

# Variation Of Trusts

FaHCSIA

## Deed of variation of Model Trust Deed for Special Disability Trusts

THIS DEED OF VARIATION made the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

### PARTIES

1. [Name of trustee] of [address] (the "Trustee").
2. [Name of Appointor] of [address] (the "Appointor").

### RECITALS

- A. By deed of settlement made [date of deed] between [name of settlor] as settlor and [name of trustee] as the trustee (the "Trust Deed") a Special Disability Trust was established known as the [name of Special Disability Trust] Trust. (For testamentary trusts created by a will substitute the creation of the trust with the estate of the testator and date of death)
- B. The Trustee was appointed trustee of the [name of trust] by the Trust Deed and has continuously held such office up to and including the date of this deed. (For changes in trustees, document the resignation/death/removal and appointment over time and state the trustees currently holding office)
- C. Clause 9.2 of the Trust Deed permits the Trust to be amended and states:
  - a. Save as provided in this sub-clause the terms of these terms of trust shall not be capable of being revoked or added to or varied;
  - b. If there is for the time being an Appointor, the Trustee with the consent in writing of the Appointor, may at any time and from time to time by Deed amend the provisions whether of these terms of trust or of any Deed executed pursuant to this sub-clause but so that such amendment:
    - i. Shall be made only if it would not cause the trust to become non-compliant with the requirements of Part 3.18A of the Social Security Act or Division 11B of the Veterans' Entitlements Act in relation to special disability trusts; and
    - ii. Does not infringe any law against perpetuities; and
    - iii. Shall be made only if it is not made in favour of or for the benefit of or so as to result in any benefit to the settlor; and
    - iv. Does not affect the beneficial entitlement to any amount allocated for or otherwise vested in the Principal Beneficiary prior to the date of the amendment.
  - c. The operation of this sub-clause shall not prevent:

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Section 53 Trustee Act allows the court to vary the terms of a trust 'for the maintenance, education, or benefit of the infant'. The Variation of Trusts Act allows the court to provide consent for certain types of beneficiary where they cannot do so for themselves. A basic introduction and summary of variation of trusts in trusts law. Variation of trusts. This practice note describes five ways of varying a trust: by consent of the beneficiaries; under the inherent jurisdiction of the court; under section 57 of the Trustee Act and section 64 of the Settled Land Act, for specific transactions; and under the Variation of Trusts Act. The Commission is most grateful to Margaret O'Driscoll Barrister-at-Law who drafted the Variation of Trusts Bill which forms Appendix A to this Report. Definition of variation of trust: Departure from the precise terms of trust agreement. Whereas the trustees cannot change any term (and are liable to be sued by. Definition of variation of trust in the Legal Dictionary - by Free online English dictionary and encyclopedia. What is variation of trust? Meaning of variation of trust. An application to the court under VTO for the variation of the terms of a trust is normally begun by originating summons in the Court of First Instance. For instance, a variation of trust may be in the interest of efficient administration of the same. In such cases, the trustee will first consider whether a variation is. This chapter deals with variation of trusts and looks at the possible reasons for. In addition, the chapter discusses the rule on variation of trusts in Saunders v. The governing legislation is the Ontario Variations of Trusts Act. Section 1(1) permits the Superior Court of Justice to approve on behalf of. Interpretation. 2. In this Act, (a) arrangement means a variation, resettlement or revocation of a trust in relation to property or a variation. Variation of Trusts Act, R.S.O., c. Jurisdiction of courts to vary trusts. 1 (1) Where any property is held on trusts arising under any will, settlement or other.

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