



LYONS TRUSTS ACT 1993

No. 105 of 1993

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LYONS TRUSTS ACT 1993

No. 105 of 1993

AN ACT to vary certain trusts arising from a settlement made by Rupert Arthur Lyons providing for the Thomas Lyons Memorial Fund

[Royal Assent 23 December 1993]

Preamble

WHEREAS—

- (a) by a deed of trust dated 25 November 1954 made between Rupert Arthur Lyons late of Hobart in Tasmania Stock and Share Broker, in this preamble referred to as “**the Settlor**”, and The Perpetual Trustees Executors and Agency Company of Tasmania Limited, now known as Perpetual Trustees Tasmania Limited and in this preamble referred to as “**the Trustee**”, the Settlor settled certain shares on the Trustee to establish a trust fund to be known as the Thomas Lyons Memorial Fund for the purpose of providing an annual income to the Tasmanian Racing Club, now known as the Tasmanian Racing Club Inc., for the award of an annual trophy; and

- (b) it was provided by the deed of trust—
- (i) that the Trustee could invest the property subject to the trusts only in 6 companies specified in the deed of trust; and
 - (ii) that the whole of the annual income of the trusts was to be applied towards the objects of the trusts; and
 - (iii) that the objects of the trusts were to provide funds to enable the Tasmanian Racing Club to award a trophy each year to be known as the Thomas Lyons Memorial Trophy; and
- (c) it is expedient to vary the terms of the trusts, while preserving the original intentions of the Settlor, as follows:—
- (i) to increase the Trustee's powers of investment of the property subject to the trusts;
 - (ii) to enable the capital of the trusts to be augmented;
 - (iii) to enable part of the annual income of the trusts to be applied to increase stake money in addition to the purchase of the Thomas Lyons Memorial Trophy:

BE it therefore enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

Short title

1—This Act may be cited as the *Lyons Trusts Act 1993*.

Commencement

2—This Act commences on the day on which it receives the Royal Assent.

Interpretation

3—(1) In this Act, unless the contrary intention appears—
“**Club**” means Tasmanian Racing Club Inc.;

“**deed of trust**” means the deed of trust referred to in paragraph (a) of the preamble;

“**Trustee**” means Perpetual Trustees Tasmania Limited referred to in paragraph (a) of the preamble.

(2) In this Act, a reference to property, in relation to the trusts arising under the deed of trust, is to be taken as including a reference to a legal or equitable estate or interest in any other property, whether present or future and whether vested or contingent, and any entitlement, power or privilege, if that estate, interest, entitlement, power or privilege arises from the administration of those trusts.

Power to augment trust capital

4—(1) The Trustee must on or before 31 December in each year consult with the Club for the purpose of reaching an agreement as to an amount that is to be paid by the Club to the Trustee on 1 January in the following year so as to augment the capital of the trusts.

(2) An amount that is agreed or, in default of agreement, determined by arbitration under clause 4 of the deed of trust for the purposes of this section is not to exceed one-quarter of the annual income of the trusts in the year preceding the date of payment.

(3) Notwithstanding anything to the contrary in the deed of trust—

- (a) the Club must pay an amount to the Trustee in accordance with any such agreement or determination; and
- (b) the Trustee must apply any such amount to augment the capital of the trusts.

Power of investment

5—Notwithstanding anything to the contrary in the deed of trust—

- (a) the Trustee may invest the property of the trusts in any authorized trustee investments under the *Trustee Act 1898* and in any shares listed by an Australian Stock Exchange; and
- (b) in doing so, the Trustee is to give preference to investment in shares in companies similar to those specified in the deed of trust.

Powers of Tasmanian Racing Club Inc.

6—The Club may apply any money paid to it each year under the trusts arising from the deed of trust, in addition to purchasing a trophy to be known as the Thomas Lyons Memorial Trophy—

- (a) to purchase a whip or other trophy for the winning jockey in any race conducted as a memorial to Thomas Lyons; or
- (b) to augment the stake money in any such race.

Immunity for Trustee, &c.

7—No action or legal proceeding may be instituted against the Trustee or any other person in respect of any matter arising out of the operation of this Act on the ground that the exercise of a power or the performance of a duty under this Act is inconsistent with the due administration of the trusts arising from the deed of trust.

Administration of Act

8—Until provision is made in relation to this Act by order made under section 4 of the *Administrative Arrangements Act 1990*—

- (a) the administration of this Act is assigned to the Minister for Racing and Gaming; and
- (b) the Department responsible to the Minister for Racing and Gaming in relation to the administration of this Act is the Department of Tourism, Sport and Recreation.

*[Second reading presentation speech made in:—
House of Assembly on 2 December 1993
Legislative Council on 8 December 1993]*

