Trusts Bill Qld 2025 Amendments – Summary table

Existing Act	Bill
Application	
Applies to trustees, personal representatives and testamentary trusts	Same position
Provisions subject to trust instrument and can be overridden (unless express statutory exception)	***Reversal of this position*** – provisions override trust instrument (unless express statutory exception)
Number and identity of trustees	
Limited to 4 (other than for a charitable trust)	Also limited to 4 – but now ***no limit for SMSF trusts*** (as well as charitable trusts), and express provision for ***court approval for more than 4 trustees***
No restrictions on eligibility	Children, bankrupts/insolvents and persons disqualified by court order ***cannot*** act as a trustee – no automatic exclusion for personal representatives
Replacement of trustees	
Specified default provisions (in addition to trust instrument) – trustee can be replaced by appointor/continuing trustee, e.g. where refuses to act, is unfit to act, is incapable of acting, is dead or is outside the jurisdiction for more than a year without delegating powers	Largely mirrored, but ***3 new circumstances*** – trustee is subject to an insolvency event, is disqualified from managing corporations, or is a company that ceases business/is deregistered/subject to external administration
Last surviving trustee dies – personal representative can appoint replacement trustee where no appointor under trust instrument (or none able and willing to act)	Notionally similar provision – but power can be exercised ***where appointor does not act within "reasonable period"***. The term "able and willing" now also specifically defined to include ***where appointors cannot reach a unanimous decision***
Last continuing trustee has impaired capacity – court application required	Administrator or financial attorney can appoint replacement (***no court application required***) – if no appointor, or no appointor "able and willing" to act within a "reasonable period"
Trustees' duties	
Duty to act with care, skill and diligence in exercising only *power of investment* – no other powers expressly mentioned	Minimum mandatory duties – trustees to act with reasonable care, diligence and skill in exercising ***any power***, and to act honestly and in good faith (largely mirrors general law)
No minimum general standard of care	***All trustees must act – in exercising any power – with degree of care expected of "prudent person of business"*** (professional trustees and those with special skill/knowledge owe higher standard)

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No express duty to keep records	***Trustees must keep accurate records and accounts*** – retained for at least 3 years after termination of trust
No express right of beneficiaries to inspect trust records	***Beneficiaries have a right to inspect*** unless unreasonable
Express powers of trustees limited to specific matters (outdated)	Much broader express powers – ***trustees have all powers of an absolute owner in relation to trust property***
Amount spent on improvement/development of trust property – limited to $10,000	***$10,000 limit removed***
Trustee has power to recoup capital from income – no similar power to recoup income from capital	Trustee now also has ***power to recoup income from capital***
Trustee can postpone sale of trusts assets indefinitely	Personal representative can only ***carry on deceased's business for 2 years*** (subject to extension by court)
Amount used from capital for maintenance, education or advancement – limited to $2,000	***Limit increased to $100,000***
Distributions of trust property – trustee protected from personal liability if 6 week notice of intended distribution provided	Notice period increased to ***2 months***. Trustee now expressly ***relieved from needing to undertake searches similar to those of an intending purchaser***
Powers of court	
Court can remove trustee, not others	Court also has power to remove ***other office holders*** (e.g. appointor)
Court can make orders upon application of trustee – must be supported by written statement of facts	Trustee can still make application for directions – ***requirement for written statement of facts removed***. Other individuals can also make application – e.g. ***prospective trustees/beneficiaries***
Supreme Court – jurisdiction in trusts matters	***District Court now also has jurisdiction*** – trust property ***$750,000 or less***
Miscellaneous	
Trustee can delegate powers	Duration of delegation ***limited to 12 months*** or less
Trustee can receive remuneration if permitted by trust instrument or court order	Court now also has ***power to review and reduce excessive amounts*** of commission/professional charges
Court can modify charitable trust purposes under cy-pres doctrine	Cy-pres powers extended to when charitable purpose cannot be achieved due to ***social/economic conditions***