

# Variation of Trusts Act

CHAPTER 486 OF THE REVISED STATUTES, 1989

*as amended by*

2011, c. 42, s. 6



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**An Act Respecting  
the Variation of Trusts**

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**Short title**

**1** This Act may be cited as the *Variation of Trusts Act*. R.S., c. 486, s. 1.

**Interpretation**

**2** In this Act,

(a) “arrangement” means a variation, resettlement or revocation of a trust in relation to property or a variation, deletion or termination of, or an addition to, the powers of a trustee in relation to the management or administration of the property subject to the trust;

(b) “court” means the Supreme Court of Nova Scotia. 2011, c. 42, s. 6.

**Confirmation of arrangement**

**3 (1)** Where property is held on a trust arising before or after the coming into force of this Section under any will, settlement or other disposition, a person may apply to the court for an order confirming an arrangement with respect to the property.

**(2)** The court may issue an order confirming the arrangement if

(a) all the beneficiaries of the trust having vested or contingent interests are of full age and capacity and consent to the arrangement; and

(b) the court determines it is appropriate to do so.

**(3)** Where one or more beneficiaries are incapable of consenting to the arrangement, the court may

(a) approve the arrangement on behalf of those beneficiaries on any terms that the court considers appropriate, unless the

arrangement is detrimental to the interests of any of the beneficiaries incapable of giving consent; and

(b) issue an order confirming the arrangement if the court determines it is appropriate to do so.

(4) Where one or more beneficiaries who are of full age and capacity refuse their consent to the arrangement, the court may

(a) approve the arrangement on behalf of those beneficiaries on any terms that the court considers appropriate if

(i) the arrangement is not detrimental to the pecuniary interest of any person who has withheld consent, and

(ii) it would be detrimental to the administration of the trust or to the interests of the other beneficiaries to not approve the arrangement; and

(b) issue an order confirming the arrangement if the court determines it is appropriate to do so.

(5) In determining whether it is appropriate to confirm the arrangement, the court shall have regard to

(a) the intention of the settlor of the trust, if the settlor's intention is objectively discernible;

(b) the positions of the trustees;

(c) the positions of the beneficiaries; and

(d) the position of any person appearing before the court on the application.

(6) An arrangement takes effect upon confirmation by the court.

2011, c. 42, s. 6.

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