

13. Except as otherwise herein expressly provided any notice which may be given by either party to the other under this Arrangement shall be deemed to have been duly given if signed by the Prime Minister or the Premier as the case may be on behalf of the party giving it and sent by pre-paid post addressed to the Premier or Prime Minister as the case may be and every notice so sent shall be deemed to have been received by the person to whom it is addressed when it would in the ordinary course of post have been delivered.
14. The Commonwealth shall make no charge against the State for any service rendered by it under this Arrangement.
15. This Arrangement supersedes the Arrangement dated the twenty-fifth day of November One thousand nine hundred and forty-two made between the Governor-General of the Commonwealth and the Governor of the State for the collection of arrears of tax.

Dated this First day of April One thousand nine hundred and forty-eight.

By His Excellency's Command, }
 J. B. CHIFLEY. } W. J. MCKELL, Governor-General.

By His Excellency's Command, }
 EDWARD BROOKER, Treasurer. } HUGH BINNEY,
 Governor of the State of Tasmania.

TASMANIAN WOOLGROWERS' TRUSTEE AND EXECUTOR COMPANY.

No. 15 of 1948.

AN ACT to confer powers upon the Tasmanian
Woolgrowers' Trustee and Executor Company
Limited. [20 July, 1948.]

WHEREAS it is often difficult to secure the services of PREAMBLE.
 suitable persons for the offices of trustee, executor,
 administrator, and other similar offices: And whereas, in
 order to secure the more certain discharge of the duties of
 such offices, a Company styled "The Tasmanian Woolgrowers'
 Trustee and Executor Company Limited" has been formed
 and incorporated under the *Companies Act* 1920 and Acts
 amending the same, with the object, among other purposes,
 of affording persons the opportunity of obtaining the ser-
 vices of a permanent corporation for the performance of the
 duties of such offices, and thus to remove much of the uncer-
 tainty and insecurity which attend the appointment of private
 individuals: And whereas it is expedient to enable the
 said Company to act as executor, administrator with or
 without a will annexed, receiver, trustee, committee of estates
 of persons of unsound mind, guardian of the estates of infants,
 agent under power of attorney or otherwise, and to perform

and discharge all the duties of such offices, and to receive remuneration for its services, and to confer upon the said Company the powers and privileges hereinafter set forth in order to enable the said Company the more effectually and usefully to carry out the objects sought in its incorporation.

Be it therefore enacted by His Excellency the Governor, 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, for all purposes, be cited as the *Tasmanian Woolgrowers' Trustee and Executor Company Act 1948.*

Interpretation.

2 In this Act, unless the contrary intention appears—

“ administrator ” means administrator with or without a will annexed.

“ letters of administration ” means letters of administration with or without a will annexed.

“ the Company ” means “ The Tasmanian Woolgrowers' Trustee and Executor Company Limited.”

“ the Court ” means the Supreme Court or any judge thereof.

“ will ” includes codicil.

Company may act as executor and obtain probate.

3 Whenever the Company has been or shall be expressly, or according to the tenor, appointed as executor under the will of any testator, it shall be lawful for the Company to act as executor, or as executor according to the tenor, as the case may be, and to apply for and obtain probate accordingly.

Company may obtain letters of administration and act as administrator.

4 Whenever a natural person may apply for and obtain letters of administration of the estate of a deceased person it shall be lawful for the Company in like circumstances to apply for and obtain letters of administration and act as administrator.

Company may be appointed trustee, receiver, committee, guardian, or agent.

5 It shall be lawful for any court, judge, or person now or hereafter having power to appoint any trustee, receiver, committee of the estate of a person of unsound mind, guardian of an infant's estate, attorney, or agent, in any case to appoint the Company to be a trustee, receiver, committee, guardian, attorney, or agent, as the case may be.

Persons entitled to probate may authorise Company to obtain probate of the will.

6 Any person or persons named expressly or by implication as executor or executors who would be entitled to obtain probate of the will of any testator without reserving leave to any other person to apply for probate may, instead of himself or themselves applying for probate, authorise the Company to apply to the Court for administration with the will annexed; and administration with the will annexed may be granted to the Company, upon its own application, when so authorised, unless the testator has, by his will, expressed his desire that the office of executor should not be delegated or that the Company should not act in the trusts of his will.

7 Any person entitled to obtain letters of administration, whether general, special, or limited, of the estate of any intestate, may, instead of himself applying for administration, authorise the Company to apply for administration of such estate, and administration of the estate of the intestate may be granted to the Company upon its own application when so authorised.

Persons entitled to administration on intestacy may authorise Company to obtain administration.

8 Any person or persons named expressly or by implication as executor or executors who would be entitled to obtain probate of the will of any testator jointly with any other person or persons or company or companies may, notwithstanding any law or custom to the contrary, instead of himself or themselves applying for probate of the will, authorise the Company to apply to the Court for probate thereof, either alone with leave reserved for any person or persons or company or companies to come in and prove, or jointly with any other person or persons 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 or persons authorising the application:

Company where authorised by one executor may act jointly with others or obtain probate with leave for others to come in and prove.

Provided that the power conferred by this section shall not be exercised in the case of any will in which the testator has expressed his desire that the office of executor should not be delegated or that the Company should not act in the trusts of his will.

9 In all cases in which the said Company is empowered under this Act to apply for probate or for letters of administration, it shall be lawful for the Court in which, or the officer before whom, such application is made to receive and act upon an affidavit made by the secretary or acting-secretary of the Company in place of any affidavit required by the said Court to be made by persons making application for probate or for letters of administration.

Court to act on affidavit of secretary or acting-secretary in applications for probate or administration.

10 In all cases in which probate or letters of administration shall be granted to the Company, all the capital, both paid and unpaid, and all other assets of the Company, shall be liable for the proper administration of the estate committed to the Company; and so soon as the Company shall possess a paid-up capital of not less than Ten thousand pounds, of which paid-up capital Seven thousand five hundred pounds shall be invested in securities of the Commonwealth, or upon fixed deposit in any banking institution carrying on business in Tasmania in the name of the Treasurer of Tasmania in trust for the said Company, but transferable only upon the joint consent of the Treasurer and the Company, or upon the order of the Supreme Court or a judge thereof, the said liability of the capital and assets of the Company shall be deemed, in the case of letters of administration granted to the Company, to be sufficient security in place and stead of the bond taken in the case of private individuals to whom letters of administration may be granted.

Assets of company liable for proper administration of estates and no bond to be required when paid up capital is £10,000, of which £7500 is invested in Government securities.

Company may be appointed trustee, receiver, or committee of estate under lunacy law.

11 In all cases in which any court of justice, or any person or persons having authority or power to appoint any person as trustee or a receiver or committee of the estate under the law relating to lunatics, idiots, and persons of unsound mind, shall see fit to appoint the Company as trustee, or as such receiver or such committee it shall be lawful for the Company to be so appointed and to act until removed from such office as such trustee or receiver or committee, and to perform and discharge all acts and duties pertaining to the position of trustee, receiver, or committee, and the capital of the Company, both paid and unpaid, and all other assets of the Company shall be liable for the proper discharge of the duties committed to the Company; and so soon as the paid-up capital of the Company shall amount to Ten thousand pounds such liability of the capital and other assets of the Company shall be deemed sufficient security for the discharge of such duties in place of the bond required from private persons when appointed as receiver or committee.

Company may act under power of attorney by secretary, or acting-secretary, or two directors.

12 It shall be lawful for the Company to act under any power of attorney by which the Company is appointed attorney by any person or by any company or corporation; and all the powers conferred upon the Company by any such power of attorney may be exercised and carried into execution by the secretary or acting-secretary, or by any two of the directors of the Company; but in all cases the capital, both paid and unpaid, and all other assets of the Company, shall be liable for the due execution of the powers so conferred upon the Company. But this section shall not authorise any person, company, or corporation to confer any power upon the Company which cannot be legally conferred upon a private individual.

Company may be appointed to act as temporary executor, administrator, or trustee.

13 Any executor, administrator, or trustee may appoint the Company to act as executor, administrator, or trustee in his stead, and the Company, if so appointed by deed filed in accordance with any law now or hereafter to be in force providing for the filing of powers of attorney, may act within the scope of the authority conferred upon it as effectually as the executor, administrator, or trustee could have acted, and may exercise all discretionary and other powers delegated by the principal as fully and effectually as the principal could have exercised them; and, after the filing of such power as aforesaid, every act of the Company within the scope of the authority conferred shall, in favour of any person who shall deal with the Company *bona fide*, 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.

Executors, administrators, trustees, receivers, and committees may appoint Company to discharge their duties.

14 It shall be lawful for the executors or executor, administrators or administrator, acting under any probate or administration, and for any such receiver or committee as aforesaid, with the consent of the Supreme Court or a judge thereof, to appoint the Company to perform and discharge all the acts and duties of such executors or executor, adminis-

trators or administrator, receiver or committee (as the case may be); and such Company shall have the power to perform and discharge all such acts and duties accordingly, and in every such case all the capital, both paid and unpaid, and all other assets of the Company, shall be liable for the proper discharge of such duties; and the executors or executor, administrators or administrator, receiver or committee so appointing the Company shall be released from liability in respect of all acts done by or omitted to be done by the Company acting under such appointment.

15 Notice of any intended application for such consent shall be advertised once in one daily newspaper published in Hobart, and in one daily newspaper published in Launceston or on the North-West Coast of Tasmania, fourteen days before the making thereof, and the Court or judge may require any person resident in Tasmania, and 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; and such consent shall not be given in any case of a will in which the testator has expressed his wish that the trusts thereof should not be delegated or that the Company should not act therein.

Application for consent under preceding legislation.

16 Any appointment of the Company as executor, administrator, receiver, trustee, guardian, committee, attorney, or agent, made prior to the coming into operation of this Act shall be deemed and taken to be a valid appointment of the Company to such office or position.

Retrospective validation of appointment of the Company.

17 Wherever the Company is appointed to any office or position pursuant to any of the provisions hereof, it shall be lawful for the Company to do and perform all acts and duties and exercise all powers and discretions which appertain to such office or position as fully as if the Company were a natural person.

Company to act as if a natural person.

18 In all cases in which the personal attendance of an executor, administrator, trustee, or such receiver or committee as aforesaid is required in a court of justice or elsewhere, the Company shall be entitled to make such attendance in the person of the secretary or acting-secretary of the Company, and the personal duties of executor, administrator, trustee, receiver, or committee may be discharged on behalf of the Company by the Secretary or acting-secretary.

Secretary or acting-secretary may attend on behalf of Company and shall be responsible to court.

In every case where the Company shall obtain probate or letters of administration to be granted to the Company, and also in every case where the Company shall be appointed and shall act as trustee, receiver, or committee, the secretary or acting-secretary and directors shall be individually and collectively in their own proper persons responsible to the Court, and shall in their own proper persons be 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 such courts, in the same manner and to the same extent, as if such secretary or acting-secretary and directors had personally obtained probate or letters of administration and had acted as executor, administrator, trustee, receiver, or committee. But notwithstanding such personal responsibility of the said secretary or acting-secretary and directors, the capital, both paid and unpaid, and all the assets of the Company shall remain liable for any pecuniary loss which may be occasioned or which may happen through the imperfect or improper discharge, or through the neglect of the Company or of any of its officers, of any act or duty in respect of any office, appointment, or engagement held or entered upon by the Company.

Company's assets to be liable for the proper discharge of its duties.

19 All the assets (including uncalled capital) of the Company for the time being shall be liable for the proper discharge of all duties undertaken by the Company.

Company to be paid a commission on money received by it.

20 The Company shall be entitled to receive, in addition to all moneys properly expended by it and chargeable against the estates placed under the administration and management of the Company, a commission, to be fixed from time to time by the board of directors of the Company, but not to exceed in any case Two pounds ten shillings for every One hundred pounds of the capital value of any estate committed to the management of the Company as executor, administrator, trustee, or as such receiver, or committee as aforesaid, and Two pounds ten shillings for every One hundred pounds of income received by the Company as executor, administrator, trustee, receiver, or committee, or of capital or income received by the Company as an attorney acting under power of attorney; and such commission shall be payable out of the moneys and property committed to the management of the Company, and shall be received and accepted by the Company as a full recompense and remuneration to the Company for acting as such executor, administrator, trustee, receiver, committee, or attorney; and no other charges beyond the said commission and the moneys so expended by the Company shall be made by the Company.

If in any case the Supreme Court or a judge thereof shall be of opinion that such commission is excessive, it shall be competent for such Court or judge to review and reduce the rate of commission: Provided that the commission to be charged by the Company shall not exceed in each estate the amount of the published scale of charges of the Company at the time when such estate was committed to the Company; nor shall this enactment prevent the payment of any commission directed by a testator in his will in cases where such commission exceeds the amount hereinbefore authorised and in lieu of such commission.

Company may be removed from office by court, and provisions for relief against Company or directors.

21 In all cases in which the Company shall be appointed executor, administrator, trustee, or as such receiver or committee as aforesaid, or attorney under power, the Company shall, in addition to the liabilities and restrictions imposed

by this Act, be subject in all respects to the same control and liability to removal as private individuals who may be appointed executor, administrator, trustee, receiver, committee, or attorney are subject to. And it shall be lawful for all persons who may claim relief against the Company for any act done or assumed to be done, or in respect of any act omitted to be done by the Company, its directors or officers, under any of the powers conferred by this Act, to proceed in the Supreme Court or any other court of competent jurisdiction, either by suit, action, or other ordinary procedure of such court, or in any summary way by motion against the Company or against any of the directors or officers of the said Company, and such court may make and enforce such order in such manner as to such court shall seem just.

22 If any trustee, *cestui que trust*, executor or legatee, administrator, or next-of-kin or creditor, entitled to or interested in any estate which shall come into the possession or under the control of the Company shall be unable, upon application to the secretary or acting-secretary of the Company, to obtain a sufficient account of the property and assets of which such estate shall consist, and of the disposal and expenditure thereof or thereout, such trustee, *cestui que trust*, executor or legatee, administrator or next-of-kin or creditor shall be entitled to apply to the Supreme Court or to any judge thereof, after notice to the Company, for an account; and if the said Supreme Court or judge shall be of opinion that no sufficient account has been rendered by the Company, the said court or judge shall order such account to be rendered by the Company as to the said court or judge shall seem just, or, if the said court or judge shall think that no sufficient case has been established to require the Company to furnish an account, it shall be lawful for the said court or judge to dismiss the application.

Order for
account on
application,
of *cestui que*
trust, &c.

23 It shall be lawful for the Supreme Court or for any judge thereof, on application under the last preceding section, to order, in addition to or in substitution for any account to be rendered by the Company, that a person to be named in such order shall examine the books and accounts of the Company in reference to the estate as to which the order is made, and in that case the Company shall deliver to the person named in such order a list of all such books kept by the Company, and shall produce to such person at all reasonable times when required the said books and all accounts, vouchers, papers, and other documents of the Company in reference to the said estate and shall afford to him all necessary information and all other necessary facilities for enabling him to make the said examination.

Supreme
Court may
order audit
in any estate
committed to
Company.

24 So long as any estate in respect of which the Company is executor, administrator, or trustee shall remain in whole or in part unadministered, it shall not be lawful to proceed to wind up the Company voluntarily, unless with the sanction of the Supreme Court or of a judge of such court; and it shall be lawful for any person interested in such estate, or

Voluntary
winding-up
of Company
or disposal
of shares may
be restrained
by Supreme
Court.

who may have any claim in respect thereof, to apply to the Supreme Court or to a judge of such court, in a summary way, to restrain any director or any shareholder from disposing of any share which such director or shareholder may hold in the Company, or to restrain the winding up voluntarily of the Company; and the said court or judge shall in any and every case have power to make such order in the matter as the circumstances of each case shall appear to such court or judge to require.

Liability of
shareholders.

25 The following provisions with respect to the liability of shareholders in the Company shall be and remain in force, notwithstanding any alteration which may be made in its articles of association:—

- (a) no member shall hold more than one thousand shares in his own right.
- (b) no more than Two pounds ten shillings per share shall be called up, except in the event of and for the purpose of the winding up of the Company; and every member shall be liable for this amount per share in such event, in addition to the sum of One pound ten shillings per share liable to be called up by the directors.
- (c) in the event of the Company being wound up, every then present and past member of the Company shall be liable to contribute to the asset of the Company to the extent of Five pounds upon each share of which such member is or shall have been, within one year, or, in the case of a director of the Company, within two years, next prior to the commencement of such winding up, the holder over and above the amount (if any) unpaid on the shares in respect of which he may be liable as a present or a past member.
- (d) the capital of the Company shall be and remain divided into shares of Five pounds, and the number of shares in the Company shall not be at any time reduced to less than Ten thousand.

Two pounds
ten shillings
per share to
be availabl
on winding-
up.

Capital to be
in minimum
number of £5
shares.

Returns to be
made by
Company.

26 The secretary or acting-secretary of the Company shall, during the months of February and August in every year during which the Company carries on business, make before some justice of the peace a declaration, duly audited, as to the assets and liabilities of the Company, in the form contained in the schedule hereto, or as near thereto as circumstances will admit; and a copy of such declaration shall be published in the *Gazette*, and shall be put up in a conspicuous place in the registered office of the Company and in every branch office or place where the business of the Company is carried on and shall be sent to every member, and given to any creditor of the Company who applies for the same. If default is made in compliance with the provisions of this section, the Company shall be liable to a penalty not exceeding Five pounds for every day while such default continues;

and every director and secretary of the Company who knowingly and wilfully authorises or permits such default shall incur the like penalty.

27 Where by any will or other testamentary writing, OR Testators and others may employ their own solicitors. by any deed or any other instrument in writing, the said Company or other trustees or trustee of any such will, deed, writing, or instrument in writing shall be directed to employ any solicitor named therein to conduct the legal or professional business of any trust or other estate referred to in any such will, deed, writing, or instrument, or whenever the Company shall, previously to the transfer to the Company of the trusteeship, business, or management of any trust or other estate, agree with any solicitor that he shall have the conduct of and be employed in and about the legal and professional business of such trust or other estate, then the Company, in the event of their undertaking any such trust or business, shall employ such solicitor accordingly; and such solicitor shall in such case be deemed and taken to be the solicitor of the Company in any such trust or business as aforesaid, and shall not be removed without an order of the Supreme Court or a judge thereof, upon the application of the Company or of any person interested in such estate, upon such cause being shown as the court or judge shall deem sufficient; and, in case any such order shall be made, the court or judge may appoint the solicitors of the Company to act as solicitors to such trust or business.

28 In all cases where the Company shall hold money belonging to more than one estate as sole trustee for investment, it shall be lawful for the Company to invest such money as Company may mix funds for investment. one fund in one or several securities, and to distribute the income arising from such securities, after deducting all proper charges ratably among the several estates whence the moneys so invested were derived; and any loss arising from any such investment shall likewise be borne ratably by the same several estates: Provided that no money belonging to any estate shall be invested upon any security not authorised by the instrument creating the trust or by Act of Parliament.

29—(1) Notwithstanding anything contained in the *Companies Act 1920** or in the memorandum or articles of association of the Company, it shall not engage in, carry on, or be concerned in, any business, trade, venture, or undertaking of any kind whatsoever except—

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

* 11 Geo. V. No. 66. For this Act, as amended to 1936, see Reprint of Statutes, Vol. I, p. 545. Subsequently amended by 3 & 4 Geo. VI. No. 52, 4 Geo. VI. No. 56, and 8 & 9 Geo. VI. No. 45.

† 62 Vict. No. 34. For this Act, as amended to 1936, see Reprint of Statutes, Vol. VI, p. 1099. Subsequently amended by 5 Geo. VI. No. 17.

Provided that the Company may guarantee the safety of the principal, and the regular payment of the interest, of trust funds committed to its management as executor, administrator, or trustee, and may give or enter into any bond or guarantee for the purpose of enabling any person to obtain administration of the estate of any deceased person in any case where that estate is placed under the management or control of the Company by the administrator.

(2) Any director, member, or officer of the Company who is concerned in, or is a party to, any wilful contravention of the provisions of this section shall be liable to a penalty of one hundred pounds, or imprisonment for three months, or both such penalty or imprisonment.

Separate accounts of each estate to be kept.

30 An account of the moneys paid or received, and of investments made and moneys advanced, by the Company on account of each estate of which the Company has the control and management in pursuance of the provisions of this Act, shall be kept by the Company separate and distinct from that of any other such estate.

Provisions as to qualifications of directors.

31—(1) Notwithstanding anything contained in the *Companies Act 1920** or in the articles of association of the Company, 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 that Act under the style or name of the Tasmanian Woolgrowers' Agency Company Limited (in this section referred to as "the Agency Company").

(2) If at any time any 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 in any way 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.

Act not to preclude other companies from applying for similar powers to those conferred by this Act.

32 Nothing in this Act contained shall be deemed to give to the Company any *locus standi* to oppose the granting of similar powers to those conferred upon the same Company by the Act to any other Company, or to corporations generally, or to claim or to seek compensation in consequence of such powers being conferred upon any other Company or upon corporations generally.

* 11 Geo. V. No. 66. For this Act, as amended to 1936, see Reprint of Statutes, Vol. I., p. 545. Subsequently amended by 3 & 4 Geo. VI. No. 52, 4 Geo. VI. No. 56, and 8 & 9 Geo. VI. No. 45.

33 Excepting so far as is herein expressly provided, the Company shall remain and be subject to the same restrictions, liabilities, penalties, privileges, and powers as it is subject to under its present incorporation, and this Act shall not otherwise affect the incorporation of the Company.

Incorporation and powers of Company except so far as specifically altered to remain.

34 The judges of the Court are hereby authorised to make such orders as from time to time seem necessary for better carrying the provisions of this Act into effect, and for regulating the fees and allowances to be paid and allowed to all officers of the said court in respect of the matters to which this Act relates.

Court may make general orders.

35 The Court or a judge thereof shall have full power and discretion to make such order as may be thought fit respecting the costs, charges, and expenses of the Company or of any of the parties of and incidental to any application or proceeding whatsoever under this Act, and also to order by and to whom, and out of what estate, if any, such costs, charges, and expenses shall be paid.

Costs.

SCHEDULE.

THE TASMANIAN WOOLGROWERS' TRUSTEE AND
EXECUTOR COMPANY LIMITED.

I,....., do solemnly and sincerely declare:—

That the liability of members is limited.

That the capital of the Company is.....divided into
.....shares of.....each.

That the number of shares issued is.....

That calls to the amount of.....pounds per share have
been made, under which the sum of.....pounds has
been received.

That the liabilities of the Company on the last day of.....
last were—

Debts owing to sundry persons by the Company, namely:—

- On judgment.
- On specialty.
- On notes or bills.
- On simple contracts.
- On estimated liabilities.

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.