

## TRUSTEE COMPANIES.

### No. 25 of 1970.

## AN ACT to amend the *Trustee Companies Act 1953*. [8 July 1970.]

**B**E 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 *Trustee Companies Act 1970*. Short title and citation.

(2) The *Trustee Companies Act 1953*, as subsequently amended, is in this Act referred to as the Principal Act.

**2** After section ten of the Principal Act the following section is inserted:—

“ 10A—(1) Where—

- (a) a person dies, or has died, domiciled or leaving property in this State;
- (b) a trustee company is entitled, or authorized by a person entitled, to obtain probate of his will or letters of administration of his estate; and
- (c) it appears to that trustee company that his gross estate to be administered in this State does not exceed in value four thousand dollars,

Election to administer an estate or intestate estate not exceeding \$4,000 without grant of probate or administration.

that trustee company may, instead of applying for probate or letters of administration, in lieu thereof file in the office of the Registrar of the Court an election under its seal to administer that estate, and setting forth—

- (d) the name, residence, and occupation, so far as then known to the trustee company, of that person at the date of his death;
- (e) the property forming the estate of that person so far as it is then known to the trustee company;
- (f) the date of death of that person; and
- (g) if that person is believed by it to have died testate, that, after due inquiries, it believes that the document annexed to such election is the testator's last will or an exemplification thereof, if probate of that will or other appropriate grant in respect thereof has been made out of the State, and that that will has been validly executed according to law.

“(2) On the filing of such an election, the trustee company filing it shall be deemed to be administrator or executor, as the case may be, of the property of the deceased person in all respects as if letters of administration or probate had been granted to it by the Court.

“(3) A trustee company shall publish in the *Gazette* a notice that it has made such an election, and that notice shall be conclusive evidence that it is entitled to administer the estate.

“(4) If a trustee company—

(a) after filing such an election, finds that the gross value of the property to be administered in this State exceeds the sum of four thousand five hundred dollars, it shall, as soon as practicable thereafter; or

(b) at any time considers it desirable for any reason so to do, it may,

file in the office of the Registrar of the Court a memorandum under its seal stating the fact, and revoking its election, and apply for letters of administration or probate, as the case may require.

“(5) If after filing such an election a trustee company finds—

(a) that the deceased person who was supposed to have died intestate has died testate; or

(b) that the document annexed to the election as the testator's last will has been superseded by a later will, or for any reason is of no testamentary validity or effect,

it shall, as soon as practicable thereafter, file in the office of the Registrar of the Court a memorandum under its seal stating the fact and revoking the election; and thereupon the election shall be revoked accordingly, and the trustee company may file a fresh election under this section, and the provisions of this section apply as if no previous election had been filed thereunder.

“(6) A copy of an election filed under this section certified as a correct copy under the seal of the Court shall be equivalent to an exemplification for all purposes.”

**3** After section fifteen of the Principal Act the following section is inserted:—

“15A—(1) A trustee company may—

(a) prepare and lodge taxation returns in respect of estates and trusts administered by it or other personal representatives (of whom the trustee company need not be a co-executor, co-administrator, or co-trustee); and

(b) manage properties and businesses held or carried on in trust by it or by other trustees if the trustee company directly controls such management.

“(2) For such services a trustee company may charge such fees as it may determine.

“(3) Such fees may be based on the work done and the responsibility involved.

“(4) Where the Court is of opinion that a fee charged under this section is excessive it may review and reduce that fee and, for that purpose, make such orders as it thinks fit.”.

**4** Section eighteen of the Principal Act is amended—

(a) by omitting from paragraph (b) of subsection (1) the words “three and one-half” and substituting therefor the word “five”; and

(b) by inserting, after subsection (4), the following subsection:—

“(4A) Where the commission chargeable in respect of an estate under paragraph (a) of subsection (1) of this section would not otherwise exceed fifty dollars a trustee company may charge that sum as and for its commission.”.

Commission that may be charged by trustee company.

**5** Section nineteen of the Principal Act is amended by omitting from subsection (1) the word “respect” and substituting therefor the word “respects”.

Power of Court to remove trustee company from office, &c.

**6** Section twenty-five of the Principal Act is repealed and the following section is substituted therefor:—

“25—(1) Where a trustee company holds for investment—

(a) money belonging to an estate of which it is the sole trustee; and

(b) money—

(i) belonging to another estate of which it is sole trustee; or

(ii) belonging to a person for whom it is agent to invest that money,

it may—

(c) invest all that money as one fund in one or several securities;

(d) distribute the income arising from those securities, after deducting all proper charges, ratably among the several estates and persons whence the moneys so invested were derived; and

(e) likewise debit any loss arising from the investment ratably to those several estates and persons.

Power of trustee companies to mix funds for investment.

“(2) Nothing in this section authorizes a trustee company to invest money belonging to any estate or person upon a security upon which it could not lawfully be invested apart from this section.”.

Restrictions on classes of business that may be undertaken by trustee company.

**7** Section twenty-nine of the Principal Act is amended—

(a) by adding at the end of subsection (2) the following paragraph:—

“(g) acquiring and holding as beneficial owner shares in a company the principal business of which is that of a registrar of shares or debentures or a secretary of companies;”  
and

(b) by transposing the word “or”, at the end of paragraph (e) of that subsection to follow paragraph (f) thereof.

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**CONSUMERS PROTECTION.**

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**No. 26 of 1970.**

AN ACT to establish a Consumers Protection Council for the purpose of making investigations into matters affecting consumers and to make provision for matters incidental thereto.

[8 July 1970.]

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 *Consumers Protection Act 1970*.

Interpretation.

**2** In this Act, unless the contrary intention appears—

“advertising” includes any activity calculated or intended to promote or increase the sale or use of any goods or services;

“authorized officer” means a person appointed as an authorized officer under subsection (2) of section five or the holder of an office in respect of which a declaration has been made under that subsection;

“consumers” includes persons using, or taking advantage of, any service;

“Council” means the Consumers Protection Council established under this Act;

“documents” includes books, papers, and accounts, and any written records;