

“(13) Where, by or under this Act or by or under any Act or enactment that is incorporated with this Act or with any Part of this Act, the exercise of a power or function is dependant upon the opinion, belief, or state of mind of the Commission in relation to a matter, and that power or function has been delegated by the Commission pursuant to subsection (12) of this section, that power or function may be exercised upon the opinion, belief, or state of mind of the delegate in relation to that matter.

“(14) A delegation by the Commission under subsection (12) of this section is revocable at will, either by the Governor or by the Commission, and does not prevent or affect the exercise of any power or function by the Commission.”.

TRUSTEE COMPANIES.

No. 72 of 1953.

AN ACT to consolidate and amend the law relating to trustee companies, and to repeal certain enactments.
[9 December, 1953.]

BE it 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 *Trustee Companies Act 1953*.

Repeal.

2 The Acts that are specified in the first schedule are repealed.

Interpretation.

Cf. No. 15 of 1948 (Tas.) s. 2, No. 3793 (Vict.), s. 3.

3—(1) In this Act, unless the contrary intention appears—
“administrator” means administrator with or without a will annexed;
“Court” means the Supreme Court;
“letters of administration” means letters of administration with or without a will annexed;

- “secretary”, used in relation to a trustee company, includes the acting-secretary, manager, or acting-manager of the trustee company;
- “trustee company” means a company that is specified in the second schedule, and includes any company, association, society, or body of persons that is declared, pursuant to section four, to be a trustee company for the purposes of this Act;
- “will” includes codicil.

(2) The powers and functions of the Court under this Act shall, for the purposes of the *Civil Procedure Act 1932*, be deemed to be part of the jurisdiction of the Court that is subject to that Act.

4—(1) Subject to this section, the Governor may, by proclamation, declare any company, association, society, or body of persons (whether incorporated or unincorporated) that is specified in the proclamation to be a trustee company for the purposes of this Act, and may, by the same or a subsequent proclamation, amend the second schedule by adding thereto the name of that company, association, society, or body of persons.

Extension of Act to companies, &c., other than those specified in the second schedule.

(2) The Governor shall not make a proclamation under this section in respect of any company, association, society, or body of persons except upon an address from both Houses of Parliament praying that the company, association, society, or body of persons be declared to be a trustee company for the purposes of this Act.

(3) Any company, association, society, or body of persons that desires to be declared to be a trustee company for the purposes of this Act, shall cause to be presented to either of the Houses of Parliament, in accordance with the standing orders of that House, a petition praying that the necessary action be taken to have it declared to be a trustee company for the purposes of this Act.

(4) When a petition under this section has been received by the House to which it is presented, the petition shall be referred to a select committee of that House, to be appointed by motion upon notice, and the select committee shall require proof of the statements and particulars contained in the petition.

(5) If a select committee to which a petition under this section is referred recommends that the prayer of the petition be granted, the select committee shall cause an address to the Governor to be drafted and submitted for the approval of the two Houses.

(6) An address to the Governor under this section may be in accordance with form I. in the third schedule.

(7) Before a petition under this section is presented to either House of Parliament, the company, association, society, or body of persons proposing to present the petition—

- (a) shall cause notice of its intention to present the petition to be published, in accordance with the requirements of the standing orders of that House, as if the petition were a private Bill within the meaning of those standing orders;
- (b) shall cause to be paid to the credit of the Consolidated Revenue the sum of one hundred pounds and a certificate of that payment to be lodged with the clerk of that House; and
- (c) shall cause to be given to the clerk of the relevant House, before the petition is presented to the House, a written guarantee that the company, association, society, or body of persons will be responsible to the Treasurer for all the expenses incurred by the select committee to which the petition is referred, over and above the sum paid under paragraph (b) of this subsection.

(8) Subject to this section, the provisions of the standing orders of the House of Parliament to which a petition under this section is presented, so far as they are applicable and with the necessary adaptations, apply to and in respect of the presentation and receipt of the petition and the proceedings thereon (including the proceedings of the select committee) in all respects as if the petition were a private Bill.

(9) A proclamation under this section may provide that the provisions of the fourth schedule shall apply to the company, association, society, or body of persons specified in the proclamation subject to such modifications (if any) as are specified in the proclamation.

Power of trustee company to act as executor.
Tas., s. 3,
Vict., s. 4.

5 Where a trustee company has been (whether before or after the commencement of this Act) expressly, or according to the tenor, appointed as executor under the will of a testator, the company may act as executor, or as executor according to the tenor, as the case may be, and may apply for and obtain probate accordingly.

Power of trustee company to act as administrator.
Tas., s. 4,
Vict., s. 5.

6 Where a natural person may apply for and obtain letters of administration of the estate of a deceased person, a trustee company may, in like circumstances, apply for and obtain letters of administration and act as administrator.

Power of courts, &c., to appoint trustee company as trustee, receiver, &c.
Tas., ss. 5, 11,
Vict., s. 11.

7—(1) Where a court, judge, or person has power to appoint—

- (a) a trustee;
- (b) a receiver;
- (c) a committee of the estate of a person of unsound mind;
- (d) a guardian of an infant's estate; or
- (e) an attorney or agent,

that court, judge, or person may appoint a trustee company to be a trustee, receiver, committee, or guardian, or an attorney or agent, as the case may be.

(2) Where a trustee company is so appointed as a trustee, receiver, or committee, the trustee company may act as a trustee, receiver, or committee, as the case may be, until removed from office and may perform and discharge all acts and duties pertaining to the office of trustee, receiver, or committee.

(3) Notwithstanding the provisions of section thirty-one, if the paid-up capital of a trustee company is not less than ten thousand pounds, the liability imposed by that section upon the capital and assets of the company shall be deemed to be sufficient security for the discharge of those duties in place of the bond required from a natural person who is appointed as a receiver or committee.

8 A person who is named expressly or by implication as the executor of the will of a deceased person and who would be entitled to obtain probate of the will without reserving leave to any other person to apply for probate may, instead of himself applying for probate, authorize a trustee company to apply to the Court for administration with the will annexed; and administration with the will annexed may be granted to the trustee company, upon its own application, when so authorized, unless the testator has, by his will, expressed his desire that the office of executor should not be delegated or that a trustee company should not act in the trusts of his will.

Power of person entitled to probate to authorize trustee company to obtain probate.
Tas., s. 6,
Vict., s. 6.

9 A person who is entitled to obtain letters of administration, whether general, special, or limited, of the estate of an intestate person, may, instead of himself applying for administration, authorize a trustee company to apply for administration of that estate, and administration of that estate may be granted to the trustee company upon its own application when so authorized.

Power of person entitled to administration to authorize trustee company to obtain administration.
Tas., s. 7,
Vict., s. 8.

10—(1) Subject to subsection (2) of this section, a person who is named expressly or by implication as the executor of the will of a deceased person and who would be entitled to obtain probate of the will jointly with any other person may, notwithstanding any law or custom to the contrary, instead of himself applying for probate of the will, authorize a trustee company to apply to the Court for probate thereof, either alone with leave reserved for any person to come in and prove, or jointly with any other person who is entitled to apply for probate, in the same manner as if the company had been originally named in the will in the place of the person by whom the application is authorized.

Power of trustee company to act jointly with other persons or to obtain probate with leave to other persons to come in and prove.
Tas., s. 8,
Vict., s. 7.

(2) The power conferred by this section shall not be exercised in the case of a will in which the testator has expressed his desire that the office of executor should not be delegated or that a trustee company should not act in the trusts of his will.

Power of Court to act on affidavit of secretary of trustee company. Tas., s. 9, Vict., s. 9.

11 Where a trustee company is authorized by or under this Act to apply for probate or letters of administration, the Court, or, as the case may be, the officer to whom an application for probate or letters of administration is made by the trustee company, may receive and act upon an affidavit by the secretary of the trustee company in lieu of an affidavit required by the Court to be made by a person making application for probate or administration.

Liability of assets of trustee company sufficient security in lieu of administration bond. Tas., s. 10, Vict., s. 10.

12 Notwithstanding the provisions of section thirty-one, where a trustee company—

- (a) possesses a paid-up capital of not less than ten thousand pounds; and
- (b) has invested not less than seven thousand five hundred pounds of its paid-up capital—

- (i) in securities of the Commonwealth; or
- (ii) upon fixed deposit in a bank carrying on business in this State in the name of the Treasurer in trust for the company but transferable only upon the joint consent of the Treasurer and the company or upon the order of the Court,

the liability imposed by that section upon the capital and assets of the company shall be deemed, in the case of letters of administration for which application is made by the company, to be sufficient security in lieu of the bond required in the case of an application for letters of administration by a natural person.

Power of trustee company to act under power of attorney. Tas., s. 12, Vict., s. 12.

13—(1) A trustee company may act under a power of attorney by which the company is appointed attorney by a person, and all the powers conferred upon the company by a power of attorney may be exercised and carried into execution by the secretary, or by any two or more of the directors, of the company.

(2) Where a trustee company is appointed attorney by a person, the capital of the company (whether paid or unpaid capital), and all other assets of the company, are liable for the due execution of the powers so conferred upon the company.

(3) This section does not authorize a person to confer a power upon a trustee company that cannot legally be conferred upon a natural person.

Power to appoint trustee company as temporary executor, &c. Tas., s. 13, Vict., s. 13.

14 An executor or administrator, or a trustee, may appoint a trustee company to act as executor, administrator, or trustee in his stead, and if a trustee company is so appointed by deed filed in accordance with any law in force providing for the filing of powers of attorney—

- (a) the company may act within the scope of the authority conferred upon it as effectually as the executor, administrator, or trustee could have acted;
- (b) the company may exercise all discretionary and other powers that are delegated to it by the principal as fully and effectually as the principal could have exercised them; and
- (c) after the filing of the power of attorney, every act of the company that is within the scope of the authority so conferred shall, in favour of any person who deals with the company in good faith and without notice of the death of the principal or of his revocation of the authority, be valid and effectual notwithstanding the revocation by, or death of, the principal.

15—(1) The executor or administrator, acting under any probate or letters of administration, or a receiver, or the committee of the estate of a person of unsound mind, may, with the consent of the Court, appoint a trustee company to perform and discharge all the acts and duties of the executor, administrator, receiver, or committee, and the trustee company may perform and discharge all those acts and duties accordingly, and the executor, administrator, receiver, or committee so appointing the company is released from liability in respect of all acts done, or omitted to be done, by the company acting under that appointment.

Power of executors, &c., to appoint trustee company to discharge their duties.
Tas., ss. 14, 15, Vict., ss. 14, 15.

(2) Notice of an intended application for the consent of the Court under this section shall be advertised once in one daily newspaper published in Hobart, and in one daily newspaper published elsewhere in this State, at least fourteen days before the making of the application, and the Court may require a person who resides in this State and is entitled to the immediate receipt of any of the income or corpus of the estate in respect of which the application is made to be served with notice thereof.

(3) No consent shall be given by the Court under this section in the case of a will in which the testator has expressed his desire that the trusts thereof should not be delegated or that a trustee company should not act therein.

16 Where a trustee company is appointed to any office or position pursuant to any of the provisions of this Act, the trustee company may do and perform all acts and duties and exercise all powers and discretions that appertain to that office or position as fully and effectually as if the company were a natural person.

Power of trustee company to act as if it were a natural person.
Tas., s. 17.

17—(1) Where the personal attendance of an executor, administrator, trustee, receiver, or committee is required in a court or elsewhere, a trustee company shall be entitled to make the attendance in the person of the secretary of the

Power of secretary to attend on behalf of trustee company.
Tas., s. 18, Vict., s. 16.

company, and the personal duties of executor, administrator, trustee, receiver, or committee may be discharged, on behalf of a trustee company, by the secretary thereof.

(2) Where a trustee company obtains probate or letters of administration to be granted to the company, and where a trustee company is appointed and acts as a trustee, receiver, or committee, the secretary of the trustee company and the directors of the trustee company are individually and collectively in their own persons responsible to the Court, and, in their own persons, are liable, by process of attachment, commitment for contempt, or by other process, to all courts having jurisdiction in that behalf, for the proper discharge of their duties and for obedience to the rules, orders, and decrees of those courts, in the same manner and to the same extent as if the secretary and the directors had personally obtained probate or letters of administration or had acted as executor, administrator, trustee, receiver, or committee.

(3) Nothing in subsection (2) of this section limits or affects the operation of section thirty-one.

Commission
that may be
charged by
trustee
company.
Tas., s. 20,
Vict., s. 17.

18—(1) A trustee company may charge and receive, in addition to any moneys properly expended by it and chargeable against an estate that is placed under the administration or control of the company, commission at such rate as may be fixed by the board of directors or other governing body of the company but not exceeding, in any case—

- (a) three pounds ten shillings for every one hundred pounds of the capital value of any estate that is committed to the administration or management of the company as executor, administrator, trustee, receiver, or committee, or as an attorney acting under a power of attorney (being the capital value thereof as at the time of the realization of the estate); and
- (b) three pounds ten shillings for every one hundred pounds of income received by the company as executor, administrator, trustee, receiver, or committee, or as an attorney acting under a power of attorney.

(2) The provisions of subsection (1) of this section apply to perpetual trusts created, and to estates committed to the administration or management of a trustee company, whether before or after the commencement of this Act.

(3) A trustee company, if it is expressly authorized so to do by a will or other instrument whereby the administration or management of an estate is committed to the company, but not otherwise, may charge and receive commission at such rate as may be specified in the will or other instrument, notwithstanding that the rate so specified is in excess of the rate prescribed in subsection (1) of this section.

(4) The rate of commission that is fixed by the board of directors or other governing body of a trustee company pursuant to this section shall be notified by the secretary of the company in the *Gazette* and in not less than one newspaper published or circulating in the city or town in which the principal office of the company in this State is situated.

(5) Where the Court is of opinion that the commission charged by a trustee company against an estate is excessive it may review and reduce the commission so charged, and, for that purpose, may make such orders as it thinks fit.

19—(1) Where a trustee company is appointed executor, administrator, trustee, receiver, committee, or attorney under power, the company is, in addition to the liabilities and restrictions imposed by this Act, subject in all respect to the same control and liability to removal as if it were a natural person.

Power of Court to remove trustee company from office, &c.
Tas., s. 21.
Vict., s. 19.

(2) A person who claims relief against a trustee company for or in respect of an act done or assumed to be done, or in respect of an act omitted to be done, by the company, or by any of its directors or officers, under any of the powers conferred by this Act, may take appropriate proceedings in the Court or in any other court of competent jurisdiction, and the court in which the proceedings are taken may make and enforce such orders as that court may think just in the circumstances.

20—(1) If any trustee, cestui que trust, executor, legatee, administrator, next-of-kin, or creditor, who is entitled to or interested in an estate that has come into the possession or under the control of a trustee company is unable, upon application to the secretary of the company, to obtain a sufficient account of the property and assets of which the estate consists, and of the disposal and expenditure thereof or thereout, he may apply to the Court, after notice to the company, for an account.

Order for account.
Tas., s. 22.
Vict., s. 20.

(2) If, on an application being made under this section, the Court is of the opinion that no sufficient account has been rendered by the company, the Court shall order such account to be rendered by the company as the Court thinks just, or, if the Court thinks that no sufficient case has been established to require the company to furnish an account, it may dismiss the application.

21 The Court may, on an application under section twenty, order, in addition to or in substitution for any account to be rendered by a trustee company, that a person to be named in the order shall examine the books and accounts of the company with reference to the estate as to which the order is made, and, in that case, the company shall deliver to the person named in the order a list of the books and accounts kept by the company with reference to that estate, and shall produce to that person at all reasonable times when

Order for audit.
Tas., s. 23.
Vict., s. 21.

required by him those books and accounts, and all vouchers, papers, and other documents of the company with reference to that estate, and shall furnish him with all necessary information and all other necessary facilities for enabling him to make the examination.

Power of Court to restrain voluntary winding up of trustee company.
Tas., s. 24.
Vict., s. 22.

22—(1) So long as any estate in respect of which a trustee company is executor, administrator, or trustee remains in whole or in part unadministered, no person shall take any steps or proceedings to wind up the company voluntarily, except with the sanction of the Court.

(2) A person who is interested in an estate to which subsection (1) of this section relates, or who may have a claim in respect thereof, may apply to the Court, in a summary way, to restrain any director or shareholder from disposing of a share that the director or shareholder may hold in the company, or to restrain the winding up voluntarily of the company, and the Court has power to make such order in the matter as the circumstances of each case appear to the Court to require.

Declaration as to assets and liabilities of trustee company.
Tas., s. 26.
Vict., s. 29.

23—(1) The secretary of a trustee company—

(a) shall, within one month after the half-yearly balancing date of the company in each year during which the company carries on business in this State, make before a justice of the peace a statutory declaration, in accordance with form II. in the third schedule, as to the assets and liabilities of the company;

(b) shall cause a copy of the declaration—

(i) to be published in the *Gazette* as soon as practicable after the making of the declaration;

(ii) to be exhibited in a conspicuous position in the principal office of the company in this State and in every branch office or other place in this State where the business, or any part of the business, of the company is carried on; and

(iii) to be furnished to any creditor of the company who makes application therefor; and

(c) shall, on being requested by a shareholder or member of the company so to do, deliver or send by post to that shareholder or member a copy of the declaration.

(2) In default of compliance with the provisions of this section in respect of a trustee company, the company, and the secretary of the company, and every member of the board of directors or other governing body of the company, are jointly and severally liable to a penalty of five pounds for each day during which the default continues.

24—(1) Where—

- (a) by any will or other testamentary writing, or by any deed or other instrument in writing, a trustee company or the other trustee appointed by the will, testamentary writing, deed, or instrument, is directed to employ a solicitor who is named therein to conduct the legal or professional business associated with the administration or management of the trust or estate referred to therein; or
- (b) a trustee company, before the administration or management of any trust or estate is transferred or committed to it, agrees with a solicitor to employ him in or about the legal or professional business associated with the administration or management of that trust or estate,

Employment
of solicitor by
trustee
company.
Tas., s. 27.

the company shall employ that solicitor accordingly.

(2) Where a solicitor is employed by a trustee company pursuant to this section, he shall be deemed to be the solicitor of the company in the legal or professional business to which subsection (1) of this section relates, and shall not be removed except by order of the Court under subsection (3) of this section.

(3) Upon the application of a trustee company or of a person who has an interest in a trust or an estate to which subsection (1) of this section relates, the Court, upon such cause being shown as the Court may think sufficient, may order the removal of a solicitor who is employed by the company pursuant to this section, and may appoint another solicitor to act as the solicitor of the company for the purposes of that trust or estate.

25—(1) Where a trustee company holds money belonging to more than one estate as sole trustee for investment, the company may invest that money as one fund in one or several securities, and may distribute the income arising from those securities, after deducting all proper charges ratably among the several estates whence the moneys so invested were derived, and may likewise debit any loss arising from the investment ratably to those several estates.

Power of
trustee com-
pany to mix
funds for
investment.
Tas., s. 28.

(2) Nothing in this section authorizes a trustee company to invest money belonging to an estate upon a security that is not authorized by the instrument creating the trust or by any enactment.

26—(1) When a trustee company refuses to recognize, in whole or in part, the claim of a person who claims to be a creditor against the estate of a deceased person, the trustee company may give notice in writing of its refusal to the person so claiming.

Power of
trustee
company to
distribute
assets with-
out regard to
claims of
creditors after
notice and
failure of
creditors to
take pro-
ceedings.
Cf. No. 5022
(Vict.), s. 4.

(2) If the person so claiming does not, within three months after the receipt of a notice under subsection (1) of this section, institute proceedings to enforce his claim the trustee company may distribute the assets of the deceased person

without regard to the claim or to so much thereof as the trustee company has, by that notice, refused to recognize, and thereupon the right of that person to recover the amount of the claim, or the part thereof that the trustee company has refused to recognize, is barred.

(3) A notice under this section may be served by registered post on the person for whom it is intended.

Power of trustee company to distribute estate where possible claimants have not claimed. *Ibid.*, s. 6.

27—(1) Subject to this section, when—

(a) a trustee company—

(i) has been granted probate of the will, or letters of administration of the estate, of a deceased person; and

(ii) has been informed of the existence at any time of a person (in this section referred to as “the said person”) who, if he had survived the deceased person, would have been entitled to a legacy under the will, or to the whole or a share of the estate, of the deceased person; and

(b) neither the said person nor any other person claiming through him or as his issue or one of his issue has made a claim in respect of that legacy, estate, or share within three years after the grant of probate or letters of administration,

the trustee company, after advertising as required under this section, may, without being under any liability to the said person or to any other person claiming through him or as his issue or one of his issue, distribute the estate as if the said person had predeceased the deceased person without issue.

(2) The trustee company shall, before making a distribution pursuant to this section, make a report to a judge setting out the material facts relating to the matter and obtain a direction from the judge as to the form and number of the advertisements to be inserted and the places in which they are to be published and fixing a time after the insertion of the last of those advertisements at the expiration of which the distribution may be made.

(3) Nothing in this section prejudices the right of a person to follow any assets into the hands of the person or persons who have received them.

Power of trustee company to make advances to beneficiaries.

28 Where an estate is committed to the administration or management of a trustee company, the company may, pending the realization of the estate, make out of its own funds such advances, upon and subject to such conditions, as it thinks fit, to a person who is entitled, whether absolutely or contingently, to the whole or a share of the estate.

29—(1) Notwithstanding anything contained in the *Companies Act 1920* or in the memorandum or articles of association of a trustee company, no trustee company shall engage in, carry on, or be concerned in, any business, trade, venture, or undertaking except—

Restrictions on classes of business that may be undertaken by trustee company.
 Tas., s. 29,
 No. 3793
 (Vic.), s. 23.

- (a) such as is expressly authorized by this Act;
- (b) general agency business;
- (c) the deposit of its own funds with a person carrying on the business of a bank of deposit; and
- (d) the investment of those funds in any manner in which trustees are authorized to invest trust funds by section five of the *Trustee Act 1898*.

(2) This section does not preclude a trustee company from—

- (a) guaranteeing the safety of the principal, and the regular payment of the interest, of trust funds committed to its administration or management;
- (b) giving or entering into a bond or guarantee for the purpose of enabling a person to obtain administration of the estate of a deceased person where that estate is placed under the administration or management of the company by the administrator;
- (c) advancing out of its own funds such sums as may be necessary for the purpose of paying any tax or duty payable under a law of the Commonwealth or of a State in respect of the estate of a deceased person where it is necessary or convenient so to do in order to facilitate the granting to the company of probate or letters of administration or the resealing in this State of probate of the will or letters of administration of the estate of a deceased person granted elsewhere than in this State;
- (d) expending or advancing out of its own funds such sums as the company may determine for the purpose of purchasing homes for employees of the company or of making loans to employees of the company to assist them to purchase homes for themselves; or
- (e) purchasing or leasing such premises, or purchasing or hiring such equipment, as may be necessary or convenient for the proper exercise or performance of any powers or duties conferred or imposed on the company by or under this Act.

(3) Any director, member, or officer of a trustee company who is concerned in, or is a party to, a wilful contravention of the provisions of this section is liable to a penalty of one hundred pounds, or to imprisonment for three months, or to both.

Trustee company to keep separate accounts of each estate.
Tas., s. 30,
Vict., s. 25.

30 An account of the moneys paid or received, and of investments made and moneys advanced, by a trustee company on account of each estate of which the company has the administration or management in pursuance of this Act, shall be kept by the company separate and distinct from that of any other estate of which it has the administration or management.

Assets of trustee company liable for proper discharge of company's duties.
Tas., s. 19.

31 Subject to this Act, all the capital (whether paid capital or unpaid capital) of a trustee company and all the assets of a trustee company are liable for the proper discharge of any duties that are undertaken by the company pursuant to this Act.

Saving of rights of other companies, &c.
Tas., s. 32,
Vict., s. 30.

32 Nothing in this Act confers on a trustee company any *locus standi* to oppose the granting of similar powers to those conferred by this Act upon that company to any other company, association, society, or body of persons, or to corporations generally, or to claim or seek compensation in consequence of those powers being conferred upon any other company, association, society, or body of persons, or upon corporations generally.

Special provisions relating to certain trustee companies.
Vict., s. 24.

33 The special provisions that are contained in the fourth schedule apply to the trustee companies that are respectively specified therein and have effect, and shall continue to have effect, notwithstanding any alteration in the memorandum or articles of association of those companies or any of them.

Saving of incorporation and powers of trustee companies.
Tas., s. 33,
Vict., s. 32.

35 Except so far as is expressly provided in this Act—

- (a) a trustee company remains subject to the same liabilities, restrictions, and penalties, and continues to enjoy the same powers and privileges, as it is subject to and enjoys under its incorporation; and
- (b) nothing in this Act affects the incorporation of a trustee company.

Rules of court.
Tas., s. 34.

35 The judges, or a majority of them, may make rules of court for the purposes of this Act.

THE FIRST SCHEDULE.

(Section 2.)

ACTS REPEALED.

Year and Number (if any) of Act.	Short Title of Act.
51 Vict. (Private)	"The Perpetual Trustees Company Act"
51 Vict. (Private)	"The Tasmanian Trustees Association Act"
3 Geo. V. (Private)	The National Executors Company Act 1912
19 Geo. V. No. 65	The Equity Trustees Company Act 1928
No. 15 of 1948	The Tasmanian Woolgrowers' Trustees and Executor Company Act 1948

That the assets of the company on that day were—

Government securities,
Bills of exchange and promissory notes.
Cash at bankers.
Other securities.

And I make this solemn declaration by virtue of section 132 of the *Evidence Act 1910*.

.....
Secretary (or as the case may be).

Declared before me at
in Tasmania, this day of 19.....

A Justice of the Peace.

I (We) certify that I (we) have inspected the books of the company, and to the best of my (our) knowledge and belief, the above declaration is correct in every particular.

.....
Auditor(s).

THE FOURTH SCHEDULE.

(Section 33.)

SPECIAL PROVISIONS APPLICABLE TO CERTAIN TRUSTEE COMPANIES.

Application
of this
schedule.

1.—(1) The provisions of paragraph 2 of this schedule apply to—

(a) the following trustee companies, namely:—

- (i) The Perpetual Trustees, Executors, and Agency Company Limited;
- (ii) The Tasmanian Permanent Executors and Trustees Association Limited;
- (iii) The National Executors and Trustee Company of Tasmania Limited;
- (iv) The Equity Trustees Company of Tasmania Limited; and
- (v) The Tasmanian Woolgrowers' Trustee and Executor Company Limited; and

(b) any company, association, society, or body of persons that is declared, by proclamation under section four, to be a trustee company for the purposes of this Act, but subject to such modifications (if any) as may be specified in the proclamation.

(2) The provisions of paragraph 3 of this schedule apply only to the Tasmanian Woolgrowers' Trustee and Executor Company Limited.

Liability of
shareholders.
Tas., s. 25.

2. The following provisions apply with respect to the liability of the shareholders in a trustee company, namely:—

(a) No member shall hold in his own right more than—

- (i) one thousand shares, in the case of The Equity Trustees Company Limited and the Tasmanian Woolgrowers' Trustee and Executor Company Limited, respectively; or
- (ii) five hundred shares, in the case of any other trustee company;

(b) Not more than two pounds ten shillings per share shall be called up except in the event, and for the purposes, of the winding up of a trustee company, and, upon the winding up of a trustee company, every member shall be liable for that amount per share, in addition to the sum of one pound ten shillings per share liable to be called up by the directors;

- (c) Upon the winding up of a trustee company, every person who then is, or has been, a member of the company is liable to contribute to the assets of the company to the extent of five pounds upon each share of which he then is the holder or has been the holder within the period of one year (or, in the case of a director, the period of two years) next before the commencement of the winding up;
- (d) The contribution for which a member of a trustee company is liable pursuant to sub-paragraph (c) of this paragraph, is payable in addition to any amount that is unpaid on the shares in respect of which he is so liable; and
- (e) The capital of a trustee company shall be, and shall remain, divided into shares of five pounds, and the number of shares in the company shall not, at any time, be reduced to less than ten thousand.

3.—(1) Of the persons holding office at any one time as directors of the company three at least shall be persons who, while so holding office, are not directors of the company incorporated under the *Companies Act 1920* under the style or name of the Tasmanian Woolgrowers' Agency Company Limited (in this paragraph referred to as "the Agency Company").

Qualifications
of directors.
Tas., s. 31.

(2) If at any time a person who is a director of the company becomes, while holding office as a director thereof, a director of the Agency Company, or ceases to be a director of the company for any reason, and the number of directors who are not also directors of the Agency Company is thereby reduced to less than three, the remaining directors shall not act except for the purpose of appointing a director so that the number of directors of the company who are not also directors of the Agency Company shall be at least three.

TRAFFIC.

No. 73 of 1953.

AN ACT to amend the *Traffic Act 1925* and the
Transport Act 1938. [9 December, 1953.]

BE it 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:—

1—(1) This Act may be cited as the *Traffic Act 1953*.

Short title
and citation.

(2) The *Traffic Act 1925*, as subsequently amended, is in this Act referred to as the Principal Act.