



Australian Capital Territory

# **Trustee Companies Act 1947**

**A1947-15**

**Republication No 10**

**Effective: 13 August 2010 – 13 August 2011**

Republication date: 13 August 2010

Last amendment made by A2010-13  
(republication for amendments by A2009-54  
and A2010-13)

Authorised by the ACT Parliamentary Counsel

## About this republication

### The republished law

This is a republication of the *Trustee Companies Act 1947* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 13 August 2010. It also includes any commencement, amendment, repeal or expiry affecting the republished law to 13 August 2010.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

### Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

### Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

### Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

### Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

### Penalties

At the republication date, the value of a penalty unit for an offence against this law is \$110 for an individual and \$550 for a corporation (see *Legislation Act 2001*, s 133).



Australian Capital Territory

# Trustee Companies Act 1947

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Australian Capital Territory

# Trustee Companies Act 1947

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An Act relating to trustee companies

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**1 Name of Act**

This Act is the *Trustee Companies Act 1947*.

**2 Dictionary**

The dictionary at the end of this Act is part of this Act.

*Note 1* The dictionary at the end of this Act defines certain terms used in this Act, and includes references (*signpost definitions*) to other terms defined elsewhere.

For example, the signpost definition '*books*—see the Corporations Act, section 9.' means that the term 'books' is defined in that section and the definition applies to this Act.

*Note 2* A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

**3 Notes**

A note included in this Act is explanatory and is not part of this Act.

*Note* See the Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

**4 Company may act as executor and obtain probate**

If a trustee company is named expressly or by implication as executor in the last will and testament or in the codicil to the last will and testament of any testator, that company may act as executor, and may apply for and obtain probate of the will of the testator and perform and discharge all the acts and duties of an executor.

**5 Authorisation given to trustee company to act by person entitled to probate**

- (1) If a person is named expressly or by implication as executor of the will of a deceased person and is entitled to apply for and obtain probate of the will without reserving leave to any other person to apply for probate, that firstmentioned person may—
  - (a) join with a trustee company in an application for a grant of probate of the will to that person and the trustee company jointly; or
  - (b) instead of applying personally, authorise a trustee company to apply for a grant of letters of administration with the will annexed.
- (2) If an application is made under subsection (1), the Supreme Court may grant letters of administration with the will annexed in accordance with the application unless the testator by his or her will has expressed the desire that—
  - (a) the office of executor should not be delegated; or
  - (b) a trustee company or that particular trustee company should not act in the trusts of the will.

**6 Authorisation given to trustee company to act by 1 of several executors**

- (1) If a person is named expressly or by implication as executor of the will of a deceased person and is entitled to apply for and obtain probate of the will jointly with any other person, that firstmentioned person may—
  - (a) join with a trustee company and any other person entitled to apply for probate in an application for a grant of probate of the will to that person, the trustee company and any other such person jointly; or

- (b) instead of applying personally, authorise a trustee company to apply for a grant of probate of the will, either—
  - (i) alone, with leave reserved for any person to come in and prove; or
  - (ii) jointly with any other person entitled to apply for probate; in the same way as if the trustee company had been originally named as an executor of the will in addition to or in the place of that firstmentioned person.
- (2) If an application is made under subsection (1), the Supreme Court may grant probate of the will in accordance with the application unless the testator by his or her will has expressed the desire that—
  - (a) the office of executor should not be delegated; or
  - (b) a trustee company or that particular trustee company should not act in the trusts of the will.

**7 Authorisation given to trustee company to act by person entitled to administration with will annexed**

- (1) If a person is entitled to apply for and obtain a grant of letters of administration with the will annexed of the estate of a deceased person, the person may—
  - (a) join with a trustee company in an application for a grant of letters of administration with the will annexed to the person and the trustee company jointly; or
  - (b) instead of applying personally, authorise a trustee company to apply for a grant of letters of administration with the will annexed.



- (2) If an application is made under subsection (1), the Supreme Court may grant letters of administration with the will annexed in accordance with the application unless the testator by his or her will has expressed the desire that the office of administrator should not be held by a trustee company or that particular trustee company.

**8 Authorisation given to trustee company to act by person entitled to administration on intestacy**

- (1) If a person is entitled to obtain administration of the estate of a person who died intestate, the person may—
- (a) join with a trustee company in an application for a grant of letters of administration of the estate to the person and the trustee company jointly; or
  - (b) instead of applying personally, authorise a trustee company to apply for a grant of letters of administration of the estate.
- (2) If an application is made under subsection (1), the Supreme Court may grant letters of administration of the estate in accordance with the application.

**8A Capacity of trustee company to act**

If—

- (a) administration of an estate with or without the will annexed; or
- (b) probate of a will;

is granted to a trustee company, either alone or jointly with another person, the trustee company may perform and discharge all the acts and duties of administrator, administrator with the will annexed or executor, as the case may be.

**9 Court to act on affidavit of managing director or manager in applications for probate or administration**

If a trustee company is empowered under this Act to apply for probate or for letters of administration, the Supreme Court may receive and act on an affidavit made by the managing director or manager of the company in place of any affidavit required to be made by persons making application for probate or for letters of administration.

**10 Assets of company to be liable for proper administration of estates**

- (1) This section applies if probate or letters of administration are granted to a trustee company in relation to an estate.
- (2) The paid and unpaid capital and all other assets of the trustee company are liable for the proper administration of the estate.

**11 Company may be appointed trustee, receiver or guardian of estate**

- (1) If any court or person has power to appoint any person as—
  - (a) trustee; or
  - (b) receiver; or
  - (c) guardian of the estate of a child;a trustee company may be so appointed.
- (2) Subject to this section, a trustee 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 1 trustee to perform the trust.

- (3) If a trustee company and 1 or more individuals are co-trustees, any 1 or more of those individuals may retire, and the company shall, for the purposes of any law relating to the retirement of trustees and the vesting of the trust property, be deemed to be equivalent to 2 trustees.
- (4) A trustee company shall not be appointed in any case in which the instrument creating the trust or power forbids the appointment of a trustee company or of that particular trustee company.
- (5) A trustee 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 a trustee company or that a trustee company or that particular trustee company shall not be appointed or act as sole trustee.
- (6) If a trustee company is appointed or acts in any of the offices mentioned in subsection (1), all the capital of the company, both paid and unpaid, and all other assets of the company and the directors, manager, and assistant manager and their respective estates shall be liable for the proper discharge of the duties of that office.
- (7) No bond, recognisance, or other security for the proper discharge of such duties shall be required to be given by or on behalf of a trustee company.

## **12 Company may act under power of attorney by managing director, manager or 2 directors**

- (1) A trustee company may act under any power of attorney by which the trustee company is appointed attorney by any person, and all the powers given to the trustee company by any such power of attorney may be exercised and carried into execution by the managing director or manager or 2 of the directors of the trustee company, but in all cases the capital both paid and unpaid and all other assets of

the trustee company shall be liable for the due execution of the powers so given to the trustee company.

- (2) This section shall not authorise any person to give any power to a trustee company that cannot be legally given to a private individual.

**13 Company may be appointed to act as temporary executor or administrator**

An executor or administrator or trustee may appoint a trustee company to act as executor or administrator or trustee in his or her place, and a trustee company if appointed by deed filed in accordance with any law providing for the filing of powers of attorney may act within the scope of the authority given to it as effectually as the executor or administrator or trustee could have acted and may exercise all discretionary and other powers delegated by the principal as fully as the principal could have exercised them, and after the filing of the deed and before the registration of the death of the principal or of the revocation of the authority given by the principal every act of the trustee company within the scope of the authority given shall, in favour of any person who deals with the trustee company, bona fide, and without notice of the death of the principal or of his or her revocation of the authority, be valid and effectual notwithstanding the revocation by, or death of, the principal.

**14 Executor or administrator may appoint company to discharge duties**

- (1) An executor or administrator acting under any probate or letters of administration, whether granted before or after the date when this Act comes into operation, or a trustee, receiver or guardian of a child may, with the consent of the Supreme Court, appoint a trustee company to exercise and discharge all the acts and duties of that executor, administrator, trustee, receiver or guardian.

- (2) The trustee company may, on being so appointed, exercise and discharge all the acts and duties of the executor, administrator, trustee, receiver or guardian.
- (3) In every such case, all the capital both paid and unpaid and all other assets of the trustee company shall be liable for the proper discharge, from the date of the appointment, of the acts and duties of the executor, administrator, trustee, receiver or guardian, and the executor, administrator, trustee, receiver or guardian shall be released from liability in relation to all acts done by, or omitted to be done by, the trustee company acting under an appointment under this section.

## **15 Application for consent under s 14**

- (1) Notice of an intended application for consent under section 14, and of the date when it is intended to be made, must be advertised once in a daily newspaper at least 7 days before the day the application is made.
- (2) The Supreme Court may require any person entitled to the immediate receipt of any of the income or corpus of the estate in relation to which the application is made to be served with notice of the application.
- (3) The costs of the application shall be in the discretion of the Supreme Court and may be ordered to be paid out of the estate.
- (4) The Supreme Court shall not give consent in the case of any will in which the testator has expressed his or her wish that the trusts of the will should not be delegated or that a trustee company or the particular trustee company in relation to which the application is made should not act in the trusts of the will.

**16 Managing director or manager may attend on behalf of company**

If the personal attendance of an executor, administrator, trustee, receiver or guardian is required, a trustee company may attend in the person of its managing director or manager and the personal duties of executor, administrator, trustee, receiver or guardian may be discharged on behalf of the company by the managing director or manager.

**17 Manager and directors personally responsible to court**

- (1) If a trustee company obtains probate or letters of administration or is appointed and acts as trustee, receiver or guardian, the manager and directors shall be individually and collectively in their own proper persons responsible to the Supreme 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 those courts in the same way and to the same extent as if the manager and directors had personally obtained probate or letters of administration and had acted as executor, administrator, trustee, receiver or guardian.
- (2) Notwithstanding anything contained in subsection (1), the capital, both paid and unpaid, and all the assets of the company shall remain liable for any pecuniary loss that is occasioned or that happens through the imperfect or improper discharge, or through the neglect of the trustee company concerned, or of any of its officers, of any act or duty in relation to any office, appointment or engagement held or entered on by the company.

**19 Trustee company to be subject to same duties as individual**

- (1) A trustee company shall, subject to the provisions of this Act, in every case in which it is appointed or acts as an executor,

administrator, trustee, receiver or guardian, in addition to the liabilities and restrictions imposed by this Act be subject to the same respective rights, duties and obligations to which an individual acting as executor, administrator, trustee, receiver or guardian would be subject.

- (2) If any individual acting in any such capacity would be liable in his or her own proper person to attachment, commitment or other process, the managers and directors of a trustee company shall, if the company is acting in any of those capacities, be liable each for his or her own individual act and not further or otherwise in his or her own proper person to attachment, commitment or other process.

#### **19A Company may hold property as joint tenant**

- (1) A trustee company is capable of acquiring and holding property as a joint tenant with an individual in the same way as an individual may acquire and hold property as a joint tenant.
- (2) If a trustee company that is a joint tenant of property is dissolved, the property devolves on the other joint tenant.

#### **20 Company may be removed from office by court and provisions for relief against company or directors**

- (1) If a trustee company is appointed or acts as executor, administrator, trustee, receiver, guardian or attorney, it shall, in addition to the liabilities and restrictions imposed by this Act, be subject in all respects to the same control and liable to removal as a private individual who acts as executor, administrator, trustee, receiver, guardian or attorney.
- (2) Any person claiming relief against a trustee company for any act done or assumed to be done, or in relation to any act omitted to be done, by the company, its directors or officers, under any of the powers given by this Act, may proceed in the Supreme Court against the trustee company or against any of its directors or officers.

- (3) In any such proceedings, the Supreme Court may make any order that it considers appropriate.

**23 Voluntary winding-up of company or disposal of shares may be restrained by Supreme Court**

- (1) So long as an estate in relation to which a trustee company is executor, administrator, trustee, receiver or guardian remains in whole or in part unadministered, the company shall not, except with the approval of the Supreme Court, be voluntarily wound up.
- (2) Any person interested in the estate or who has a claim in relation to the estate may apply to the Supreme Court to restrain a director or shareholder from disposing of any share that the person holds in the company or to restrain the winding-up voluntarily of the company, and the court may on any such application make any order that the court considers appropriate.

**32 Act not to preclude other companies from applying for similar powers to those given by this Act**

Nothing in this Act shall entitle a trustee company to oppose the granting of any powers similar to those given to certain companies by this Act to any other company or to corporations generally, or to claim or to seek compensation in consequence of the powers being given to any other company or to corporations generally.

**33 Testators may appoint own lawyers**

- (1) This section applies if—
  - (a) a trustee company is the executor or administrator (or an executor or administrator) of the estate of a deceased person (the *testator*); and
  - (b) the testator has directed by will that a particular lawyer conduct the legal business of the testator's estate.



- (2) The lawyer is entitled to conduct that legal business as directed by the testator.
- (3) However—
  - (a) the trustee company is not liable for any misconduct of the lawyer; and
  - (b) the lawyer may be removed by order of the Supreme Court on the application of the trustee company or of anyone interested in the estate.
- (4) If a lawyer is removed under subsection (3) (b), the Supreme Court may appoint a lawyer nominated by the trustee company.
- (5) In this section:  
*will* includes codicil or other testamentary writing.  
*misconduct* includes negligence, misfeasance and nonfeasance.

### **34B Compulsory transfer determinations**

- (1) This section applies if—
  - (a) the Australian Securities and Investments Commission (*ASIC*) cancels the licence of a trustee company (the *transferring company*) and makes a determination under the Corporations Act, section 601WBA that there is to be a transfer of estate assets and liabilities from the transferring company to another licensed trustee company (the *receiving company*); and
  - (b) ASIC issues a certificate of transfer under that Act, section 601WBG for the transfer; and
  - (c) either the transferring company or the receiving company (or both) is registered in the ACT.

*Note* A reference to a law (including a Cwlth Act) includes a reference to the Act as originally made and as amended (see Legislation Act, s 102).

- (2) When the certificate of transfer comes into force, the receiving company is taken to be the successor in law in relation to estate assets and liabilities of the transferring company, to the extent of the transfer.

*Note* The Corporations Act, s 601WBG requires the certificate of transfer to state when it is to come into force.

- (3) Without limiting subsection (2)—
- (a) if the transfer is a total transfer—all of the assets and liabilities of the transferring company become assets and liabilities of the receiving company (without the need for any further conveyance, transfer, assignment or assurance); and
  - (b) if the transfer is a partial transfer—the assets and liabilities listed as referred to in the Corporations Act, section 601WBG (2) (c) of the transferring company become assets and liabilities of the receiving company (without the need for any further conveyance, transfer, assignment or assurance); and
  - (c) to the extent of the transfer—the duties, obligations, immunities, rights and privileges applying to the transferring company apply to the receiving company; and
  - (d) if the certificate includes provisions of the kind referred to in the Corporations Act, section 601WBG (3) specifying—
    - (i) that particular things are to happen or are taken to be the case—those things are taken to happen, or to be the case, in accordance with those provisions; and
    - (ii) a mechanism for determining things that are to happen or are taken to be the case—things determined in accordance with the mechanism are taken to happen, or to be the case, as determined in accordance with that mechanism.

- (4) The operation of this section is not to be regarded as—
- (a) a breach of contract or confidence or otherwise as a civil wrong; or
  - (b) a breach of any instrument (including, without limitation, any provision prohibiting, restricting or regulating the assignment or transfer of assets or liabilities); or
  - (c) an event of default under any contract or other instrument; or
  - (d) giving rise to any remedy by a party to a contract or other instrument, or as causing or permitting the termination of, or exercise of rights under, any contract or other instrument.

### **35 Regulation-making power**

- (1) The Executive may make regulations for this Act.

*Note* Regulations must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

- (2) The regulations may prescribe offences for contraventions of the regulations and prescribe maximum penalties of not more than 10 penalty units for offences against the regulations.

### **37 Transitional—def *trustee company***

- (1) For this Act, a trustee company includes a company authorised under a law of a State or Territory to act as executor, administrator and trustee in the State or Territory immediately before 1 January 2010.
- (2) This section expires—
- (a) 12 months after the day it commences; or
  - (b) if, before 12 months after the day it commences, another day is prescribed by regulation—on that day.

## Dictionary

(see s 2)

*Note 1* The Legislation Act contains definitions and other provisions relevant to this Act.

*Note 2* For example, the Legislation Act, dict, pt 1, defines the following terms:

- Act
- appoint
- bank
- corporation
- Corporations Act
- daily newspaper
- Executive
- lawyer
- Minister
- person
- Supreme Court.

*books*—see the Corporations Act, section 9.

*first valuation day*, in relation to a common trust fund, means the day determined under section 25B (6) for the purpose of valuing the fund.

*officer*, of a trustee company, means an officer of the company under the Corporations Act.

*Note* *Officer* of a corporation is defined in the Corporations Act, s 9.

*trustee company* means a licensed trustee company within the meaning of the Corporations Act, chapter 5D.

*Note* A reference to a law (including a Cwlth Act) includes a reference to the Act as originally made and as amended (see Legislation Act, s 102).

***valuation day***, in relation to a common trust fund, means—

- (a) a day mentioned in section 25F (1) (a) (i) or (ii); or
- (b) any other day when, under section 25F (1) (b), a valuation of the fund is carried out.

## Endnotes

1 About the endnotes

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## Endnotes

### 1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

### 2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	par = paragraph/subparagraph
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	pt = part
exp = expires/expired	r = rule/subrule
Gaz = gazette	renum = renumbered
hdg = heading	reloc = relocated
IA = Interpretation Act 1967	R[X] = Republication No
ins = inserted/added	RI = reissue
LA = Legislation Act 2001	s = section/subsection
LR = legislation register	sch = schedule
LRA = Legislation (Republication) Act 1996	sdiv = subdivision
mod = modified/modification	sub = substituted
o = order	SL = Subordinate Law
om = omitted/repealed	<u>underlining</u> = whole or part not commenced or to be expired

### 3 Legislation history

This Act was originally a Commonwealth ordinance—the *Trustee Companies Ordinance 1947* No 15 (Cwlth).

The *Australian Capital Territory (Self-Government) Act 1988* (Cwlth), s 34 (4) converted most former Commonwealth ordinances in force in the ACT into ACT enactments. This allowed the ACT Legislative Assembly to amend and repeal the laws. This Act was converted into an ACT enactment on 11 May 1989 (self-government day).

As with most ordinances in force in the ACT, the name was changed from *Ordinance* to *Act* by the *Self-Government (Citation of Laws) Act 1989* No 21, s 5 on 11 May 1989 (self-government day).

Before 11 May 1989, ordinances commenced on their notification day unless otherwise stated (see *Seat of Government (Administration) Act 1910* (Cwlth), s 12).

After 11 May 1989 and before 10 November 1999, Acts commenced on their notification day unless otherwise stated (see *Australian Capital Territory (Self-Government) Act 1988* (Cwlth) s 25).

#### Legislation before becoming Territory enactment

##### **Trustee Companies Act 1947 No 15**

notified 18 December 1947

commenced 18 December 1947

as amended by

##### **Companies Ordinance 1954 No 14**

notified 20 August 1954

commenced 1 October 1954

##### **Trustee Companies Ordinance 1954 No 16**

notified 26 August 1954

commenced 26 August 1954

##### **Trustee Companies Ordinance 1960 No 7**

notified 22 September 1960

commenced 22 September 1960

## Endnotes

3 Legislation history

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**Trustee Companies Ordinance 1961 No 19**

notified 27 July 1961  
commenced 27 July 1961

**Companies Ordinance 1962 No 7**

notified 21 June 1962  
commenced 1 July 1962

**Trustee Companies Ordinance 1962 No 11**

notified 13 September 1962  
commenced 13 September 1962

**Trustee Companies Ordinance 1965 No 4**

notified 6 May 1965  
commenced 6 May 1965

**Trustee Companies Ordinance 1966 No 12**

notified 4 August 1966  
commenced 4 August 1966

**Ordinances Revision (Decimal Currency) Ordinance 1966 No 19**

notified 23 December 1966  
commenced 23 December 1966

**Trustee Companies Ordinance 1968 No 8**

notified 18 April 1968  
commenced 18 April 1968

**Ordinances Revision (Companies Amendments) Ordinance 1982 No 38**

notified 30 June 1982  
commenced 1 July 1982

**Ordinances Revision (Companies Amendments) Ordinance (No 2) 1982 No 93**

notified 17 December 1982  
commenced 17 January 1983 (Cwlth Gaz 1983 No S7)

**Trustee Companies (Amendment) Ordinance 1984 No 6**

notified 15 March 1984  
commenced 15 March 1984



**Trustee Companies (Amendment) Ordinance 1985 No 34**

notified 20 August 1985  
commenced 20 August 1985

**Administrative Arrangements (Consequential Amendments)  
Ordinance 1988 No 17 sch 2**

notified 22 April 1988  
commenced 22 April 1988

**Self-Government (Consequential Amendments) Ordinance 1989  
No 38 sch 1**

notified 10 May 1989 (Cwlth Gaz 1989 No S160)  
s 1, s 2 commenced 10 May 1989 (s 2 (1))  
sch 1 commenced 11 May 1989 (s 2 (2) and see Cwlth Gaz 1989  
No S164)

**Legislation after becoming Territory enactment****Statute Law Revision (Miscellaneous Provisions) Act 1992 No 23  
sch 1**

notified 4 June 1992 (Gaz 1992 No S71)  
commenced 4 June 1992

**Trustee Companies (Amendment) Act 1992 No 49**

notified 1 September 1992 (Gaz 1992 No S148)  
ss 1-3 commenced 1 September 1992 (s 2 (1))  
remainder commenced 1 December 1992 (s 2 (2) and Gaz 1992  
No 47)

**Trustee Companies (Amendment) Act 1993 No 53**

notified 27 August 1993 (Gaz 1993 No S165)  
commenced 27 August 1993 (s 2)

**Statute Law Revision Act 1994 No 26 sch, note**

notified 31 May 1994 (Gaz 1994 No S93)  
commenced 31 May 1994 (s 2)

**Statute Law Revision Act 1995 No 46 sch**

notified 18 December 1995 (Gaz 1995 No S306)  
amnds commenced 18 December 1995 (s 2)

## Endnotes

3 Legislation history

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**Legal Practitioners (Consequential Amendments) Act 1997 No 96 sch 1**

notified 1 December 1997 (Gaz 1997 No S380)  
s 1, s 2 commenced 1 December 1997 (s 2 (1))  
sch 1 commenced 1 June 1998 (s 2 (2))

**Statute Law Revision (Penalties) Act 1998 No 54 sch**

notified 27 November 1998 (Gaz 1998 No S207)  
s 1, s 2 commenced 27 November 1998 (s 2 (1))  
sch commenced 9 December 1998 (s 2 (2) and Gaz 1998 No 49)

**Financial Sector Reform (ACT) Act 1999 No 33 sch**

notified 25 June 1999 (Gaz 1999 No S34)  
s 1, s 2, dict commenced 25 June 1999 (s 2 (1))  
sch commenced 1 July 1999 (s 2 (2) and Cwlth Gaz 1999 No S283)

**Statute Law Amendment Act 2000 No 80 amdt 3.28**

notified 21 December 2000 (Gaz 2000 No S69)  
commenced 21 December 2000 (s 2)

**Legislation (Consequential Amendments) Act 2001 No 44 pt 396**

notified 26 July 2001 (Gaz 2001 No 30)  
s 1, s 2 commenced 26 July 2001 (IA s 10B)  
pt 396 commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)

**Statute Law Amendment Act 2001 (No 2) 2001 No 56 pt 3.50**

notified 5 September 2001 (Gaz 2001 No S65)  
commenced 5 September 2001 (s 2 (1))

**Sexuality Discrimination Legislation Amendment Act 2004 A2004-2 sch 1 pt 1.18**

notified LR 18 February 2004  
s 1, s 2 commenced 18 February 2004 (LA s 75 (1))  
sch 1 pt 1.18 commenced 22 March 2004 (s 2 and CN2004-4)

**Justice and Community Safety Legislation Amendment Act 2005 (No 3) A2005-43 sch 1 pt 1.15**

notified LR 30 August 2005  
s 1, s 2 commenced 30 August 2005 (LA s 75 (1))  
sch 1 pt 1.15 commenced 1 October 2005 (s 2 (3) and CN2005-18)

**Statute Law Amendment Act 2009 A2009-20 sch 3 pt 3.72**

notified LR 1 September 2009

s 1, s 2 commenced 1 September 2009 (LA s 75 (1))

sch 3 pt 3.72 commenced 22 September 2009 (s 2)

**Justice and Community Safety Legislation Amendment Act 2009 (No 4) A2009-54 sch 1 pt 1.5**

notified LR 18 December 2009

s 1, s 2 commenced 18 December 2009 (LA s 75 (1))

sch 1 pt 1.5 commenced 13 August 2010 (s 2 (1) and CN2010-9)

**Justice and Community Safety Legislation Amendment Act 2010 A2010-13 sch 1 pt 1.8**

notified LR 31 March 2010

s 1, s 2 commenced 31 March 2010 (LA s 75 (1))

sch 1 pt 1.8 commenced 13 August 2010 (s 2 (2) (a) and see A2009-54 s 2 (1) and CN2010-9)

**4 Amendment history****Dictionary**

s 2 orig s 2 am 1985 No 34  
om 1992 No 23 sch 1  
(prev s 3) am 1954 No 16; 1982 No 38; 1985 No 34; 1988  
No 17 sch 2  
renum as s 2 2001 No 44 amdt 1.4109  
sub A2005-43 amdt 1.43  
def **bank** om 1999 No 33 sch  
def **books** am 1995 No 46 sch  
def **financial institution** am 2001 No 44 amdt 1.4108  
def **first valuation day** ins 1992 No 49 s 4  
def **officer** am 1995 No 46 sch  
def **related corporation** om 1995 No 46 sch  
def **related body corporate** ins 1995 No 46 sch  
def **trustee company** am 1992 No 23 sch 1; 1995 No 46 sch  
def **valuation day** ins 1992 No 49 s 4

**Notes**

s 3 ins 2001 No 44 amdt 1.4110  
sub A2005-43 amdt 1.43

**Change of name**

s 3A ins 1993 No 53 s 4  
om A2009-54 amdt 1.9

## Endnotes

4 Amendment history

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**Authorisation given to trustee company to act by person entitled to probate**

s 5 sub 1992 No 49 s 5  
am A2005-43 amdt 1.44

**Authorisation given to trustee company to act by 1 of several executors**

s 6 hdg sub 1994 No 26 note  
s 6 sub 1992 No 49 s 5

**Authorisation given to trustee company to act by person entitled to administration with will annexed**

s 7 sub 1992 No 49 s 5

**Authorisation given to trustee company to act by person entitled to administration on intestacy**

s 8 sub 1992 No 49 s 5

**Capacity of trustee company to act**

s 8A ins 1992 No 49 s 5

**Assets of company to be liable for proper administration of estates**

s 10 am 1966 No 19; 1985 No 34  
sub A2005-43 amdt 1.45

**Company may be appointed trustee, receiver or guardian of estate**

s 11 am 1985 No 34; 1994 No 26 sch; A2005-43 amdt 1.46

**Company may act under power of attorney by managing director, manager or 2 directors**

s 12 am 1985 No 34

**Company may be appointed to act as temporary executor or administrator**

s 13 am 1993 No 53 sch

**Application for consent under s 14**

s 15 hdg sub A2005-43 amdt 1.47  
s 15 am 1985 No 34; 1993 No 53 sch; 1994 No 26 sch; A2005-43  
amdt 1.48; A2009-20 amdt 3.210

**Manager and directors personally responsible to court**

s 17 am 1985 No 34

**Estate fees**

s 18 am 1954 No 16; 1966 No 19; 1985 No 34  
sub 1992 No 49 s 6  
om A2009-54 amdt 1.10

**Fees for preparation of returns**

s 18A ins 1992 No 49 s 6  
am A2005-43 amdt 1.49  
om A2009-54 amdt 1.11

**Fees generally**

s 18B ins 1992 No 49 s 6  
om A2009-54 amdt 1.12

**Trustee company to be subject to same duties as individual**

s 19 am 1993 No 53 sch

**Company may hold property as joint tenant**

s 19A ins 1954 No 16

**Company may be removed from office by court and provisions for relief against company or directors**

s 20 am A2005-43 amdt 1.50

**Order for account on application of trustee etc**

s 21 am 1993 No 53 sch; A2004-2 amdt 1.58, amdt 1.59; A2005-43  
amdt 1.51, amdt 1.52  
om A2009-54 amdt 1.13

**Supreme Court may order audit in any estate committed to the company**

s 22 am 1985 No 34; 1993 No 53 sch; 1998 No 54 sch; A2005-43  
amdt 1.53, amdt 1.54  
om A2009-54 amdt 1.14

**Voluntary winding-up of company or disposal of shares may be restrained by Supreme Court**

s 23 am 1993 No 53 sch; A2005-43 amdt 1.55-1.57

**Restriction on classes of business**

s 24 am 1954 No 14; 1962 No 7; 1966 No 19; 1982 No 93; 1985 No  
34; 1995 No 46 sch; 1998 No 54 sch; ss renum R5 LA;  
A2005-43 amdt 1.58  
om A2009-54 amdt 1.15

**Separate accounts of each estate to be kept**

s 25 om A2009-54 amdt 1.16

**Contributory investments**

s 25A ins 1985 No 34  
am 1994 No 26 sch; 2001 No 56 amdt 3.858  
om A2009-54 amdt 1.17

**Common trust funds**

s 25B ins 1992 No 49 s 7  
am 1994 No 26 sch  
om A2009-54 amdt 1.18

**Crediting of money to common trust fund**

s 25C ins 1992 No 49 s 7  
om A2009-54 amdt 1.19

## Endnotes

### 4 Amendment history

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#### **Investment in and withdrawal from common trust fund**

s 25D ins 1992 No 49 s 7  
om A2009-54 amdt 1.20

#### **Beneficial interest in common trust fund**

s 25E ins 1992 No 49 s 7  
om A2009-54 amdt 1.21

#### **Valuation of common trust fund**

s 25F ins 1992 No 49 s 7  
om A2009-54 amdt 1.22

#### **Payment of income**

s 25G ins 1992 No 49 s 7  
om A2009-54 amdt 1.23

#### **Realisation and acquisition of investments of common trust fund**

s 25H ins 1992 No 49 s 7  
om A2009-54 amdt 1.24

#### **Trustee company acting jointly with another person**

s 25I ins 1992 No 49 s 7  
om A2009-54 amdt 1.25

#### **Fees in relation to common trust fund**

s 25J ins 1992 No 49 s 7  
om A2009-54 amdt 1.26

#### **Improper dealings with money**

s 26 am 1966 No 19; 1985 No 34; 1998 No 54 sch  
om A2009-54 amdt 1.27

#### **Power to deposit amounts with banks**

s 27 am 1985 No 34  
sub A2005-43 amdt 1.59  
om A2009-54 amdt 1.28

#### **Payment of money unclaimed**

s 28 am 1966 No 19; 1985 No 34; 1988 No 17 sch 2; 1993 No 53  
sch; 1998 No 54 sch; ss renum R5 LA; A2005-43 amdt 1.60  
om A2009-54 amdt 1.29

#### **Persons entitled may apply subsequently**

s 29 am 1985 No 34; 1988 No 17 sch 2; A2005-43 amdt 1.61  
om A2009-54 amdt 1.30

#### **Order for account on application of Minister**

s 30 am 1985 No 34; 1988 No 17 sch 2; 1993 No 53 sch; A2005-43  
amds 1.62-1.64  
om A2009-54 amdt 1.31

**Quarterly financial declarations**

s 31 am 1966 No 19; 1985 No 34; 1988 No 17 sch 2; 1998 No 54 sch; 2001 No 44 amdt 1.4111, amdt 1.4112; pars renum R5 LA  
om A2009-54 amdt 1.32

**Information etc for Minister**

s 31A ins 1985 No 34  
am 1988 No 17 sch 2; 1993 No 53 sch; 1998 No 54 sch  
om A2009-54 amdt 1.33

**Inquiries and audits**

s 31B ins 1985 No 34  
am 1988 No 17 sch 2; 1998 No 54 sch; A2005-43 amdt 1.65  
om A2009-54 amdt 1.34

**Testators may appoint own lawyers**

s 33 am 1993 No 53 sch; 1997 No 96 sch 1  
sub A2005-43 amdt 1.66

**Incorporation and powers of company except so far as specifically altered to remain**

s 34 om A2009-54 amdt 1.35

**Approved forms**

s 34A ins 2001 No 44 amdt 1.4113  
(4)-(7) exp 12 September 2002 (s 34A (7))  
om A2009-54 amdt 1.36

**Compulsory transfer determinations**

s 34B ins A2010-13 amdt 1.34

**Regulation-making power**

s 35 am 1966 No 19; 1985 No 34; 1988 No 17 sch 2; 1989 No 38 sch 1; 1998 No 54 sch  
sub 2001 No 44 amdt 1.4114

**Transitional**

s 36 ins 2000 No 80 amdt 3.28  
om A2009-54 amdt 1.37

**Transitional—def *trustee company***

s 37 ins A2009-54 amdt 1.38  
exp 13 August 2011 or if, before that date, another day is prescribed by regulation—on that day (s 37 (2))

## Endnotes

### 5 Earlier republications

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#### Specified trustee companies

sch 1 hdg sub 1985 No 34  
sub 2001 No 44 amdt 1.4115  
sch 1 am 1954 No 16; 1960 No 7; 1961 No 19; 1962 No 11; 1965  
No 4; 1966 No 12; 1968 No 8; 1984 No 6  
om A2009-54 amdt 1.39

#### Quarterly financial declaration

sch 2 am 1966 No 19  
sub 1985 No 34  
am 1994 No 26 sch; 1995 No 46 sch  
om 2001 No 44 amdt 1.4116

#### Dictionary

dict ins A2005-43 amdt 1.67  
am A2009-20 amdt 3.211  
def **books** ins A2005-43 amdt 1.67  
def **first valuation day** ins A2005-43 amdt 1.67  
def **officer** ins A2005-43 amdt 1.67  
def **trustee company** ins A2005-43 amdt 1.67  
sub A2009-54 amdt 1.40; A2010-13 amdt 1.35  
def **valuation day** ins A2005-43 amdt 1.67

## 5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (\*) in column 1. Electronic and printed versions of an authorised republication are identical.

Republication No	Amendments to	Republication date
1	Ord 1989 No 38	30 September 1991
2	Act 1992 No 49	31 July 1993
3	Act 1995 No 46	1 January 1996
4	Act 1998 No 54	31 March 1999
5	Act 2001 No 56	9 August 2002
6	A2001-56	13 September 2002
7	A2004-2	22 March 2004



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<b>Republication No</b>	<b>Amendments to</b>	<b>Republication date</b>
8	A2005-43	1 October 2005
9	A2009-20	22 September 2009

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