES

- Generally, **2:17 to 2:25**
- Capital Infusion, **2:20**
- Carrying on
 - Debts, **2:21**
 - Expenses, **2:21**
- Collection of Debts, **2:21**
- Contract Benefits, **2:24**
- Contracts Personal to Deceased, **2:24**
- Debt Contracted in Carrying On, **2:21**
- Extension by Court of Power to Carry On, **2:19**
 - see also ADVICE OF THE COURT
- Goodwill, **2:17**
- Incorporation, **2:22**
 - By Executor, **2:22**
- Loan Guarantees, **2:20**
- Losses, **7:9**
- Obligation to Sel, **2:18**
- Partnerships, **2:23**
- Postponement of Sale, Power of, see **SALE**
- Powers to Continue, **2:19**
- Profits, **7:19**

BUSINESS PROFITS

- See also **BUSINESSES; CAPITAL; INCOME**
- Generally, **7:19**

CAPACITY

- Testamentary
 - Lack of, **4:8**

CAPITAL

- See **DISBURSEMENTS; RECEIPTS**

CAPITAL GAINS TAX

- Arising from sale of apartment property, **2:1**

CARRYING ON BUSINESS

- See **BUSINESSES**

CEMETERIES

- Generally, **5:97**

CHARITIES

- See also **CHARITIES ACCOUNTING ACT**
- Generally, **5:89**
- Accounting, **14:6**
- Advice of Court, **12:15**

CHARITIES—Cont'd

- Ceasing to Exist
 - Generally, **5:35**
 - Application of Cy-pres, **5:35**
 - Lapse, **5:35**
- Cemeteries, **5:97**
- Charitable, **5:91**
- Cy-pres doctrine, **5:94**
- Education, **5:91**
- Objects Must Be General, **5:88 to 5:96**
- Objects Not Specified, **5:95**
 - Jurisdiction of Court, **5:95**
- Poverty relief, **5:92**
- Public Trustee, Notice to see **PASSING ACCOUNTS**
- Purposes
 - Generally, **5:89**
 - Community, **5:93**
 - Educational, **5:91**
 - Religious, **5:90**
- Religious, **5:90**

CHARITIES ACCOUNTING ACT

- Generally, **14:6**

CHILDREN

- See also **ADVANCEMENTS; CLAIMS AGAINST THE ESTATE; INFANTS**
- Privileges on Assets, **2:11 to 2:15**

CLAIMS AGAINST THE ESTATE

- Advertising for Creditors
 - Generally, **3:2 to 3:6**
 - Effect, **3:6**
 - Form of Advertisement, **3:5**
 - General, **3:2**
 - When to Publish, **3:3**
 - Where to Publish, **3:4**
- Analysis, **3:12**
 - Generally, **3:9 to 3:12**
 - Contesting Liquidated Debt, Procedure for, **3:10**
 - Analysis, **3:12**
 - Contesting Unliquidated Debt, Procedure for, **3:11**
 - Analysis, **3:12**
 - General, **3:9**
- Beneficiary Raising Defence to see **BENEFICIARIES**
- Brother, **3:29**

CLAIMS AGAINST THE ESTATE

—Cont'd

- Charged on Asset, **2:44**
see also ASSETS
- Compromise, **3:39**
- Compromising
 - Co-Executors' Claims, **3:39**
- Legacies, **3:39**
- Succession Duty, **3:39**
- Conflicts of Laws
 - Generally, **3:45**
 - Illustrations, **3:45**
- Consideration for, Absent, **3:26**
- Contingent
 - Leases, Generally, **3:25**
 - Obligations, Generally, **3:25**
- Contracts
 - After Death, **3:27 to 3:33**
 - Personal to the Deceased, **3:36**
- Corroboration, **3:27 to 3:33**
see also Defences, Special Defences
- Debt of Honour, **3:26**
- Defences
 - Generally, **3:13 to 3:38**
- Lack of Corroboration
 - Generally, **3:13 to 3:18**
 - Cases in Provinces Where There is
No Statutory Rule, **3:18**
 - Consistent Only with One Conclu-
sion, **3:16**
 - Credibility, **3:17**
 - General, **3:13**
 - What Constitutes Corroboration,
3:14
 - Where Several Essential Facts Must
Be Proved, **3:15**
- Limitations Statutes
 - Generally, **3:19 to 3:23**
 - Estates Act, ss. 44, 45, and 47, **3:21, 3:22**
 - Limitations Act, ss. 43, 45(1)(g),
3:20
 - Trustee Act, s. 38(3), **3:23**
- Statute of Frauds, **3:24**
- Distributions to Beneficiaries before
Notice of Debt, **3:35**
- Domicile Affecting, **5:100**
- Dower, Compromise, **3:39**
- Duty to Investigate, **3:13 to 3:18**
- Evidence, **3:1, 3:13 to 3:18**

CLAIMS AGAINST THE ESTATE

—Cont'd

- Executor Personally, **3:42**
- For Debts, Generally, **3:1 to 3:45**
- Foreign
 - Assets, Satisfying, **5:99**
 - Creditors, **5:99**
 - Duties, **3:37**
 - Taxes, **3:37**
- Form of Claim
 - Generally, **3:7, 3:8**
 - Judgment against Estate Assets, **3:7**
 - Procedural Matters, **3:8**
- General, **3:1**
 - Trustee Act, **3:1**
- Gift Commitments, **3:26**
- Insolvent Estate see also INSOLVENT
ESTATES
 - Indebtedness between Testator and
Executor, **3:42**
 - Priority of Claims, **3:41**
- Interest on, **3:40**
- Lateness of Claim, **3:6**
- Legacies in Satisfaction of Debts, **3:34**
- Limitations, **3:1, 3:20, 3:42**
- Maintenance see INFANTS
- Moral Obligations, **3:1, 5:28**
see also BREACH OF TRUST
- Order of Sale of Assets, **3:42**
- Parent and Child, **3:28**
- Partnership Debts, **3:43**
- Priority of Claims
 - Generally, **3:41**
 - Inspectors, **3:41**
 - Secured Creditors, **3:41**
 - What Assets Carry Burden of Debts
Generally, **3:43, 3:44**
 - Debts Charged on Estate Assets,
3:44
 - General, **3:43**
 - Primary Fund for Payment of
Debts, **3:43**
- Refund of Overpayment, **5:55**
- Relatives see also DEPENDANTS'
RELIEF CLAIMS; INSOLVENT
ESTATES
 - Generally, **3:27 to 3:33**
 - General, **3:27**
 - Personal Services Rendered
Aunt, **3:31**

CLAIMS AGAINST THE ESTATE

—Cont'd

- Relatives see also DEPENDANTS' RELIEF CLAIMS; INSOLVENT ESTATES—Cont'd
- Personal Services Rendered—Cont'd
 - Brothers, **3:29**
 - Contractual Relation, **3:27 to 3:33**
 - Corroboration, **3:27 to 3:33**
 - Grandchildren, **3:30**
 - Grandparents, **3:30**
 - Husband and Wife, **3:32**
 - Limitation Act, Application of, **3:33**
 - Nephew, **3:31**
 - Niece, **3:31**
 - Parent and Child, **3:28**
 - Contract for Payment, **3:28**
 - Sisters, **3:29**
 - Uncle, **3:31**
- Presumption from Services, **3:27 to 3:33**
- Services by Family, **3:27 to 3:33**
- Releases, **3:38**
- Retaining Fund for Contingent, **3:25**
- Set-Off of Benefit, **5:47**
- Sisters, **3:29**
- Special Defences
 - Generally, **3:13 to 3:38**
 - Lack of Corroboration
 - Generally, **3:13 to 3:18**
 - Cases in Provinces Where There is No Statutory Rule, **3:18**
 - Consistent Only with One Conclusion, **3:16**
 - Credibility, **3:17**
 - General, **3:13**
 - What Constitutes Corroboration, **3:14**
 - Where Several Essential Facts Must Be Proved, **3:15**
- Limitations Statutes
 - Generally, **3:19 to 3:23**
 - Estates Act, ss. 44, 45, and 47, **3:21, 3:22**
 - Limitations Act, ss. 43, 45(1)(g), **3:20**
 - Trustee Act, s. 38(3), **3:23**
 - Statute of Frauds, **3:24**
- Subscriptions to Charities, **3:26**
- Succession Duty, Exoneration, **3:38**

CLAIMS AGAINST THE ESTATE

—Cont'd

- Time
 - Interest, **3:40**
 - Payment, **3:40**
- Wife, **3:32**

CLERK, SERVICES OF

- See DELEGATION OF POWER; EXPENSES OF ADMINISTRATION

CO-EXECUTORS

- See BREACH OF TRUST; PENALTIES FOR BREACH OF TRUST
- Generally, **8:16 to 8:18**
- Compromising Views, **8:18**
- Distinction, between Trustees, **8:17**
- Acting Executor
 - Delegation of Power to, **9:8**
 - Liability of, **10:16**
- Breach of Trust, by see BREACH OF TRUST
- Compromising
 - Claims, **3:39**
 - Opinions, **3:39**

COLLECTION AGENTS

- See also AGENTS; DELEGATION OF POWER
- Generally, **9:13**

COLLECTION OF DEBTS

- See ASSETS; PENALTIES FOR BREACH OF TRUST

CO-MINGLING OF ASSETS

- See BREACH OF TRUST
- Generally, **10:6**

COMMISSION TO EXECUTOR

- See COMPENSATION; EXECUTOR'S COMPENSATION

COMPENSATION

- See also DISBURSEMENTS; EXECUTOR'S COMPENSATION; EXPENSES OF ADMINISTRATION
- Generally, **11:1 to 11:26**
- Agreements, **11:3**
- Appeals of Award of, **11:20**
- Breach of Trust, for
 - Generally, **10:8 to 10:10**

COMPENSATION—Cont'd

Breach of Trust, for—Cont'd

Calculation of Interest, **10:10**Calculation of Profits, **10:10**

Dealing with Trust Property for

Trustee's Private Purposes, **10:9**Innocent But Negligent, **10:2, 10:3, 10:8**

Calculation of

Exclusions from Percentage

Generally, **11:12 to 11:16**Book Entries, **11:12**

Distributions to

Beneficiaries in Specie, **11:15**On-going Trusts, **11:14**Payment from Estate to Executor, **11:13**Risk Assumed by Executor, **11:16**General Basis, **11:4**Quantum of, Generally, **11:4 to 11:16**

Under Ontario Rules

Capital Compensation, **11:6**Care and Management Fees, **11:9**Investment Transactions, **11:7**Original Assets, **11:5**Special Fees, **11:10**Appendix, **11:11**Directors' Fees, **11:25**

Division

Among Co-executors, **11:19**Among Trustees, **11:19**

Exclusions from Percentage Calculations

Generally, **11:12 to 11:16**Book Entries, **11:12**

Distributions to

Beneficiaries in Specie, **11:15**On-going Trusts, **11:14**Payment from Estate to Executor, **11:13**Risk Assumed by Executor, **11:16**Fee Payment Responsibility, **11:18**

Fees

Directors, **11:25**Fee Payment Responsibility, **11:18**Special, **11:10**Appendix, **11:11**General, **11:1**Interest on, **3:34**Legacies in Lieu of, **11:2**Maladministration by Trustee, **11:17****COMPENSATION—Cont'd**

Payments to

Other Professionals, **11:24**Real Estate Agents, **11:24**Pre-taking of, **11:23**Priority of Over Other Claims, **11:22**

Quantum of

Generally, **11:4 to 11:16**Replacement Trustees, **11:21**Solicitor as Executor, **11:26**Statement of, for Passing Accounts, **14:8 to 14:16**see also **PASSING ACCOUNTS**Successive Trustees, **11:21****COMPETING WITH TRUST**See **BREACH OF TRUST****COMPOUNDING CLAIMS**See **CLAIMS AGAINST THE ESTATE****COMPROMISING CLAIMS**See **BENEFICIARIES; CLAIMS AGAINST THE ESTATE**Generally, **3:39****CONFLICTS OF INTEREST**See **BREACH OF TRUST****CONFLICTS OF LAWS**Generally, **2:33, 3:45, 5:98 to 5:101**Claims Against the Estate, **3:45**Distribution of Estate see **CLAIMS AGAINST THE ESTATE**Domicile, **5:100**General Rules, **5:99**Domicile, **5:100**

Property

Personal, **2:73 to 2:80**Real, **2:74**

Situs

Generally, **2:73 to 2:80**Bank Deposits, **2:78**Debts, **2:75**Insurance, **2:76**Mortgages, **2:75**Partnership Property, **2:79**Real Estate, **2:74**Share Certificates, **2:77****CONSTRUCTIVE TRUST**Proceeds of accidental death policy and, **2:1**

CONSTRUCTIVE TRUSTEE

See PENALTIES FOR BREACH OF TRUST

CONSULTATION, CONTRAST WITH DELEGATION

Generally, **9:1**

CONTESTATION OF CLAIMS

See CLAIMS AGAINST THE ESTATE

CONTRACTS

Of Deceased

see also ASSETS; CLAIMS AGAINST THE ESTATE

Generally, **2:24, 3:36**

CONTROL

See ASSETS; BREACH OF TRUST; INVESTMENTS; PENALTIES FOR BREACH OF TRUST

CONVERSION

See ASSETS; BUSINESSES

CORPORATIONS

See BUSINESSES; CAPITAL; INCOME; INVESTMENTS

CORPSE

Generally, **1:1**

CORROBORATION

See also CLAIMS AGAINST THE ESTATE

Generally, **3:13**

COSTS

See EXPENSES OF ADMINISTRATION; LEGAL COSTS; PASSING ACCOUNTS

CO-TRUSTEES

See BREACH OF TRUST

Generally, **8:16 to 8:18**

Compromising Views, **8:18**

Distinction, between Trustees, **8:17**

Delegation to Agents, **9:8**

COUNSEL, OPINION OF

See BREACH OF TRUST; PENALTIES FOR BREACH OF TRUST

COURT APPLICATIONS

Generally, **12:1 to 12:24**

Evidentiary Issues, **12:19**

Form of, **12:17**

COURT APPLICATIONS—Cont'd

Generally, **12:1 to 12:24**—Cont'd

Parties to, **12:18**

Position of Trustees, **12:16**

Alternatives

Generally, to Application for Advice, **12:21 to 12:24**

Contestation of Claims Procedure, **3:1 to 3:45; 12:22**

see also CLAIMS AGAINST THE ESTATE

Originating Process, **12:24**

Passing accounts, **12:21**

Variation of Trust, **12:23**

Cases, **12:12 to 12:15**

Generally, **12:12 to 12:15**

Charitable Gifts, **12:15**

Various, **12:13**

Wills

Construction of, **12:14**

Interpretation of, **12:14**

Costs, **12:20**

Evidentiary Issues, **12:19**

General

For Advice of Courts, **12:1**

Jurisdiction, **12:2**

Originating Process, **12:24**

Jurisdiction, **12:2**

Limitations

Judicial Control of Exercise

Trustees' Discretions, of, **12:3**

Trustee's Powers, of, **12:3**

On Use of Section and Rule

Generally, **12:3 to 12:11**

Academic Questions, **12:10**

Deadlocked Trustees, **12:6**

Exercise of Business Judgment, **12:7**

Failure to Exercise Discretion, **12:5**

Future Events, **12:10**

Hostility Among Trustees, **12:4**

Hypotheticals, **12:10**

Other Court Procedures Available, **12:11, 12:21 to 12:24**

Ownership Issues, **12:9**

Trite Law, **12:8**

COURTS

See ADVICE OF THE COURT; COURT APPLICATIONS; PASSING ACCOUNTS

COURTS—Cont'd

Delegation

As Type of Agent, **9:22**

Jurisdiction

Applications for Advice, on, **12:2**

Originating Process, on, **12:24**

CREDITOR, SALE OF ASSETS FOR

See ASSETS

CREDITORS

See also ADVERTISING FOR CREDITORS

Claims see CLAIMS AGAINST THE ESTATE

Notice to see ADVERTISING FOR CREDITORS; PASSING ACCOUNTS

Passing Accounts, May Compel, **14:4**

CREMATION

Generally, **1:1**

CROPS

Generally, **2:42**

CURRENCY EXCHANGE

Generally, **5:42**

CUSTODY

See also ASSETS

Generally, **2:2**

CY-PRES DOCTRINE

Generally, **5:35, 5:95**

DAMAGES

See ASSETS; CLAIMS AGAINST THE ESTATE; EXPENSES OF ADMINISTRATION

DEATH DUTIES

Generally, **7:7**

Rule in Allhusen v. Whittel, **7:7**

DEBT COLLECTORS

See also AGENTS; DELEGATION OF POWER

Generally, **9:13**

DEBTS

Generally, **7:7**

Rule in Allhusen v. Whittel, **7:7**

DEBTS AS ASSETS

See also ASSETS

Generally, **2:46**

DEBTS OF TESTATOR

See CLAIMS AGAINST THE ESTATE

DEFINITIONS

Advancements, defined, **5:80**

Assets, defined, **2:1**

Dependant, defined, **17:4**

Estate Assets, defined, **2:1**

Expenses of Administration, defined, **4:20**

Investments Made by Trustees, defined, **6:2**

Net Family Property, defined, **17:18**

Residue, defined, **5:62**

Spouse, defined, **5:72**

Support, defined, **17:4**

Vouchers, defined, **14:31**

Wilful Default, defined, **10:12**

DELAYS

See BREACH OF TRUST

DELEGATION OF POWER

Absence of Trustee, **9:1**

Accountants, **9:11**

Agents, to, see also AGENTS

Generally, **9:8 to 9:22**

Types of, **9:8 to 9:22**

Auctioneers, **9:15**

Bankers, **9:10**

Co-executors, **9:8**

see also CO-EXECUTORS

Collection Agents

Debt Collectors, **9:13**

Mortgage Collectors, **9:16**

Common Law Rules

Generally, **9:1 to 9:3**

Conditions of, **9:3**

Modifications to

Generally, **9:4, 9:5**

Specific Provisions in Trust Agreement, **9:5**

Specific Provisions in Will, **9:5**

Statutory Intervention, **9:4**

Permissible, **9:2**

Rule Against, **9:1**

Compensation

Generally, **9:23**

Conditions, **9:3**

Consultation, Contrasted with, **9:1**

Court, **9:22**

DELEGATION OF POWER—Cont'd

- Custody of
 - Goods, **9:2**
 - Money, **9:2**
- Employees, **9:20**
- Investment Counsel, **9:12**
- Liability of Trustee
 - Generally, **9:6, 9:7**
 - Beneficiaries, to, **9:6**
 - Third Parties, to, **9:7**
- Power of Attorney
 - Attorneys, **9:19**
- Real Estate Agents, **9:17**
- Reimbursement
 - Generally, **9:23**
- Solicitors
 - Generally, **9:9**
 - Agents as, **9:9**
 - Attorneys, **9:19**
 - Direction to Appoint in Will, **9:5**
- Stockbrokers, **9:12**
- Valuators, **9:18**
 - see also MORTGAGES

DEPENDANTS' RELIEF CLAIMS

- Applications
 - Limitation Period, **17:9**
- As Dependant, **17:2 to 17:10**
 - Generally, **17:2 to 17:10**
 - By Definition, **17:4**
 - Maintenance, **17:5**
 - Restriction on Testamentary Power, **17:2**
 - Power of the Court, **17:3**
- Contracting Out of Obligations, **17:8**
- Nature of, **17:7**
- Part V of the Succession Law Reform Act
 - Restriction on Testamentary Power, **17:2**
 - Power of the Court, **17:3**
 - Order, **17:10**
- Provision of
 - Generally, **17:5**
 - Adequate, **17:6**
 - Contracting out of, **17:8**
 - Factors Considered, **17:6**
 - Nature of, **17:7**
 - Moral Obligations, **17:7**
 - Proper Maintenance and Support, **17:7**

DEPENDANTS' RELIEF CLAIMS

- Cont'd
- Provision of—Cont'd
 - Nature of, **17:7—Cont'd**
 - Wills Variation Act, **17:7**

DEPLETION

- Generally, **7:23**

DEPRECIATION AND RESERVES FOR

- See also CAPITAL; INCOME
- Generally, **7:22**

DESIGNATION

- Beneficiaries, **2:69**
- Registered retirement savings plan, **2:69**
- Revocation of, **2:29**

DEVISES

- See BEQUESTS
- Ademption of
 - Generally, **5:60, 5:61**
 - General, **5:60**
 - Statutory Exceptions, **5:61**

DIRECTION OF COURT

- See ADVICE OF THE COURT

DIRECTORS' FEES

- See COMPENSATION

DISBURSEMENTS

- See also EXPENSES OF ADMINISTRATION
- Generally, **7:1 to 7:26**
- Allhusen v. Whittel, Rule in, **7:7**
- Amortization, **7:21**
- Annuities
 - Generally, **7:11**
 - Created by Will, **7:13**
 - Obligation of Testator Before Death, **7:12**
- Apportionment, **7:18**
- Benefits from Corporations, **7:17**
- Calls on Shares see CLAIMS AGAINST THE ESTATE
- Capital
 - Gains, **11:11**
 - Losses, **11:11**
- Compensation see COMPENSATION
- Corporations, Benefit from, **7:17**
- Death Duties, **7:7**
 - Rule in Allhusen v. Whittel, **7:7**

DISBURSEMENTS—Cont'd

- Debts of Testator, **7:7**
 - Rule in Allhusen v. Whittel, **7:7**
- Depletion, **7:22**
- Depreciation
 - Generally, **7:23**
 - Reserves, **7:23**
- Dividends
 - Allocation at Commencement, **7:18**
 - Allocation at Termination, **7:18**
 - Earl of Chesterfield's Trusts, Re, Rule in, **7:20, 7:24**
 - Ex-Dividend Date, **7:18**
 - From Corporation, **7:17**
 - Record Date, **7:18**
- Encumbrances, Burden of, as Between Capital and Income, **7:8, 7:9**
- Executor's Fees see COMPENSATION
- Expenses of Administration
 - Generally, **7:3**
 - Compensation, **7:4**
- Expenses see EXPENSES OF ADMINISTRATION
- Future Debts, **7:7**
- General, **7:1**
- Gifts
 - Generally, **7:14**
 - Chattels, **7:14**
 - Consumables, **7:14**
- Howe v. Earl of Dartmouth, Rule in, **7:24**
- Income
 - From Other Estates, **7:20**
 - Pending Conversion, **7:24**
 - Tax Liability, **7:5, 7:15**
- Insurance, **4:28 to 4:31, 7:6**
- Investment Decisions, Even-hand Between, **8:7**
- Losses
 - Generally, **7:8, 7:9**
 - Business, **7:9**
 - see also BUSINESSES
 - Investment Sharing, **7:8**
 - Waste, **7:22, 7:23**
- Maintenance of Infants see INFANTS
- Mortgage Payments, Sharing, **7:10**
- Non-Income Bearing Asset, **7:24**
- Power to Retain, **7:24**
- Profits
 - Business, **7:19**
 - see also BUSINESSES

DISBURSEMENTS—Cont'd

- Receipts, see RECEIPTS
- Rent as a, **7:16**
- Repairs, **4:24 to 4:26, 7:2**
- Reserves
 - For Depletion, **7:23**
 - For Depreciation, **7:22**
- Royalties, **2:66**
- Taxes
 - Generally, **4:23**
 - Between Life Tenant and Remainderman, **4:23**
 - Income, **7:15**
 - Municipal see also EXPENSES OF ADMINISTRATION
 - Property, **7:5**
- Unauthorized Investments, Adjustment of Income on, **8:1 to 8:3**
- Unproductive Property, **7:23**
- Waste, **7:22, 7:23**
- Wasting Assets, **7:22, 7:23**

DISCHARGE OF EXECUTOR

- See also REMOVAL; REPLACEMENT; TRUSTEES
- Generally, **10:17**

DISCRETION

- See EXERCISE OF DISCRETION; TRUSTEES
- Reasonable, **15:5**

DISINTERMENT

- Generally, **1:1**

DISTRIBUTIONS

- See BENEFITS

DIVIDENDS

- See CAPITAL; INCOME

DOCUMENTS

- See RECORDS

DOMICILE

- Generally, **5:100**

DONATIO MORTIS CAUSA

- Assets of Estate for Payment of Debts, **2:60**
- Jurisdiction on Audit see PASSING ACCOUNTS

DONATION OF ORGANS

- See FUNERAL

DONATION OF ORGANS—Cont'd

Generally, **1:2**

DONATION OF REMAINS

See FUNERAL

Generally, **1:2**

DOWER

Compromise, **3:39**

Interest on Legacy in Lieu of, **5:19**

DUTY

Executor, **15:5**

EDUCATIONAL PURPOSES

See also CHARITIES

Generally, **5:90**

EFFECT OF AUDIT

See PASSING ACCOUNTS

EMPLOYEES

See also AGENTS; DELEGATION OF POWER

Generally, **9:20**

ESTATE

Debts and, **3:43**

General, **3:43**

Testamentary expenses and, **3:43**

ESTATE ASSETS

See also ASSETS

Generally, **2:1**

Exempted Goods

Burial Plot, **2:13**

Household

Allowances, **2:12**

Goods, **2:11**

Profits, **2:12**

Personal Goods, **2:11**

Pin-Money, **2:12**

Residence, **2:14**

Tools of Trade, **2:11**

Exemption of Goods

For Family Privileges, **2:11 to 2:15**

Property, **2:15**

Support, **2:15**

For Maintenance of Widow and Children, **2:11 to 2:15**

Property, **2:15**

Support, **2:15**

Valuation, **2:2**

ESTATE FREEZES

Generally, **2:25**

ESTATE TRUSTEE

Generally, **1:1**

EVEN-HAND

Generally, **8:7**

EVIDENCE

Capacity to have Children, **16:8, 16:10**

Commission to Take see also CLAIMS AGAINST THE ESTATE

Passing Accounts

Affidavit Books see PASSING ACCOUNTS

Vouchers on see also PASSING ACCOUNTS

EXCHANGE, CURRENCY

Generally, **5:42**

EXCULPATORY CLAUSE

See BREACH OF TRUST

EXECUTOR

Challenge to, **10:2, 15:5**

Compensation of, **11:4**

Calculation of compensation, **11:4**

Death of see TRUSTEES

Debts of, **2:46**

Right of Retainer for Debts Due Him from the Testator, **5:48**

Duty of, **15:5**

Expenses see EXPENSES OF ADMINISTRATION

Fees see COMPENSATION; LEGAL COSTS

Fiduciary duty, **10:2**

Legacies to, **5:53**

New Trustees see TRUSTEES

Powers of Appointment, **2:63**

Right to body of deceased, **1:1**

Undisposed Residue to Executor Personally, **5:65**

EXECUTOR'S COMPENSATION

See also COMPENSATION; EXPENSES OF ADMINISTRATION

Advice on Executor's, **4:17**

Compensation

Generally, **7:4**

EXECUTOR'S COMPENSATION

—Cont'd

Compensation—Cont'd

Breach of Trust, for, see also **BREACH OF TRUST; TRUSTEES**

Generally, **10:8 to 10:10**

Executor's, **11:1 to 11:26**

Advice on, **4:17**

EXECUTOR'S COSTS

See **EXPENSES OF ADMINISTRATION**

EXECUTOR'S FEES

See **COMPENSATION; EXECUTOR'S COMPENSATION; EXPENSES OF ADMINISTRATION**

EXECUTORS' YEAR

Generally, **5:2**

EXERCISE OF DISCRETION

See also **TRUSTEES**

Generally, **8:1 to 8:3**

Co-executors see **CO-EXECUTORS**

Confidentiality, **8:20**

Court will not Assist with Advice, **8:14**

see also **ADVICE OF THE COURT**

Disclosure of Deceased's Instructions to Solicitor, **5:54**

Drafting Clauses to Avoid Judicial Review, **8:13**

Encroachment, **8:7**

Fiduciary Duties

Generally, **8:5**

Even-Hand, Maintain, **8:7**

Failure to Exercise, **8:6**

Improper Delegation, **8:8**

General, **8:1 to 8:20**

Investment see also **INVESTMENTS**

Judicial Control, **8:4 to 8:11**

Grounds for Intervention, Other

Generally, **8:9**

Improper Purpose, **8:10**

Unreasonable Decisions, **8:11**

Limited by Powers

Generally, **8:1 to 8:3**

Mere, **8:2**

Trust, **8:2**

Payment Date, **5:13**

Power of Sale see also **BUSINESSES**

Will, Prescribed in, **5:87**

EXONERATION CLAUSE

Generally, **3:38**

EXPENSES

See also **EXPENSES OF ADMINISTRATION**

Generally, **4:1 to 4:32**

Advice on Executor's Compensation, **4:17**

Costs

Bill of, **4:8**

By beneficiary, **4:5 to 4:19**

By trustee, **4:9**

From Special Funds Within Estate, **4:18**

Personal interest versus interests of the estate, **4:9**

Prospective, **4:7**

Security for, **4:8**

Solicitor-and-own-client basis, **4:11**

Special, **4:8**

Executor's Lien On Estate Assets, **4:3**

General, **4:1**

Indemnity

From Beneficiaries, **4:4**

From Estate, **4:2**

EXPENSES OF ADMINISTRATION

See also **BREACH OF TRUST; COMPENSATION**

Generally, **4:20 to 4:22, 7:3**

By Definition, **4:20**

Relating to Specific Gifts, **4:21**

Advances for, by Executor see **PASSING ACCOUNTS**

Advice on Executor's Compensation, **4:17**

Apportioned among

Beneficiaries see **BENEFICIARIES**

Funds, **4:18**

Benefitting a Specific Legatee, **4:16**

Capital see **DISBURSEMENTS**

Charitable Contributions, **4:1**

Clerical Help see also **DELEGATION OF POWER**

Collection Agents, **9:13**

see also **AGENTS; DELEGATION OF POWER**

Compensation

Generally, **7:4**

EXPENSES OF ADMINISTRATION

—Cont'd

- Compensation—Cont'd
 - Breach of Trust, for
 - Generally, **10:8 to 10:10**
 - Calculation of Interest, **10:10**
 - Calculation of Profits, **10:10**
 - Dealing with Trust Property for
 - Trustee's Private Purposes, **10:9**
 - Innocent But Negligent, **10:2, 10:3, 10:8**
 - Executor's, **11:1 to 11:26**
 - Advice on, **4:17**
- Costs From Special Funds Within Estate, **4:18**
- Currency Exchanges, **5:42**
- Damages for Tort, **4:2**
- Defined, **4:1**
- First Charge on Estate After Burial, **1:3**
- General, **4:1 to 4:32**
- Income see **DISBURSEMENTS**
- Indemnity
 - From Beneficiaries, **4:4**
 - From Estate, **4:2**
- Insurance see **INSURANCE**
- Interest on Money Advanced by Executor, **4:1**
- Making up Accounts for Audit, **4:8**
 - see also **PASSING ACCOUNTS**
- Office Space, **4:1**
- Priorities, **4:3**
- Repairs see **REPAIRS**
- Specific Gifts, **4:21**
- Taxes
 - Apportioned Between Life Tenant and Remainderman, **4:23**
 - Unproductive Real Estate, **7:23**
 - Travelling, **4:1**

EXTINGUISHMENT OF TRUST

- See **VARIATION OF TRUSTS**

FALSIFICATION OF ACCOUNTS

- See **PASSING ACCOUNTS**

FATHER

- See **CLAIMS AGAINST THE ESTATE; INTESTACY**
- Generally, **3:28**

FEES

- See **COMPENSATION; DELEGATION OF POWER; LEGAL COSTS**

FOREIGN CREDITORS

- See **CLAIMS AGAINST THE ESTATE**

FOREIGN EXECUTORS

- See also **TRUSTEES**
- Generally, **14:34**

FORMS

- Accounts in Passing Form, **14:38**
 - see also **PASSING ACCOUNTS**
- Advertisement for Creditors, **3:5**
 - see also **ADVERTISING FOR CREDITORS**
- Compensation Claim, **14:38**
 - see also **PASSING ACCOUNTS**
- Judgments see also **CLAIMS AGAINST THE ESTATE**
 - Contested Passing of Accounts, **14:39**
 - Unopposed Passing of Accounts, **14:39**
- Order on Passing Accounts see **PASSING ACCOUNTS**
- Passing Accounts
 - Generally, **14:7 to 14:16**
 - Judgment
 - Contested, on, **14:39**
 - Unopposed, on, **14:39**
 - Records, Generally, see also **RECORDS**

FORMS OF ACTION

- See **CLAIMS AGAINST THE ESTATE; DEPENDANTS' RELIEF CLAIMS**

FRAUD

- See **BREACH OF TRUST; PASSING ACCOUNTS**

FUNERAL

- Corpse, The, **1:1**
- Donation of
 - Human Tissue Gift Act, **1:2**
 - Organs, **1:2**
 - Remains, **1:2**
- Expenses
 - Burial, **1:3**
 - Estate Responsibility, **1:3**
 - Funeral, **1:3**
 - Necessary and Reasonable Expenses, **1:3**

FUNERAL—Cont'd

- Grave
- Perpetual care of, **1:5**
- Gravestones, **1:4**

GIFTS

- See also ASSETS
- Generally, **7:14**
 - Lapse, **5:29**
 - Of residue, **5:30**
- Advances and, **2:1**
- Chattels, **7:14**
- Consumables, **7:14**

GOODWILL

- See also BUSINESSES
- Generally, **2:17**

GRAVE

- See also BURIAL; FUNERAL
- Generally, **1:5**
- Perpetual care of, **1:5**

GRAVESTONES

- See FUNERAL
- Generally, **1:4**

GUARDIAN OF INFANT

- See also BENEFICIARIES; INFANTS
- Beneficiary
- Right to Infant's Property, **5:35**

HOLOGRAPHIC WILL

- Generally, **4:11**

HOTCHPOT

- Generally, **2:1, 5:60**

HOUSEHOLD ALLOWANCES

- Generally, **2:11**

HOUSEHOLD EXPENSES

- Generally, **2:11**

HOUSEHOLD GOODS

- Generally, **2:11**

HUSBAND

- See also CLAIMS AGAINST THE ESTATE; BURIAL
- Generally, **3:32**

ILLEGITIMATE CHILD

- See INTESACY

IMPARTIALITY

- See BREACH OF TRUST; EVEN-HAND

IMPROVEMENTS

- See also REPAIRS
- Generally, **4:24 to 4:26**
- Chargeable to Capital, **4:25**
- Chargeable to Income, **4:25**
 - Dilapidation Existing at Time of Death, **4:26**
- General, **4:24**

INCOME

- See also DISBURSEMENTS; RECEIPTS

INCORPORATION

- See BUSINESSES

INDEMNITY

- See PENALTIES FOR BREACH OF TRUST

INFANTS

- See also DEPENDANTS' RELIEF CLAIMS
- Generally, **5:83 to 5:87**
- Consent for in Changing Trusts see VARIATION OF TRUSTS
- Discretion in Will, **5:87**
- Guardian
 - Right to Property, **5:51**
- Maintenance of
 - Generally, **5:83 to 5:86**
 - Discretion in Will, **5:87**
 - From Their Own Funds, **5:83 to 5:86**
 - General Principles, **5:83**
 - Interest see INTEREST
 - Other Means of Support, **5:85**
 - Past Maintenance, **5:86**
 - Standard of, **5:84**
- Not Compellable to Give Accounting see PASSING ACCOUNTS

INFORMATION

- See RECORDS

INQUIRIES

- See ASSETS; BENEFICIARIES; INVESTMENTS; MORTGAGES; RECORDS; PENALTIES FOR BREACH OF TRUST

INSOLVENT ESTATES

See also CLAIMS AGAINST THE ESTATE

Bankrupt, undischarged, **2:1**

Indebtedness between Testator and Executor, **3:42**

Priority of Claims, **3:41**

Refunds of Overpayment, **5:55**

INSURANCE

Generally, **2:26 to 2:41, 4:28 to 4:31, 7:6**

Accidental Death, **2:34**

Criteria for Determining, **2:34**

Bankruptcy of

Beneficiary, **2:30**

Life Insured, **2:30**

Benefits, **4:31**

Binders, **2:32**

Claimants Born Outside Marriage, **2:37**

Common Disaster, **2:38**

Conflicts of Law, **2:33**

Contracts, **2:32**

Creditor Proofing, **2:28**

Debts, **2:31**

Designation of Beneficiaries, **2:29**

Irrevocable Designation, **2:27**

Revocable Designation, **2:27**

Spearation Agreement, **2:27**

Duty to Insure, **4:28, 4:29**

Fire Insurance, **4:28**

Other Types of Insurance, **4:29**

Public Liability, **4:29**

Fire, **4:28**

General, **2:26**

Life Annuity, **2:35**

Living Benefits, **2:41**

Loans, **2:31**

Money

As an Asset see ASSETS

On Deposit, **2:36**

On a Third Party's Life, **2:39**

On Testator's Life, **2:27**

Partial beneficiaries of policy, **2:30**

Premium Refunds, **2:40**

Premiums Payable from

Capital, **4:30**

Income, **4:30**

Testator's Life, **2:27**

INTENTION

Contrary intention

Evidence of, **2:1**

Within a will, **5:30**

Testator's, **4:9, 5:30**

INTEREST

Claims Against Estate, on see CLAIMS AGAINST THE ESTATE

Delayed Payments by Trustee, Incurred by see also BREACH OF TRUST

On Legacies see also LEGACIES

Dower, in Lieu of Executor's Year, **5:19**

Penalty for Delay in Investment see PENALTIES FOR BREACH OF TRUST

IN TERROREM CLAUSES

Generally, **5:33**

INTESTACY

Generally, **5:66 to 5:82**

Advancements, Requirement of, **5:81**
see also ADVANCEMENTS

Distribution

Per Capital, **5:71**

Per Stirpes, **5:71**

Half Blood, **5:67**

Loss of Right to Inherit

Other Than By Agreement, **5:74**

Other Than By Release, **5:74**

Miscellaneous, **5:77**

Presumptions of Survivorship, **5:75**

Real Property—Ontario, **5:79**

Representation, **5:70**

Table of Intestate Succession in Ontario
for Deaths After March 30, 1978,
5:78

Degrees of Consanguinity, **5:78**

Who Takes, **5:66**

Adopted Persons, **5:68**

Next-of-Kin, **5:73**

Date when Determined, **5:76**

Persons Born Outside Marriage, **5:69**

Relatives of the Half Blood, **5:67**

Rights of Spouses, **5:72**

Election, **5:72**

Spouse, defined, **5:72**

INVENTORY

See also ASSETS

INVENTORY—Cont'd

Generally, **2:2**

INVESTIGATIONS

See **ASSETS; BENEFICIARIES; INVESTMENTS; MORTGAGES; RECORDS**

INVESTMENT COUNSEL

See also **AGENTS; DELEGATION OF POWER**

Generally, **9:12**

INVESTMENTS

See also **RECEIPTS; TRUSTEES**

Generally, **6:1 to 6:18**

Accounts, Set Out in Passing Form see **PASSING ACCOUNTS**

Acquiescence by Beneficiaries see **PENALTIES FOR BREACH OF TRUST**

Acting with

Prudence, **6:6**

Reasonable Care, **6:6**

Advice on, **6:9**

Annuities see **ANNUITIES**

Authorized

By Court, **6:3**

By Trustee, **6:3**

By Will, **6:3**

Ceasing to be, **6:3**

Background, **6:1**

Breach of Trust see **BREACH OF TRUST**

Cash Balances, **6:14**

Changed Conditions, **6:3**

Common Trust Funds, **6:12**

Conversion, Time for see **ASSETS; BUSINESSES**

Definition, **6:2**

Delegation, **6:10**

Depreciation Reserves, **7:22**

Directions in Will, **6:3, 6:4**

Discretion, **8:1 to 8:3**

Diversification, **6:8**

Ethical Investing, **6:17**

Trustee Investing in its Own Securities, **6:16**

Even-hand, Life Tenant and Remainderman, **8:7**

Express Investment Clauses, **6:4**

Foreign Investments, **6:13**

Fundamental Requirements, **6:3**

INVESTMENTS—Cont'd

History, **6:1**

Information, Trustee Must Furnish, **13:1, 13:2**

Investment

Advice, **6:9**

Amortization

Discounts, of, **7:21**

Premiums, of, **7:21**

Common Trust Funds, in, by Trust Corporation, **6:12**

Conflict Between Income and Capital Beneficiaries, **6:15**

Income from, Unfair to Life Tenant, **7:24**

Income from, Unfair to Remainderman, **7:24**

Refund of Income from Unauthorized, **7:25**

Mutual Funds, in, **6:11**

Outside the Jurisdiction, **6:13**

Trustee Investing in its Own Securities, **6:16**

Life Insurance, **2:42, 16:9**

Mutual Funds, **6:11**

Penalties for Breach of Investment Rules see **BREACH OF TRUST; PENALTIES FOR BREACH OF TRUST**

Power to Retain, Exercise of, **6:7**

Prudence, **6:6**

Retaining Authorized, **6:3**

Special Cases, **6:7 to 6:18**

Cash Balances, **6:14**

Delegation, **6:10**

Diversification, **6:8**

Effect of Power to Retain Existing, **6:7**

Investment Advice, **6:9**

Investment by Trust Corporation in Common Trust Funds, **6:12**

Investment Conflict Between Income and Capital Beneficiaries, **6:15**

Investment in Mutual Funds, **6:11**

Investments Outside the Jurisdiction, **6:13**

Standard of Prudence, **6:6**

Trust Company, **6:12**

Trustee Act, **6:5**

Prudent Investor Rule, **6:5**

Trustee Investing in its Own Securities, **6:16**

Unauthorized see **BREACH OF TRUST**

INVESTMENTS—Cont'd

Variation of Trusts, **6:18**
 see also TRUSTS; VARIATION OF TRUSTS

JOINT PROPERTY

See also ASSETS
 Generally, **2:47 to 2:59**

JUDGMENT

Form of Against Estate see CLAIMS AGAINST THE ESTATE; FORMS

JURISDICTION OF THE COURT

See ADVICE OF THE COURT; CLAIMS AGAINST THE ESTATE; PASSING ACCOUNTS; VARIATION OF TRUSTS

LAND

See SITUS

LAPSE

Generally, **5:35**

LAPSE OF TIME

By Executor see PENALTIES FOR BREACH OF TRUST
 Refusal to Compel Audit, **14:5**

LEASES

As a Contingent Liability see CLAIMS AGAINST THE ESTATE
 As an Asset, **2:64**

LEGACIES

See BENEFICIARIES; BEQUESTS
 Abatement of
 Generally, **5:56 to 5:59**
 General, **5:57**
 Inference from
 Relationships, **5:58**
 Will, **5:58**
 Legacies for Value, **5:59**
 Order of, **5:57**
 Valuation for, **5:57**
 Expenses of Payment, **5:42**
 Currency Exchange, **5:42**
 Fraudulent Legatees, **5:38**
 Inference from Will
 Generally, **5:10 to 5:17**
 Date Left to Discretion
 Contingent Legacy, **5:17**
 For Benefit of Residuary Legatees, **5:16**

LEGACIES—Cont'd

Inference from Will—Cont'd
 Date Left to Discretion—Cont'd
 Of Executor, **5:14**
 Of Person Not Executor, **5:15**
 Date of Payment Specified, **5:13**
 Demonstrative Legacies, **5:10**
 General Legacies, **5:10**
 Gift of a Life Interest, **5:11**
 Legacies Postponed for Life Tenancies, **5:12**
 In Lieu of Compensation, **11:2**
 Interest on
 Generally, **5:9 to 5:25**
 Date Left to Discretion
 Contingent Legacy, **5:17**
 For the Benefit of the Residuary Legatees, **5:16**
 Of a Person Not the Executor, **5:15**
 Of the Executor, **5:14**
 Date of Payment of Legacy Specified in the Will, **5:13**
 One Year Rule, **5:9**
 Exceptions, **3**
 Generally, **3**
 Charged on Real Estate, **5:20**
 Creditors, **5:19**
 Infants, **5:18**
 In Lieu of Dower, **5:19**
 Demonstrative Legacies, **5:10**
 General Legacies, **5:10**
 Gift of a Life Interest, **5:11**
 Legacies Postponed for Life Tenancies, **5:12**
 Summary, **5:25**
 Order of, **5:57**
 Overpayment of, **5:55**
 Rate of Interest, **5:21**
 Right of Selection, **5:46**
 Set-Off with Debts, **5:47**
 Right of Executor to Retain for Debts Due Him from the Testator, **5:48**
 Specific
 Generally, **5:22**
 Annuities, **5:23, 5:52**
 Executors, to, **5:53**
 Settlement Amounts, **5:24**
 Summary, **5:25**
 Value, for, **5:57, 5:59**

LEGACIES—Cont'd

Vesting, **5:41**

LEGAL ACTIONS

As an Asset, **2:44**

see also **ASSETS**

Compromising see **CLAIMS AGAINST THE ESTATE**

Limitations see **STATUTE OF LIMITATIONS**

LEGAL ADVICE

As a Defence see **PENALTIES FOR BREACH OF TRUST**

Retaining Solicitors see **DELEGATION OF POWER**

LEGAL COSTS

See **EXPENSES**

Generally, **4:1 to 4:32**

Action by One of Two Trustees, **4:16**

Appeals, **4:10**

Apportioned among

Beneficiaries see **BENEFICIARIES**

Funds, **4:18**

Bad Accounting, Caused By see **PENALTIES FOR BREACH OF TRUST**

Beneficiary May Compel Taxation see **PASSING ACCOUNTS**

Co-executors, Separately Advised, **4:16**

Collection Fees, **4:1**

Costs of

Court Proceedings Allowed to Executors, **4:7**

Appeals, **4:10**

General, **4:8**

Special Costs, **4:8**

Unnecessary Actions or Defenses Brought or Made by Trustees, **4:9**

Unsuccessful Actions or Defenses Brought or Made by Trustees, **4:9**

Maladministration by Trustee, **4:12**

Parties Other than Executors or Administrators, **4:11**

Special Costs, **4:11**

Counsel Fee at Passing Accounts, **14:24, 14:32**

Depriving Executor of His, As a Penalty see also **PENALTIES FOR BREACH OF TRUST**

Executor's Fees, Advice on, **4:17**

LEGAL COSTS—Cont'd

General, **4:1 to 4:32**

Insufficiency of Funds, **4:13**

Legacies, Incidental to, **4:21**

Litigation costs -

Modern Practice, **4:5 to 4:19**

Older Practice, **4:5 to 4:19**

Negligence of Executor Creating, **4:9**

New Trustees see **TRUSTEES**

Passing of Accounts on see **PASSING ACCOUNTS**

Penalty, as a, **4:9**

Priorities, **4:3**

Probate Application, Unsuccessful, **4:9**

Questioning Validity of Will, **4:5 to 4:19**

Refusal to Account and Give Information, Caused by see **BREACH OF TRUST; PENALTIES FOR BREACH OF TRUST**

Review of Solicitor's Bill on Passing Accounts, **14:32**

Services which shall be done by Trustee, **4:5 to 4:19**

Solicitor

Appointed Executor, **4:15**

Compensation, **11:26**

Doing Trustee's Work, **4:14**

General Accounts to Executors, **4:6**

Types of Agents, **9:9**

Special Funds Within Estate, **4:18**

Taxation of see **PASSING ACCOUNTS**

Trustees Work Done by Solicitor, **4:14**

Trust Fund Insufficient to Finance Lawsuit, **4:13**

Unnecessary

Attendances at Audit, **14:32**

see also **PASSING ACCOUNTS**

Legal costs by beneficiary, **4:5 to 4:19**

Litigation by Executor, **4:9**

Unsuccessful Litigation, by Executor, **4:9**

LEGATEES

See **BENEFICIARIES**

LIABILITY

Of administrator, **4:12, 10:14**

Of executor

Relief from, if acting reasonably, **4:12, 10:14**

LIFE ESTATE

Failure of, **5:41**

LIFE INSURANCE

See INSURANCE

LOSS

See BREACH OF TRUST; BUSI-
NESSES; CAPITAL; INCOME;
INVESTMENTS

MAINTENANCE OF INFANTS

See INFANTS

MARRIED WOMEN

See also MATRIMONIAL PROPERTY
Claim Against Estate see CLAIMS BY
NEAR RELATIVES
Funeral Expenses see BURIAL
Intestate Share see INTESTACY

MATRIMONIAL PROPERTY

Claim for Division see also CLAIMS BY
NEAR RELATIVES
Applicants
Parties to Domestic Contract, **17:14**
Personal Representatives of Spouse,
17:15
Spouse, **17:13**
Conclusion, **17:20**
Entitlement
Generally, **17:18, 17:19**
Net Family Property
Calculation, **17:19**
Definition, **17:18**
Limitation Periods, **17:16**
Nature of, **17:12**
Restriction on Distribution Pending
Election, **17:17**
Who Can Make, **17:13 to 17:15**
Parties to Domestic Contract, **17:14**
Personal Representatives of Spouse,
17:15
Spouse, **17:13**
Division on Death
Generally, **17:11 to 17:20**
History, **17:11**
Election, Restriction on Distribution of,
17:17
Entitlement
Generally, **17:18, 17:19**
Net Family Property
Calculation, **17:19**
Definition, **17:18**
joint ownership of, **2:1**

MATRIMONIAL PROPERTY—Cont'd

History, **17:11**
Limitation Periods for Claims, **17:16**
Net Family Property
Calculation, **17:19**
Definition, **17:18**
partition and sale of, **2:1**

MISTAKE

Effect on Passing Account Order, **14:36**
see also PASSING ACCOUNTS
Of Law see PENALTIES FOR BREACH
OF TRUST

MODIFICATIONS OF TRUSTS

See also VARIATION OF TRUSTS
Directed by Beneficiaries, **16:1**
General, **16:1 to 16:13**
Informal, **16:2**
Saunders v. Vautier, Rule in, **16:1**
Termination, Premature, **16:1**
Variation
Common Law, **16:12**
Statutes
Generally, **16:3**
Variation of Trusts Act see VARIA-
TION OF TRUSTS ACT

MONUMENTS

See also GRAVESTONES
Generally, **1:4**

**MORAL OBLIGATIONS OF
TESTATOR**

See CLAIMS AGAINST THE ESTATE

MORTGAGE COLLECTORS

See also AGENTS; DELEGATION OF
POWER
Generally, **9:16**

MORTGAGES

Generally, **2:3, 2:10, 2:75**
Under Seal, Specialty Debts, **2:75**
Back on Sale see also SALE
construction, **2:1**
Repairs, Power to Raise for see also
REPAIRS
Specialty Debts, **2:75**
Trustee Act Provisions, **2:11**

MOTHER

See CLAIMS AGAINST THE ESTATE;
INTESTACY

MOTHER—Cont'd

Generally, **3:28**

NEGLIGENCE

See BREACH OF TRUST

NEW TRUSTEES

See TRUSTEES

NEXT-OF-KIN

See INTESTACY

NON INCOME-BEARING ASSETS

Discretion in Conversion see ASSETS;
BUSINESSES; CAPITAL;
INCOME; POWER; SALE

NOTICE TO CREDITORS

See ADVERTISING FOR CREDITORS;
CLAIMS AGAINST THE ESTATE

NOTIFICATION OF BENEFICIARY

See BENEFICIARIES

ORDER

Changing Trust Terms see MODIFICA-
TIONS OF TRUSTS

Direction of the Court, **8:14**

see also ADVICE OF THE COURT

Passing Accounts on, **14:36**

ORIGINAL ASSETS

See ASSETS

OVERPAYMENTS, REFUND OF

Generally, **5:55**

PARENT

See CLAIMS AGAINST THE ESTATE;
INTESTACY

Generally, **3:28**

PARTIAL DISTRIBUTION

See also BENEFITS

PARTNERSHIPS

See also BUSINESSES

PASSING ACCOUNTS

Generally, **14:1 to 14:39**

Advantages, **14:2**

Affidavit Proving Account, **14:17, 14:23**

Appeals, **14:37**

Appointment

Or Whom Served, **14:18**

Time for Service, **14:18**

Asset Description, **14:8**

PASSING ACCOUNTS—Cont'd

Assets Remaining in Executors' Hands,
14:12

Capital, **14:9, 14:10**

Charities, **14:6**

Charities Accounting Act, **14:6**

Citation to, **14:3**

Co-executors

May Compel, **14:4**

Passing Separately, **14:2**

Commission to Take Evidence, **14:31**

Compensation Statement, **14:15**

Costs

At Hearing, **14:32**

Of Making Up Account, **14:32**

Of Passing, **14:32**

Tariff of, **14:32**

Unopposed Application, **14:24**

Counsel

At Hearing, **14:32**

Unnecessary Attendance, **14:32**

Court

Appeals, **14:37**

Effect of Order

Fraud, **14:36**

Mistake, **14:36**

Jurisdiction, **14:35**

Powers, **14:35**

Proper, **14:1**

Refuse to Compel, **14:5**

Creditors May Require, **14:3**

Cross Examining Witnesses, **14:28 to**
14:33

Defences to Motion to Compel, **14:5**

Duty to, **14:1**

Evidence

At Hearing, **14:31**

Books as, **14:31**

Original Entry, **14:31**

Executor where Probate Vacated May Be
Compelled to, **14:4**

Form of

Generally, **14:7 to 14:16**

Accounts, **14:38**

Sample, **14:38**

Judgment

Contested, on, **14:39**

Unopposed, on, **14:39**

Rules as to, **14:7**

PASSING ACCOUNTS—Cont'd

- Form of—Cont'd
 - Statements Required, **14:8 to 14:16**
 - Generally, **14:8 to 14:16**
 - Assets, List of, **14:8**
 - Closing
 - Investments, **14:13**
 - Liabilities, **14:14**
 - Money, **14:13**
 - Compensation Claimed, **14:15**
 - Disbursements, **14:10**
 - Investments, **14:11**
 - Other, **14:16**
 - Receipts, **14:9**
 - Unrealized Assets, **14:12**
 - Suggested Forms, **14:38**
- Fraud
 - Effect on Order, **14:36**
- Guardian May Pass, **14:2, 14:3**
- Hearing, Procedure at, **14:28 to 14:33**
- Income, **14:9, 14:10**
- Investment Transactions, **14:11**
- Judgment
 - Form of, Contested, on, **14:39**
 - Form of, Unopposed, on, **14:39**
- Long Standing Account, **14:31**
- Master's Office, Analogy with, **14:35**
- Mistake
 - Effect on Order, **14:36**
- No Absolute Right, **14:2 to 14:5**
- Obligations
 - Generally, **14:2 to 14:6**
 - Charities, for, **14:6**
 - Court Refusal to Compel, **14:5**
 - Require, Who May, **14:3**
 - Required, Who May Be, **14:4**
 - Voluntary, **14:2**
- Oral Evidence, **14:31**
- Order, Effect of, **14:36**
- Payment into Court, **14:34**
- Powers of
 - Court, **14:35**
 - Master, **14:35**
- Procedure
 - At Hearing
 - Generally, **14:28 to 14:33**
 - Costs, **14:32**
 - Whether Costs Paid Out of Estate, **14:32**
 - Evidence, **14:31**

PASSING ACCOUNTS—Cont'd

- Procedure—Cont'd
 - At Hearing—Cont'd
 - General, **14:28**
 - Judgment, **14:33**
 - Form of, Contested, on, **14:39**
 - Before Hearing
 - Generally, **14:17, 14:18**
 - Filing, **14:17**
 - Service, **14:18**
 - Unopposed Application
 - Generally, **14:19 to 14:27**
 - Costs, **14:24**
 - Filing, **14:23**
 - General, **14:19**
 - Judgment, **14:27**
 - Form of, Unopposed, on, **14:39**
- Proper Court, **14:1**
- Refusal to Compel
 - Active Administration, No Apparent Problems, **14:5**
 - Cost Concerns, **14:5**
 - Elapse of Many Years, **14:5**
 - Estate in Litigation, **14:5**
 - First Year of Estate, **14:5**
 - Specific Legacies, **14:5**
- Re-opening
 - Account After Order, **14:37**
 - By Supreme Court, **14:35**
 - By Surrogate Court, **14:35, 14:37**
 - For Fraud, **14:36**
 - For Mistake, **14:36**
- Representatives of a Deceased Trustee
 - May Be Compelled, **14:4**
- Serving of Notice, **14:18**
- Solicitor's Tariff, **14:32**
- Supreme Court
 - Function of, **14:35**
 - Removal to, **14:35**
- Suspicious Account, **14:36**
- Tariff, Solicitors, As Maximum, **14:32**
- Taxing Solicitors Bill, **14:32**
- Types of Trustee Who May, **14:2, 14:4**
- Undisposed of Assets, **7:23**
- Voluntary, **14:2**
- Vouchers
 - Defined, **14:31**
 - Missing, **14:31**
- Who May Demand
 - Co-executors, **14:3**

PASSING ACCOUNTS—Cont'd

Who May Demand—Cont'd
 Contingent Interests, **14:3**
 Creditors, **14:3**
 Next-of-Kin, **14:3**
 Personal Representatives, **14:3**
 Specific Legatees, **14:3**
 Undertakers, **14:3**
 Who May Be Required To, **14:3**
 Who Served, **14:18**
 Witnesses, **14:31**

PAYMENT INTO COURT

Generally, **14:34**

PAYMENT OF DEBTS

See CLAIMS AGAINST THE ESTATE

PAYMENT OF LEGACIES

See BENEFITS; LEGACIES

PENALTIES FOR BREACH OF TRUST

Generally, **10:8 to 10:10**
 Burden of Proof on Trustee, **10:12**
 Calculation
 Of Interest, **10:10**
 Of Profits, **10:10**
 Co-Executors see TRUSTEES
 Dealing with Trust Property for Trustee's
 Private Purposes, **10:9**
 Inadequate
 Inquiries, **13:4**
 Records, **13:4**
 Indemnity
 By Beneficiaries, **10:17**
 Innocent But Negligent Breach, **10:2,**
 10:3, 10:8
 Intentional Breach, **10:2, 10:3**
 Investment Errors, **6:7 to 6:18**
 Legal Costs as a Penalty see LEGAL
 COSTS
 Misconstruction of Will, **12:14**
 Negligence, **10:2, 10:3**
 Records Inadequate, **13:4**
 Release by Beneficiaries, **10:17**
 Relief from, **10:17**
 Selecting Agents see AGENTS
 Statute of Limitations see STATUTE OF
 LIMITATIONS
 Wilful Breach, **10:12**

PENSIONS

Designation of beneficiaries, **2:69**

PENSIONS—Cont'd

Revocation of former testamentary
 dispositions and, **2:69**

PERSONAL REPRESENTATIVES

Authority, **1:1**
 Successor, **15:10**
 Surviving, **15:9**

PIN-MONEY

Generally, **2:12**

PLEDGING

Generally, **2:3, 2:10**

POVERTY, RELIEF OF

See CHARITIES

POWER

Beneficiaries to Extinguish Trusts see
 MODIFICATIONS OF TRUSTS
 Compromise see CLAIMS AGAINST
 THE ESTATE
 Delegate see DELEGATION OF POWER
 Exercise of see EXERCISE OF DISCRE-
 TION
 Infants, to Maintain see INFANTS
 Investment see INVESTMENTS
 Of Appointment, **2:63**
 Retain
 Investments, **6:7**
 Pending Conversion see ASSETS
 Sale, of see also SALE

POWERS OF APPOINTMENT

Generally, **2:63**

PRESUMPTION

Advancement
 Assets subject to, **2:1**
 Double portions
 Against, **2:1, 5:62**
 Rebuttal of, **2:1**
 Resulting trust, **2:1**

PRIORITIES

Abatement, **5:57**
 Burial, **1:3**
 Claims Against the Estate, **3:41**
 Executors' Fees see COMPENSATION
 Expenses of Administration, **4:3**
 Legal Costs, **4:3**

PRIVATE COMPANIES

See also BUSINESSES

PROFITS

- Business see **BUSINESSES**
- By Executor see **BREACH OF TRUST;**
PENALTIES FOR BREACH OF
TRUST

PROTECTION OF TRUSTEES

- See **PENALTIES FOR BREACH OF**
TRUST

REAL ESTATE

- Asset, as an, **2:74**
- Situs see **SITUS**

REAL ESTATE AGENTS

- See also **AGENTS; COMPENSATION;**
DELEGATION OF POWER
- Generally, **9:17**

REALIZING ASSETS

- See also **ASSETS; BUSINESSES;**
CAPITAL; INCOME

RECEIPTS

- Generally, **7:16 to 7:26**
- Allotment
 - Commencement of Trust, **7:18**
 - Termination of Trust, **7:18**
- Apportionment
 - Commencement of Trust, **7:18**
 - Termination of Trust, **7:18**
- Benefits from Corporation to Sharehold-
ers, **7:17**
- Income vs. Capital, **7:17**
- Business Profits, **7:19**
- Capital Transactions
 - Gain, **7:26**
 - Losses, **7:26**
- Income
 - Other Estates, **7:20**
- Investments
 - Amortization of Discounts, **7:21**
 - Amortization of Premiums, **7:21**
 - Income from, Unfair to Life Tenant,
7:24
 - Income from, Unfair to Remainderman,
7:24
 - Refund of Income from Unautho-
rized, **7:25**
- Other Estates
 - Income Receipts, **7:20**
- Rents, **7:16**
- Royalties, **7:20**

RECEIPTS—Cont'd

- Sale by Installments, **7:20**
- Waste
 - Generally, **7:22, 7:23**
 - Depletion, **7:23**
 - Depreciation, **7:22**

RECORDS

- Generally, Duty to Keep, **13:1 to 13:4**
- Accounts
 - Generally, **13:1 to 13:4**
 - For Audit see **PASSING ACCOUNTS**
- Agent to Keep see **AGENTS**
- Copying
 - Expense of, **13:3**
 - Right to, **13:3**
- Duty to Keep, **13:1 to 13:4**
- Failure to Keep, Penalties for, **13:4**
- Form of, **13:1**
 - see also **PASSING ACCOUNTS**
- Inspection, Right to, **13:3**
- Ledger Entries as Evidence, **13:2**
- Minutes of Meetings, **13:2**
- Penalties
 - For Inadequate, **13:4**
- Private Companies, **13:2**
- Title Documents, **13:2**
- Trustee's Duties
 - To Permit Copying, **13:3**
 - To Permit Inspection, **13:3**
 - To Provide Information, **13:2**
- Vouchers, **13:2**

REFUND OF OVERPAYMENT

- Generally, **5:55**

REGISTERED RETIREMENT INCOME PLAN

- Beneficiary, **2:1**
- Joint accounts and, **2:1**
- Proceeds of, **2:1**

REGISTERED RETIREMENT SAVINGS PLAN

- Designation of beneficiaries, **2:69**
- Revocation of former testamentary
dispositions and, **2:69**
- Intention, **2:69**

REIMBURSEMENT OF TRUSTEES

- See **EXPENSES OF ADMINISTRATION**

RELATIVES

See also CLAIMS AGAINST THE ESTATE; DEPENDANTS' RELIEF CLAIMS; INTESTACY

Aunt, **3:31**

Brothers, **3:29**

Child, **3:28**

see also INFANTS

Claims against the Estate

Generally, **3:27 to 3:33**

General, **3:27**

Personal Services Rendered

Aunt, **3:31**

Brothers, **3:29**

Grandchildren, **3:30**

Grandparents, **3:30**

Husband and Wife, **3:32**

Limitation Act, Application of, **3:33**

Nephew, **3:31**

Niece, **3:31**

Parent and Child, **3:28**

Sisters, **3:29**

Uncle, **3:31**

Grandchildren, **3:30**

Grandparents, **3:30**

Husband, **3:32**

Nephew, **3:31**

Niece, **3:31**

Parent, **3:28**

Sisters, **3:29**

Uncle, **3:31**

Who Takes on Intestacy, **5:66**

Adopted Persons, **5:68**

Next-of-Kin, **5:73**

Date when Determined, **5:76**

Persons Born Outside Marriage, **5:69**

Relatives of the Half Blood, **5:67**

Rights of Spouses, **5:72**

Wife, **3:32**

RELEASE OF EXECUTOR

Generally, **10:17**

RELIEF OF TRUSTEES

See PENALTIES FOR BREACH OF TRUST

RELIGIOUS PURPOSES

See also CHARITIES

Generally, **5:89**

REMOVAL

See also REPLACEMENT; RESIGNATION

Generally, **15:4, 15:5**

Court

By Application to, **15:5**

Without resort to, **15:4**

Grounds for Removal, **15:5**

Introduction, **15:1 to 15:11**

REMUNERATION OF TRUSTEE

See COMPENSATION

RENT COLLECTORS

See also AGENTS; DELEGATION OF POWER

Generally, **9:14**

REPAIRS

Generally, **4:24 to 4:26**

Borrowing to Finance, **4:27**

Capital, **4:25**

Chargeable to Capital, **4:25**

Chargeable to Income, **4:25**

Dilapidation Existing at Time of Death, **4:26**

Condition of Property at Death, **4:26**

Dilapidation Existing at Time of Death, **4:26**

General, **4:24**

Income, **4:25**

Interest on

Borrowings to Repair, **4:27**

Encumbrances to Repair, **4:27**

Mortgaging to Pay for, Generally, **2:3, 2:10**

Waste, **7:22, 7:23**

REPLACEMENT

See also REMOVAL; RESIGNATION

Generally, **15:6 to 15:8**

Court

Appointment by, **15:7**

Appointment Otherwise Than by, **15:8**

Introduction, **15:1 to 15:11**

RESERVES FOR DEPLETION

Generally, **7:23**

RESERVES FOR DEPRECIATION

Generally, **7:22**

RESIDENCE

Generally, **2:14**

RESIDUE

- Generally, **5:62 to 5:65**
- Apportionment of, **2:1**
- By Definition, **5:62**
- Executors' Year, **5:2**
- Extent, **5:62**
- Time of
 - Calculation, **5:63**
 - Division, **5:63**
- Two Residual Clauses, **5:64**
- Undisposed to Executor Personally, **5:65**

RESIGNATION

- See REMOVAL; REPLACEMENT
- Generally, **15:2, 15:3**
- Court
 - By Application to, **15:3**
 - Without Resort to, **15:2**
- Introduction, **15:1 to 15:11**

RESULTING TRUST

- Declaration of, **2:1**
- Presumption of, **2:1**
- Presumption of Advancement, **2:49 to 2:58**
 - Between Parents and Children, **2:50**
 - Between Spouses, **2:55**

RETIREMENT OF TRUSTEES

- See TRUSTEES

RIGHT OF ACTION

- See ACTION

ROYALTIES

- Generally, **2:66**

SALE

- Generally, **2:3**
- Business, of, **2:17 to 2:25**
- Credit Terms, **2:3**
- Discretion, **2:7**
- Improper see BREACH OF TRUST; PENALTIES FOR BREACH OF TRUST
- Payment Terms, **2:8**
- Postpone
 - Direction to, **2:6**
 - No Power to, **2:4**
 - Power to, **2:5**
- Powers
 - Generally, **2:4 to 2:6**
 - Discretion, **2:7**

SALE—Cont'd

- Powers—Cont'd
 - Exercise of, **2:7**
 - Proceeds from, **4:1**

SELF DEALING

- See also BREACH OF TRUST

SERVANTS

- See DELEGATION OF POWER

SETTLED ACCOUNT RE-OPENED

- See also BREACH OF TRUST

SISTER

- See CLAIMS AGAINST THE ESTATE; INTESTACY
- Generally, **3:29**

SITUS

- Generally, **2:73 to 2:80**
- Bank Deposits, **2:78**
- Debts, **2:75**
- Insurance, **2:76**
- Mortgages, **2:75**
- Partnership Property, **2:79**
- Real Estate, **2:74**
- Share Certificates, **2:77**

SOLICITOR

- See also LEGAL COSTS
- Appointed Executor, **4:15**
 - Compensation, **11:26**
 - Doing Trustee's Work, **4:14**
 - General Accounts to Executors, **4:6**
- Appointment of, **9:9**
 - see also DELEGATION OF POWER
- Direction to Appoint in Will, **9:5**
- Taxing Bill see PASSING ACCOUNTS
- Trustee and Solicitor Same Person see SOLICITOR-TRUSTEE
- Trustee's Work Done By, **4:14**
- Type of Agent, **9:9**
 - see also AGENTS

SOLICITOR-TRUSTEE

- Costs and Compensation Related, **11:26**
- Right to Pass Accounts see PASSING ACCOUNTS

SPOUSAL SUPPORT

- See also DEPENDANTS' RELIEF CLAIMS; MATRIMONIAL PROPERTY

SPOUSAL SUPPORT—Cont'd

- Applications, **17:7, 17:9**
- Limitation Period, **17:9**
- As Dependant, **17:2 to 17:10**
 - Generally, **17:2 to 17:10**
 - By Definition, **17:4**
 - Restriction on Testamentary Power, **17:2**
 - Power of the Court, **17:3**
- Nature of, **17:7**
- Obligations, Contracting out of, **17:8**
 - Preferential share of estate, **4:11**
- Part V of the Succession Law Reform Act
 - Restriction on Testamentary Power, **17:2**
 - Power of the Court, **17:3**
 - Order, **17:10**
- Provision of
 - Generally, **17:5**
 - Adequate, **17:4 to 17:6**
 - Contracting out of, **17:8**
 - Nature of, **17:7**
 - Surviving spouse
 - Generally, **1:1**
 - Permanent support of, **4:11**
 - Wills variation action for, **17:5**

SPOUSE

- Time of, **2:3**
- Unproductive Property, **7:23**

STATUTE OF FRAUDS

- Generally, **3:24**

STATUTE OF LIMITATIONS

- Regarding Breach of Trust, **10:18**
- Special Defences to Claims Against the Estate
 - Limitations Statutes
 - Generally, **3:19 to 3:23**
 - Estates Act, ss. 44, 45, and 47, **3:21, 3:22**
 - Limitations Act, ss. 43, 45(1)(g), **3:20**
 - Trustee Act, s. 38(3), **3:23**

STOCKBROKERS

- See also AGENTS; DELEGATION OF POWER
- Generally, **9:12**

STOLEN ASSETS

- See ASSETS; BREACH OF TRUST

SUCCESSION LAW REFORM ACT

- Generally, **APP 171**

SURVIVING TRUSTEES

- See also TRUSTEES
- Generally, **15:9**

SURVIVORSHIP

- See also BENEFICIARIES
- Presumptions of
 - Fictitious, **5:27**
 - General, **5:75**
 - Statutory, **5:28**

TARIFF

- See also PASSING ACCOUNTS
- Generally, **14:32**

TAXES

- See also EXPENSES OF ADMINISTRATION
- Generally, **4:23**
 - Between Life Tenant and Remainderman, **4:23**
 - Income, **7:15**
 - Property, **7:5**

TERMINATION OF TRUSTS

- See MODIFICATIONS OF TRUSTS; VARIATION OF TRUSTS

TERMS OF TRUST, OBSERVING

- See PENALTIES FOR BREACH OF TRUST

TIMBER

- Generally, **7:23**

TIME

- Reasonable, **15:5**

TOMBSTONES

- See also GRAVESTONES
- Generally, **1:4**

TRUST

- See BREACH OF TRUST

TRUSTEES

- Generally, **6:1 to 6:18**
- Acquisition of Benefits from Office of, **10:5**
- Acting with
 - Prudence, **6:6**
 - Reasonable Care, **6:6**
- Background, **6:1**

TRUSTEES—Cont'd

- Breach of Trust see also **BREACH OF TRUST**
- By Definition, **6:2**
- Cash Balances, **6:14**
- Commingle Trust Property, **10:6**
- Compensation
 - Generally, **10:8 to 10:10**
 - Calculation of Interest, **10:10**
 - Calculation of Profits, **10:10**
 - Dealing with Trust Property for Trustee's Private Purposes, **10:9**
 - Innocent But Negligent Breach, **10:2, 10:3, 10:8**
 - Successive Trustees, **11:21**
 - see also **COMPENSATION**
- Confidentiality of Reasons, **8:20**
- Conversion
 - Generally, **2:3**
- Dealing with Trust Property
 - Borrowing from the Trust, **10:4**
 - Buying from the Trust, **10:4**
 - Compensation, **10:9**
 - Innocent but Negligent Breach, **10:2, 10:3, 10:8**
 - Loaning to the Trust, **10:4**
 - Penalties, **10:9**
 - Selling to the Trust, **10:4**
 - Trustee's Private Purposes, for, Generally, **10:4 to 10:7, 10:9**
- Defenses
 - Generally, **10:17 to 10:21**
 - Applications for Directions, **10:21**
 - Concurrence by Beneficiaries, **10:17**
 - Exculpatory Clauses, **10:20**
 - Indemnity, **10:17**
 - Release, **10:17**
 - Statute of Limitations, **10:18**
- Discretion
 - Generally, **8:1 to 8:3**
 - Asking for Advice of the Court, **8:14**
 - Confidentiality, **8:20**
 - Drafting Clauses to Avoid Judicial Review, **8:13**
 - Privative clauses, effect of, **8:4 to 8:11**
 - Fiduciary Duties
 - Generally, **8:5**
 - Even-Hand, Maintain, **8:7**
 - Failure to Exercise, **8:6**

TRUSTEES—Cont'd

- Discretion—Cont'd
 - Fiduciary Duties—Cont'd
 - Improper Delegation, **8:8**
 - In Will, **5:87**
 - Judicial Control, **8:4 to 8:11**
 - Limited by Powers
 - Generally, **8:1 to 8:3**
 - Mere, **8:2**
 - Trust, **8:2**
 - Standard of Care, **8:3**
- Discretionary Use of Funds for Maintenance
 - Generally, **5:83 to 5:87**
 - Discretion in Will, **5:87**
 - Maintenance of Infants from Their Own Funds
 - Generally, **5:83 to 5:86**
 - Discretion in Will, **5:87**
 - General Principles, **5:83**
 - Other Means of Support, **5:85**
 - Past Maintenance, **5:86**
 - Standard of, **5:84**
- Duties
 - Fiduciary
 - Generally, **8:5**
 - Even-Hand, Maintain, **8:7**
 - Failure to Exercise Discretion, **8:6**
 - Improper Delegation, **8:8**
 - To Insure, **4:28, 4:29**
 - see **INSURANCE**
 - To Keep Records, Generally, **13:1 to 13:4**
 - Form of, **13:1**
 - To Permit Copying, **13:3**
 - To Permit Inspection, **13:3**
 - To Provide Information, **13:2**
- Ethical Investing, **6:17**
 - Trustee Investing in its Own Securities, **6:16**
- Express Investment Clauses, **6:4**
- Fiduciary Duties
 - Generally, **8:5**
 - Even-Hand, Maintain, **8:7**
 - Failure to Exercise Discretion, **8:6**
 - Improper Delegation, **8:8**
- Fundamental Requirements, **6:3**
- Grounds for Intervention, Other
 - Generally, **8:9**
 - Improper Purpose, **8:10**

TRUSTEES—Cont'd

Grounds for Intervention, Other—Cont'd
Unreasonable Decisions, **8:11**

History, **6:1**

Indemnity of, **10:17**

Innocent but Negligent Breach, **10:2**,
10:3, **10:8**

General Principles, **10:2**

Holding Cash Balances, **10:3**

Investment

Advice, **6:9**

Common Trust Funds, in, by Trust
Corporation, **6:12**

Conflict Between Income and Capital
Beneficiaries, **6:15**

Mutual Funds, in, **6:11**

Outside the Jurisdiction, **6:13**

Trustee Investing in its Own Securities,
6:16

Judicial Control of Discretion

Generally, **8:4 to 8:11**

Advice of Court, **8:14**

Drafting Clauses to Avoid Review, **8:13**

Fiduciary Duties

Generally, **8:5**

Even-Hand, Maintain, **8:7**

Failure to Exercise Discretion, **8:6**

Improper Delegation, **8:8**

Grounds for Intervention, Other

Generally, **8:9**

Improper Purpose, **8:10**

Unreasonable Decisions, **8:11**

Liability see also Relief from Liability

Generally, **9:6**, **9:7**, **10:16**

Beneficiaries, to, **9:6**

Co-Executors, **10:16**

Co-Trustees, **10:16**

Third Parties, to, **9:7**

Loss of Trust Property

Accident, **10:7**

Robbery, **10:7**

Mortgaging

Generally, **2:3**, **2:10**

Penalties

Generally, **10:8 to 10:10**

Calculation of Interest, **10:10**

Calculation of Profits, **10:10**

Dealing with Trust Property for
Trustee's Private Purposes, **10:9**

TRUSTEES—Cont'd

Penalties—Cont'd

Innocent But Negligent Breach, **10:2**,
10:3, **10:8**

Pledging

Generally, **2:3**, **2:10**

Powers

Dispositive

Generally, **8:12**

Mere, **8:2**

Standard of Care, **8:3**

Trust, **8:2**

Powers of Appointment, **2:63**

Principles of Liability for

Generally, **4:32**

Contract, **4:32**

Tort, **4:32**

Professional, **8:19**, **10:15**

Records

Generally, Duty to Keep, **13:1 to 13:4**

Form of, **13:1**

To Permit Copying, **13:3**

To Permit Inspection, **13:3**

To Provide Information, **13:2**

Relief from Liability

Generally, **10:11 to 10:15**

Cases Where Granted, **10:13**

Cases Where Not Granted, **10:14**

General Principles, **10:11**

Meaning of "Wilful Default," **10:12**

Professional Trustees, **8:19**, **10:15**

Release, **10:17**

Removal of

Generally, **15:4**, **15:5**

Reasons for, **15:5**

see also BREACH OF TRUST

Remuneration of see COMPENSATION

Replacement of

Generally, **15:6 to 15:8**

Appointment by the Court, **15:7**

By Court Application, **15:3**

General, **15:4**, **15:6 to 15:8**

Succession on Death, **15:2**

Retirement of

Generally, **15:2**, **15:3**

Deed, by, **15:2**

Sale

Generally, **2:3**

Duties, **2:4 to 2:6**

TRUSTEES—Cont'd

- Sale—Cont'd
- Powers
 - Generally, **2:4 to 2:6**
 - Discretion, **2:7**
 - Exercise of, **2:7**
 - Postpone
 - Direction to, **2:6**
 - No power to, **2:4**
 - Power to, **2:5**
- Terms of payment, **2:8**
- Situations Giving Rise to Breach
 - Generally, **10:1 to 10:7**
 - Acquisition of Benefits from Office of, **10:5**
 - Commingling Trust Property, **10:6**
 - Dealing with Trust Property
 - Borrowing from the Trust, **10:4**
 - Buying from the Trust, **10:4**
 - Compensation, **10:9**
 - Innocent but Negligent Breach, **10:2, 10:3**
 - Loaning to the Trust, **10:4**
 - Penalties, **10:9**
 - Selling to the Trust, **10:4**
 - Trustee's Private Purposes, for, Generally, **10:4 to 10:7, 10:9**
- General Principles, **10:1**
- Innocent but Negligent Breach, **10:2, 10:3, 10:8**
 - General Principles, **10:2**
 - Holding Cash Balances, **10:3**
- Loss of Trust Property
 - Accident, **10:7**
 - Robbery, **10:7**
- Trustee's Private Purposes, for, Generally, **10:4 to 10:7, 10:9**
- Special Cases, **6:7 to 6:18**
 - Cash Balances, **6:14**
 - Delegation, **6:10**
 - Diversification, **6:8**
 - Effect of Power to Retain Existing, **6:7**
 - Investment Advice, **6:9**
 - Investment by Trust Corporation in
 - Common Trust Funds, **6:12**
 - Investment Conflict Between Income and Capital Beneficiaries, **6:15**
 - Investment in Mutual Funds, **6:11**
 - Investments Outside the Jurisdiction, **6:13**

TRUSTEES—Cont'd

- Standard of Care, **8:3**
- Successor, **15:10**
- Surviving, **15:9**
- The Trustee Act, **6:5**
- Trustee Investing in its Own Securities, **6:16**
- Types of Personal Representatives
 - Successor, **15:10**
 - Surviving, **15:9**
- Variation of Trusts, **6:18**
 - see also TRUSTS
- Wilful Default, by, **10:12**

TRUSTS

- See also MODIFICATIONS OF TRUSTS; VARIATION OF TRUSTS
- Corporate
 - Generally, **8:15**
 - Trustees, **8:19**
- Discretionary
 - Generally, **8:12**
- Termination of, by Direction of Beneficiaries, **16:1**
- Variation of Legislation, in Canada, **16:3**

UNDERTAKER

- See BURIAL

UNDUE INFLUENCE

- Generally, **4:11**
- Conduct and, **4:11**

UNJUST ENRICHMENT

- Constructive trust and, **2:1**

UNPRODUCTIVE PROPERTY

- See also BUSINESSES
- Generally, **7:23**

VALUATORS

- See also AGENTS; DELEGATION OF POWER; MORTGAGES
- Generally, **9:18**

VARIATION OF TRUSTS

- See also VARIATION OF TRUSTS ACT
- Generally, **6:18; 16:1 to 16:13**
- Application
 - Alternatives, **16:2**
 - Procedure in, **16:12**
- Benefit
 - Determination of, **16:7**

VARIATION OF TRUSTS—Cont'd

Benefit—Cont'd

Life Insurance, as a, **16:9**

Court can Consent

Determination of Benefit, **16:7**

On Behalf of Categories of Persons,
16:4

Prerequisites, **16:5**

Proper Test, **16:8**

“Benefit,” Meaning of, **16:8**

Life Insurance as Benefit, **16:9**

Preservation, **16:6**

Procedure, **16:12**

Proper Test, **16:8**

Determination of Benefit, **16:7**

Equalization of Interests of Children,
16:10

Introduction, **16:1**

Legislation in Canada, **16:3**

Preservation, **16:6**

Tax

Consequences, **16:13**

Savings, **16:11**

VARIATION OF TRUSTS ACT

Criterion of Court, **16:12**

Evidence of Capacity to Have Children,
16:8, 16:10

General, **16:1 to 16:13**

see also MODIFICATIONS OF
TRUSTS; VARIATION OF
TRUSTS

Investment Powers, **16:8**

Life Insurance, **16:9**

Tax Saving, **16:11**

VESTING

Generally, **5:41**

VOUCHERS

See also PASSING ACCOUNTS

Generally, **14:31**

WAGES

See EXPENSES OF ADMINISTRATION

WASTE

Generally, **7:22, 7:23**

WIDOW

Assets, For Maintenance of, **2:11 to 2:15**

Compromising Claim for Dower, **3:39**

Exemptions, **2:11 to 2:15**

see also ESTATE ASSETS

Household Profits, **2:12**

Legacy in Lieu of Dower, **5:19**

Pin-Money, **2:12**

Residence, **2:14**

WIFE'S FUNERAL EXPENSE

See BURIAL

WILL

Compensation Fixed by, **11:1, 11:2**

Misconstruction of, **12:14**

Observing Terms of see BREACH OF
TRUST

Questioning Validity of, **4:5 to 4:19**

Solicitor Appointed in, **9:5**

WORDS AND PHRASES

Generally, **APP WP**