

T A S M A N I A .



1895.

ANNO QUINQUAGESIMO-NONO

VICTORIÆ REGINÆ,

No. 24.

Repealed by 62 Vict. No. 34

AN ACT to further amend the Law relating to Trustees. A.D. 1895. [24 October, 1895.]

WHEREAS it is desirable to amend the Law relating to Trustees: PREAMBLE. 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:—

1 This Act may be cited as "The Trustee Act, 1895," and shall be read and construed as one with "The Trustee Act, 1852," and "The Trustee Act, 1889." Short title.

2 "The Trustee Act, 1894," is hereby repealed, but nothing herein contained shall affect the validity of anything duly done thereunder previous to the passing of this Act. Repeal.

3 In this Act the word "Company" means any Banking or Mercantile or Trading Corporation, however created, and any Company registered, incorporated, or constituted under or pursuant to any Act of Parliament, and the words "Trustee," "Executor," and "Administrator" include the Curator of Intestate Estates, or the Committee of any Lunatic, and any Company, Corporation, Firm, or Association authorised by law to act as the Trustee, or Executor, or Administrator of the estate of any deceased person, and to hold shares as such Trustee, or Executor, or Administrator in any other Company, Corporation, Firm, or Association. Interpretation.

4 Notwithstanding anything contained in any Act or in any Memorandum or Articles of Association, or any Deed of Co-partnership or Settlement, or Rules, Regulations, or By-laws of any Company, any Trustee, or Executor, or Administrator

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may be registered
as a shareholder
in any Company.

Trustee, Executor, or Administrator of the estate of any deceased person who was registered as the holder of a share in any Company may upon application be registered as the holder of such share as such Trustee, Executor, or Administrator, and such Trustee, Executor, or Administrator shall not by reason of being registered as aforesaid incur any personal liability in respect of such share, but the estate of such deceased person shall continue to be liable in respect of such share in the same manner and to the same extent as if such share had remained registered in the name of such deceased person.

Trustee, or
Executor, or
Administrator
who purchases
shares in any
Company under
authority of Will,
&c., may be
registered as
shareholder.

5 Whenever the Will or other Instrument under which any Trustee, or Executor, or Administrator derives his title, authorises the purchase of any share in any Company with any of the moneys subject to the provisions of such Will or other Instrument as aforesaid, such Trustee, or Executor, or Administrator may apply to be registered as the holder of any share purchased under the authority of such Will or other Instrument as aforesaid, and such Trustee, or Executor, or Administrator, if registered as aforesaid, shall not by reason of being registered as aforesaid incur any personal liability in respect of such share, but the person or persons beneficially entitled thereto and the whole of the property subject to the provisions of such Will or other Instrument as aforesaid, and to which such person or persons are beneficially entitled, shall be liable in respect of such share in the same manner and to the same extent as if the person or persons beneficially entitled thereto had been registered as the holder or holders of such share: Provided that nothing in this Section contained shall be held to make it compulsory upon any Company to register any such Trustee, or Executor, or Administrator as the holder of any such share.

Fiduciary
capacity to be
entered on
Register of
Company not
assumed to have
notice of trust.

6 The fiduciary capacity in which any share may be dealt with under the last Two preceding Sections shall be entered on the Register of the Company and in all Lists of its Shareholders; but notwithstanding any such entry no Company shall be assumed to have notice of any trust, expressed or implied, in connection with any share the holder of which appears on its books as a Trustee, Executor, or Administrator.

Shares not to be
held contrary to
provisions of
instrument
creating trust.
Judge may
determine
remuneration.

7 Nothing in this Act contained shall be construed to empower any Trustee, Executor, or Administrator to hold a share in any Company unless empowered so to do by the instrument creating the trust.

8 In any case in which there is not in the instrument creating a trust or otherwise any provision for remunerating a Trustee, it shall be lawful for a Judge of the Supreme Court from time to time to determine in a summary manner what remuneration a Trustee shall in any such case be entitled to receive for his services in the execution of the trust, and the fund or persons out of which or by whom such remuneration shall be paid.

Beneficiary may
apply by petition
for removal of
Trustee.

9 It shall be lawful for any person who is beneficially interested in any property which is vested in a Trustee or Trustees, and who is aggrieved by any act of any Trustee of such property, to apply to the Supreme Court in its Equity jurisdiction, by petition setting forth the grounds of such person's complaint against such Trustee, and praying that such Trustee may be removed, and that another Trustee may be appointed in the place of the Trustee to be removed, or that the remaining Trustee or Trustees (if any) may be authorised to con-

Trustees.

tinue to act without any additional Trustee; and it shall be lawful for the Court or a Judge thereof, upon the hearing of any such petition, to order for any of the reasons recognised by Courts of Equity the removal of the Trustee or Trustees whose conduct is made the ground of complaint in such petition, and to appoint another Trustee or other Trustees in the place of the Trustee or Trustees to be removed; or to direct the remaining Trustee or Trustees (if any) to continue to act without any additional Trustee; and to make such further order as to the payment of the costs of the petition and the proceedings consequent thereupon as to the Court or Judge shall seem just.

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Nothing in this Section contained shall be construed to refer to a Trustee in Bankruptcy.

10 Upon the hearing of any petition for the removal of a Trustee as aforesaid the Court or a Judge may order that any Trustee who shall be removed shall account to the petitioner for his administration of any property or trust fund mentioned in the petition, and may order inquiries to be made and accounts to be taken in the same manner as upon a decree of the said Court directing inquiries to be made and accounts to be taken; and the Court or a Judge may from time to time make such further orders as may be necessary for enforcing payment of any balance found to be due from any such Trustee as aforesaid.

Upon hearing of petition for removal of Trustee Court or Judge may direct Trustee to account.

11 Any Trustee for whose removal a petition has been presented under this Act shall be entitled, upon making application in that behalf, to have such petition heard in open Court.

Trustee may have application for removal heard in open Court.

12—(1.) Trustees having trust-money in their hands which it is their duty to invest, shall be at liberty, if and so far as the instrument (if any) creating the trust does not contain any contrary direction, at their discretion to invest such trust-money in any Local Inscribed Stock of the Government of *Tasmania*.

Trustee may invest in Local Inscribed Stock.

(2.) The Trustees for the time being of any Savings Bank now or hereafter to be established in *Tasmania*, and the Trustees of every Friendly Society now or hereafter to be registered in *Tasmania*, shall be deemed to be Trustees within the meaning of this Section.

13 The provisions of this Act shall apply to any Trustee, Executor, or Administrator appointed or acting prior to the passing of this Act, and any such Trustee, Executor, or Administrator may make application to be registered under the provisions of this Act.

Act to apply to Trustee appointed prior to its passing.

14 If any beneficiary under a Will shall apply in writing to the Trustee administering the trusts of such Will for true and accurate accounts as to the state of the trust property and of all receipts and payments on account thereof, such Trustee shall, at the expense of the person requiring the same, render such accounts in accordance with the application within Twenty-eight days after the receipt thereof, provided that no proper accounts have been rendered during the Twelve months preceding the receipt of such application. And if any Trustee shall neglect or refuse to render such accounts as aforesaid upon application, he shall be personally liable to pay all costs and expenses incident to obtaining the same.

Trustee to render accounts.

