

*The West Australian Trustee Executor and Agency Company
Limited.*

PRIVATE ACT.]

[1923.

**THE WEST AUSTRALIAN TRUSTEE
EXECUTOR AND AGENCY COM-
PANY LIMITED.**

14° GEO. V., PRIVATE ACT.

**AN ACT to amend “The West Australian Trustee Executor
and Agency Company Limited Act.”**

[Assented to 22nd December, 1923.]

Preamble.

WHEREAS it is expedient to amend a certain Act passed in the 56th year of Her late Majesty's reign intituled “The West Australian Trustee Executor and Agency Company Limited Act”: Be it therefore 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:—

Short title.

1. This Act may be cited as *The West Australian Trustee Executor and Agency Company Limited Act Amendment Act 1923* and shall be read as one with The West Australian Trustee Executor and Agency Company Limited Act (hereinafter referred to as “the principal Act”).

Amendment of
Sec.1.

2. Section one of the principal Act is amended by striking out the following words—

“Committee”—The Committee of the Estate under The Lunacy Act 1871 or any other law in force for the time being relating to the management of the estates of insane persons.

“Trustee in Bankruptcy”—Trustee appointed under any of the provisions of The Bankruptcy Act 1892 or any other law in force for the time being relating to bankruptcy insolvency liquidation by arrangement or composition with creditors:

And inserting in lieu thereof the following words:—

“Committee” includes the committee of the person or estate of a person found or declared to be insane or of unsound mind and incapable of managing himself

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or his affairs and includes a person undertaking the care and management of the property of a person incapable of managing his affairs or of the property of an insane patient.

“Trustee in Bankruptcy” includes the trustee of any assignment under the law relating to bankruptcy insolvency liquidation by arrangement or composition with creditors and also includes a liquidator and an official liquidator.

3. Section two of the principal Act is amended by inserting after the word “Company” in the first line the words “alone or jointly with any other person or corporation.”

Amendment of
Sec. 2.

4. Section three of the principal Act is repealed and the following section substituted therefor:—

Amendment of
Sec. 3.

3. It shall be lawful for any person or persons entitled to obtain letters of administration with the will of any testator annexed of the estate of such testator to authorise the Company either alone or jointly with any other corporation or any person to apply for and to obtain letters of administration with the will annexed which may be granted to the Company upon its own application when so authorised.

Persons entitled to
obtain Letters of
Administration
with will annexed
may authorise the
Company to do so.

5. Section four of the principal Act is amended by inserting after the words “authorise the Company” in the second line the words “alone or jointly with any other person or corporation so entitled.”

Amendment of
Sec. 4.

6. Section seven of the principal Act is repealed and the following section substituted therefor:—

Amendment of
Sec. 7.

7. In all cases in which the Company either alone or jointly with any other person or corporation is empowered under this Act to apply for probate or for letters of administration an affidavit made by the manager or secretary or any person acting as manager or secretary or by such other officer of the Company as may from time to time be appointed by the Board of Directors for that purpose shall be received and be acted upon instead of any affidavit required by any Act of Parliament Court

Affidavit by
officers of
Company to be
received and acted
upon in application
for probate or
administration.

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or rule of Court to be made by persons making application for probate or letters of administration.

Amendment of
Sec. 9.

7. Section nine of the principal Act is repealed and the following section substituted therefor:—

Company may be
appointed trustee
receiver committee
or guardian of
estate etc.

9. (1.) In all cases where any court of justice or judge thereof or person has power to appoint any person
as

- (a) trustee or
- (b) receiver or manager and receiver or
- (c) committee or
- (d) guardian of the estate or person of an infant or
- (e) trustee in bankruptcy or under the law relating to bankruptcy or winding up of companies or associations or
- (f) surety or guarantor

the Company may be so appointed.

(2.) (a) Subject as hereinafter provided the Company may be appointed or may continue to act as sole trustee in all cases notwithstanding that it is provided by the terms of the instrument (if any) creating the trust or of any power or otherwise that there shall be more than one trustee to perform the trust.

(b) Where the Company and one or more individuals are co-trustees any one or more of such individuals may retire and the Company shall for the purposes of any Act now or hereafter in force relating to the retirement of trustees and the vesting of the trust property be deemed to be equivalent to two trustees.

(3.) The Company shall not be appointed in any case in which the instrument creating the trust or power forbids the appointment of the Company.

(4.) The Company shall not be appointed or be entitled to act as sole trustee in any case in which the instrument creating the trust or power expressly provides that there shall be another trustee in addition to the Company or that the Company shall not be appointed or act as sole trustee.

(5.) In every case in which the Company is appointed or acts in any of the offices in subsection one

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hereof mentioned all 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 of such office.

(6.) No bond recognisance or other security for the proper discharge of such duties shall be required to be given by or on behalf of the Company.

8. Section ten of the principal Act is amended by inserting after the words "the Company" in the second line the words "either alone or jointly or jointly and severally with any other corporation or person."

Amendment of
Sec. 10.

9. Section eleven of the principal Act is amended by inserting after the words "to act" in the second line the words "either alone or jointly with any other corporation or person."

Amendment of
Sec. 11.

10. Section twelve of the principal Act is amended by inserting after the words "the Company" where the same first appears in the said section the words "either alone or jointly with any other corporation or person" and by deleting the words "acts and duties" in the fifth and eighth lines respectively and inserting in place thereof in the said lines the words "acts duties powers and discretions" and adding the following paragraphs at the end of the section:—

Amendment of
Sec. 12.

And if such appointment contains a declaration by the appointor to the effect that any real or personal property or any estate or interest therein then vested in the appointor in such capacity as aforesaid either alone or jointly with any other corporation or person shall vest in the Company that declaration shall without any conveyance transfer or assignment operate to vest in the Company the said real or personal property or estate or interest therein and the right to receive the same either solely or jointly with such other corporation or person as the case may require.

And for the purposes of registration of the said appointment the person or persons making the declaration shall be deemed the conveying or transferring party or parties and the conveyance or transfer shall be deemed to be made by him or them and the declaration upon

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registration shall be deemed and operate as a transfer under The Transfer of Land Act 1893 or a conveyance as the case may be.

Amendment of
Sec. 21.

11. Section twenty-one is amended by striking out the words "a married woman or."

The Company may
hold property as
joint tenant.

12. (1.) The Company shall be capable of acquiring and holding any property in joint tenancy in the same manner as if it were an individual.

(2.) Where the Company and an individual or the Company and another body corporate become entitled to any property under circumstances or by virtue of any instrument which if the Company or other body corporate had been an individual would have created a joint tenancy they shall be entitled to the property as joint tenants.

(3.) Where the Company or other body corporate is a joint tenant of any property then on its dissolution the property shall devolve on the other joint tenant.

Property vested in
Company and
another as Trustees
etc. to be held in
joint tenancy.

13. Where any property is now or hereafter becomes vested in the Company and an individual or in the Company and another body corporate to the intent that they should hold the same jointly in any fiduciary capacity or as mortgagees they shall be deemed to be joint tenants thereof and not tenants in common unless otherwise expressly provided.

Persons entitled to
probate may
authorise Company
to obtain admin-
istration with the
will annexed.

14. Any persons or person named expressly or by implication as executors or executor 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 themselves or himself applying for probate authorise the said Company to apply to the Supreme Court for administration with the will annexed and administration with the will annexed may be granted to the said Company upon its own application when so authorised unless the testator shall by his will have expressed his desire that the office of executor should not be delegated or that the said Company should not act in the trusts of his will.

Orders of Court
subject to appeal.

15. Every order made by any Court under this Act shall be subject to appeal in the same manner and under the same conditions as other orders of the Court.
