

PERPETUAL TRUSTEES W.A. LTD.

No. 70 of 1980.

AN ACT to amend section 29 of the Perpetual
Trustees W.A. Ltd., Act 1922-1979.

[Assented to 26 November 1980.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the *Perpetual Trustees W.A. Ltd., Amendment Act 1980.* Short title.

(2) In this Act the Perpetual Trustees W.A. Ltd., Act 1922-1979 is referred to as the principal Act. Reprinted as approved 17 December 1968 and amended by Acts Nos. 70 of 1969, 84 of 1974, 122 of 1976, and 53 of 1979.

(3) The principal Act as amended by this Act may be cited as the Perpetual Trustees W.A. Ltd., Act 1922-1980.

Section 29
repealed
and sub-
stituted.

Security for
the conduct
of affairs.

2. Section 29 of the principal Act is repealed and the following section is substituted—

“ 29. (1) Notwithstanding the provisions of section 7 and of subsection (5) of section 8 of this Act, all the capital both paid and unpaid, and all other assets of the Company, shall—

(a) be liable *pari passu* for—

(i) the proper administration of the estates committed to the Company; and

(ii) the proper discharge by the Company of the duties of any office to which the Company is appointed or in which the Company acts, being an office of the kind referred to in subsection (1) of section 8 of this Act;

and

(b) subject to paragraph (a) of this subsection, be liable for the proper conduct of any agency, investment, or other business of the Company,

and any provision (whether or not contained in any document) is void in so far as it would have the effect of exempting the Company from, or indemnifying the Company against, liability for breach of trust where the Company fails to show the degree of care and diligence required of a trustee, representative, guardian or attorney, as the case may require, having regard to the powers, authorities or discretions conferred on the Company in relation thereto.

(2) Notwithstanding subsection (6) of section 8, and in addition to and not in substitution for the requirements of section 7, of this Act the Company shall furnish to the Treasurer such security for the Company paying, applying, and accounting for, all moneys, and administering all other property

of whatever nature, coming into the possession or control of the Company, and for punctually complying with all duties and obligations imposed on the Company by law in relation to those moneys or that property, as may be prescribed.

(3) The Governor may make regulations prescribing all matters that are required or permitted to be prescribed, or are necessary or convenient to be prescribed, for giving effect to the purposes of this section, but unless and until otherwise so prescribed the Company shall, for the purposes of this section, furnish as security either—

(a) a policy or policies of insurance, with an insurer approved by the Treasurer and in terms satisfactory to the Treasurer, to provide cover—

(i) by way of professional indemnity, in an amount of \$300 000; and

(ii) by way of fidelity guarantee, in an amount approved by the Treasurer,

against any claim or defalcation arising out of the operations of the Company under this Act, and

(iii) the investment from the paid up capital of the Company of an amount of not less than \$400 000 in the name of the Treasurer in investments approved by the Treasurer and authorised by section 16 of the Trustees Act 1962;

or

(b) an investment of the kind referred to in subparagraph (iii) of paragraph (a) of this subsection of an amount of not less than \$700 000.

(4) The documents and securities from time to time representing any investment made for the purposes of this section, or necessary or convenient to enable any such investment to be realised and applied for the purposes of this section, shall be deposited by the Company with the Treasurer, and the Company shall furnish to the Treasurer such information regarding the affairs of the Company as he may reasonably require.

(5) The Treasurer shall hold the prescribed security upon trust for the Company subject to the requirements of this section, but any interest arising from any such investment shall belong and be payable to the Company.

(6) The provisions of this section shall be taken to be in addition to, and not in substitution for, any rights that a person may otherwise have in relation to a claim against the Company, and any such person shall be entitled to rank as a creditor of the Company for the balance of any claim in so far as the amount of any payment made to him pursuant to this section is insufficient to satisfy the claim. " .
