



TASMANIA

TRUSTEE COMPANIES AMENDMENT ACT 1993

No. 74 of 1993

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TRUSTEE COMPANIES AMENDMENT ACT 1993

No. 74 of 1993

AN ACT to amend the *Trustee Companies Act 1953*

[Royal Assent 23 November 1993]

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 Amendment Act 1993*.

Commencement

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

Principal Act

3—In this Act, the *Trustee Companies Act 1953** is referred to as the Principal Act.

Section 18C amended (Power of trustee companies to establish Common Funds)

4—Section 18C (13) of the Principal Act is amended by omitting all the words after “Common” (first occurring) and substituting “Fund—

- (a) a fee (according to the value of the work done and the services rendered) calculated at a rate not exceeding 1% a year on the capital sums invested in the Common Fund during the period in respect of which the income is received or allocated for the establishment, keeping (including the keeping of books of accounts), conduct and management of the Common Fund; and
- (b) an amount equal to money properly expended by the trustee company in relation to the keeping, conduct and management of the Common Fund.”.

Section 39AA amended (Special provisions relating to the holding, controlling and disposal, &c., of shares in trustee companies)

5—Section 39AA of the Principal Act is amended by omitting paragraph (c) and substituting the following paragraph:—

- (c) the issue, allocation, transfer, transmission and disposal of any of those shares in the circumstances specified in that Schedule.

Schedule 5 amended (Special provisions relating to the holding, controlling and disposal of shares in trustee companies)

6—Schedule 5 to the Principal Act is amended as follows:—

- (a) by inserting the following subparagraph in paragraph 2 after subparagraph (1A):—

* No. 72 of 1953. For this Act, as amended to 1 January 1987, see the continuing Reprint of Statutes. Subsequently amended by No. 20 of 1990 and No. 43 of 1991.

(1B) A person who contravenes subparagraph (1) is guilty of an offence and liable on summary conviction—

(a) in the case of a person other than a body corporate, to a fine not exceeding 50 penalty units or imprisonment for a term not exceeding 2 years, or both; or

(b) in the case of a person that is a body corporate, to a fine not exceeding 100 penalty units.

(b) by inserting the following subparagraph in paragraph 2 after subparagraph (4):—

(5) An issue, allotment, transfer or transmission of shares that causes a contravention of subparagraph (1) is not invalid by reason only of that contravention.

(c) by omitting paragraph 3 and substituting the following paragraphs:—

Control of issue, allotment and transmission of shares

3—(1) An issue, allotment or transmission of shares in a trustee company must not be made or registered if it would cause a contravention of paragraph 2 (1).

(2) Before issuing or allotting shares, or registering the transmission of shares, in a trustee company, the directors of the company may require the person to whom the shares are to be issued, allotted or transmitted to provide a statutory declaration or other evidence sufficient to show that the issue, allotment or transmission will not cause a contravention of paragraph 2 (1).

Restraints on voting, &c., rights of certain shares

3A—(1) If a person holds, controls or holds and controls shares in a trustee company in contravention of paragraph 2, the directors of the company, by notice in writing provided to the person, may require the person not to exercise any voting or other rights that are attached to those shares and are specified in the notice.

(2) A person who fails to comply with a requirement given under subparagraph (1) is guilty of an offence and liable on summary conviction—

(a) in the case of a person other than a body corporate, to a fine not exceeding 50 penalty units or imprisonment for a term not exceeding 2 years, or both; or

(b) in the case of a person that is a body corporate, to a fine not exceeding 100 penalty units.

(d) by omitting paragraph 5 (2);

(e) by omitting “notice—(a)” from paragraph 5 (3) and substituting “notice”;

(f) by omitting “notice; or” from paragraph 5 (3) and substituting “notice.”;

(g) by omitting sub-subparagraph (b) from paragraph 5 (3).

*[Second reading presentation speech made in:—
House of Assembly on 14 October 1993
Legislative Council on 26 October 1993]*