



Western Australia

Trustees' Powers Act 1931

Compare between:

[06 Jul 1998, 00-a0-05] and [04 Jul 2006, 00-b0-05]

Trustees' Powers Act 1931

An Act to confer certain powers on Trustees.

[Assented to 28 August 1931.]

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

1. Short title

This Act may be cited as the *Trustees' Powers Act 1931*.

2. Interpretation

In this Act, subject to the context —

“Lease” means a lease of any land or premises, and includes any agreement for a lease or any tenancy agreement;

“Settled property” includes any property which stands limited by any deed, will, or document, to or in trust for any persons by way of succession or wherein any persons are beneficially interested in succession;

“Settlement” includes any such deed, will, or document as aforesaid;

“Trustee” includes any trustee within the meaning of the *Trustees Act 1900*, and a legal personal representative of a deceased person and a tenant for life who has granted, or authorised the granting of any lease by virtue of the *Settled Land Act of 1892*;

“Trust property” includes settled property and property the subject of any trust.

3. Power to vary leases

A trustee may at any time, either with or without consideration in money or otherwise, vary, release, waive or modify, either absolutely or otherwise, the terms of any lease of land or premises comprised in the trust property (including the term providing for payment of rent), in respect of the whole or any part of the said land or premises, but so that every such lease shall, after such variation, release, waiver, or modification as aforesaid be such a lease as might then have been lawfully and properly granted by or on the authority of the trustee if the lease had been surrendered or otherwise determined.

4. Power to consent to reduction of interest on mortgages

- (1) When, by force of any statute, the interest to become payable under any mortgage, being trust property, is reduced in rate, but such statute enables the trustee of such mortgage to make application for permission to charge interest at a rate higher than the reduced rate, then the trustee shall be deemed to have full discretionary power to refrain from applying for such permission as aforesaid.
- (2) The provisions of this section shall have effect notwithstanding any statutory enactment, or any rule of law or equity to the contrary, and no trustee exercising in good faith the discretion hereby given shall be liable as for a breach of trust or otherwise.

5. Power to apportion moneys between capital and income in connection with settled property

A trustee in whom any settled property is vested shall have power to determine in case of doubt whether any moneys (being part of or arising from the settled property) which may come to his hands are capital or income, or whether any loss which has been suffered in connection with the property is a loss of capital

or income, and every such determination shall be binding upon all beneficiaries interested or to become interested in the settled property as if it had been made under the authority of a judge.

6. Application of Act

This Act shall apply to trusts created and settlements made before or after the commencement of this Act; but nothing herein contained shall authorise a trustee to do anything which he is in express terms forbidden to do or to omit to do anything which he is in express terms directed to do by the settlement or instrument creating the trust.

6A. Trustees may join in compositions and schemes of arrangement under *Farmers' Debts Adjustment Act 1930*

Notwithstanding the provisions of the preceding section a trustee shall not be liable for any breach of trust by reason of having voted for or having been a party to any agreement or arrangement between a farmer and his creditors under the provisions of the *Farmers' Debts Adjustment Act 1930*, including any agreement or arrangement under that Act for the writing down or suspension or the writing down and suspension of the debts of any farmer.

In this section “**trustee**” includes a legal personal representative.

[Section 6A inserted by No. 4 of 1935 s.2.]

7. No action against trustee lawfully exercising power under this Act

No action, indictment, information or other proceeding shall be commenced, presented, prosecuted or maintained against any trustee lawfully exercising the power conferred upon him by this Act.

Notes

- ^{1.} This is a compilation of the *Trustees' Powers Act 1931* and includes all amendments effected by the other Acts referred to in the following Table.

~~Table of Acts~~

Compilation table

Act <u>Short title</u>	Number and Year <u>year</u>	Assent	Commencement	Miscellaneous
<i>Trustees' Powers Act 1931</i>	10 of 1931	28 August <u>Au</u> <u>g</u> 1931	28 August <u>Aug</u> 1931	
<i>Trustees Powers Amendment Act 1935</i>	4 of 1935	5 October <u>Oc</u> <u>t</u> 1935	5 October <u>Oct</u> 1935	
<u>This Act was repealed by the Statute Law Revision Act 2006 s. 3(1) (No. 37 of 2006) as at 4 Jul 2006 (see s. 2)</u>				