



ANNO VICESIMO OCTAVO

ELIZABETHAE SECUNDAE REGINAE

No. 28 of 1979

An Act to amend the Trusts Act 1973 in certain particulars

[ASSENTED TO 8TH JUNE, 1979]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. Short title and citation. (1) This Act may be cited as the *Trusts Act Amendment Act 1979*.

(2) In this Act the *Trusts Act 1973* is referred to as the Principal Act.

(3) The Principal Act as amended by this Act may be cited as the *Trusts Act 1973-1979*.

2. Commencement. (1) Section 6 shall commence on a date appointed by Proclamation.

(2) Subject to subsection (1) this Act shall commence on the day on which the Governor gives his assent thereto for and on behalf of Her Majesty.

3. Amendment of s. 5. Section 5 of the Principal Act is amended by in subsection (1)—

(a) inserting at the end of the definition “bank” the following paragraph:—

“(c) authorized under the *Primary Industry Bank Act* 1977 of the Commonwealth (including any enactment in substitution or amendment thereof) to carry on banking business in Australia;”;

(b) inserting after the definition “lease” the following definition:—

““Local Authority” includes Brisbane City Council, and any Local Authority or Joint Local Authority constituted under the *Local Government Act* 1936–1978;”.

4. Amendment of s. 12. Section 12 of the Principal Act is amended by—

(a) in subsection (2), omitting from paragraph (c) all words from and including the words “but a trustee” to the end of the paragraph and substituting the following words:—

“but a trustee is not discharged under this section unless—

(i) in the case of any trust (including a trust referred to in paragraph (ii)), there will remain either a trustee corporation or at least two individuals to act as trustees of the trust; or

(ii) in the case of a trust for any charitable or public purpose or for any purpose of recreation or other leisuretime use or occupation, there will remain a Local Authority to act as trustee of the trust;”;

(b) in subsection (5), inserting after the words “trustee corporation” the words “or a Local Authority”.

5. New s. 112. The Principal Act is amended by, in Part IX, adding at the end thereof the following section:—

“112. **Local Authorities may be trustee for certain purposes.** A Local Authority may be appointed a trustee of real or personal property, either as sole trustee or as a trustee with others and may accept and hold the trust property for any charitable or public purpose, or for any purpose of recreation or other leisuretime use or occupation and act in the administration of the trust property for the purpose of and according to the trust notwithstanding that the purpose is not a function of local government save where, in the case of an existing trust, a contrary intention appears from the instrument creating the trust.”.

6. New s. 113. The Principal Act is amended by, in Part IX, adding at the end thereof the following section:—

“113. **Requirement upon certain transfers to Local Authority.** Where land under the provisions of the *Real Property Act* 1861–1978 is transferred to a Local Authority, as sole transferee, by means of an instrument of transfer other than an instrument in Form I of the schedule to that Act, such instrument shall not be registered in accordance with the provisions of that Act unless it is accompanied by a statutory declaration made under *The Oaths Acts* 1867 to 1960 by the prescribed person or persons declaring that the land is not being transferred to the Local Authority as a sole trustee.

(2) The statutory declaration referred to in subsection (1) shall be made—

- (a) in a case where there is only one transferor, by him;
- (b) in a case where there are two or more transferors, by each of them;
- (c) in a case where provision (a) cannot be complied with due to death or incapacity of the transferor, by an appropriate employee of the transferee;
- (d) in a case where provision (b) cannot be complied with due to death or incapacity of any of the transferors, by the other transferor or each of the other transferors, as the case may be, or, if no transferor is available and competent to make the declaration, by an appropriate employee of the transferee.

(3) Subsection (1) applies only in respect of instruments of transfer executed by the transferor or by all the transferors, where there are two or more, after the date of commencement of this section.”.