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No. , 1918.

A BILL

To provide for the registration of certain trusts as successory trusts ; for dealing with trusts so registered ; to amend the Trustee Act, 1898, the Registration of Deeds Act, 1897, and the Real Property Act, 1900 ; and for purposes consequent thereon or incidental thereto.

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 New South Wales in Parliament assembled, and by the authority of the same as follows :—

1. This Act may be cited as the "Registration of Short title. Successory Trusts Act, 1918," and shall commence and take effect on and from the , one thousand nine hundred and

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2. In the construction of this Act, unless the context otherwise indicates,—

“Prescribed” means prescribed by regulations under this Act.

“Registered trust” and “registered trustee” mean respectively a trust and a trustee registered under this Act.

“Registrar-General” includes a deputy registrar-general.

“Schedule” means Schedule to this Act.

The register of successive trusts.

3. The Registrar-General shall keep a book to be called the Register of Successory Trusts, the folia of which shall be numbered consecutively.

Each such folium shall be in the form of Schedule One.

Registration of trusts.

4. The following trusts may be registered under this Act, namely:—Trusts for religious, educational, or charitable purposes, and any trust which the Attorney-General may certify is proper to be registered under this Act.

5. Application to register any such trust under this Act may be made to the Registrar-General by the trustees of the trust for the time being, or, if there are no trustees for the time being, by the persons (if any) entitled to appoint new trustees: Provided that in any case in which the power of appointing new trustees of the trust is vested in the church or religious denomination, synod, council, or other body by which the trust was created, any application to register the trust, if there shall be no trustee thereof for the time being, may be made by any person who shall be proved, to the satisfaction of the Registrar-General, to have been duly appointed by such church, religious denomination, synod, council, or other body to make such application.

6. Every application to register any trust under this Act shall be in writing, addressed to the Registrar-General in the form in Schedule Two, and shall be signed

signed by the person or persons for the time being entitled to make such application, and shall be supported by such evidence as may be prescribed, or as may be reasonably required by the Registrar-General.

7. Upon receipt of any such application, and production of the evidence required to support the same, the Registrar-General shall, if satisfied with such evidence, register the trust by—

Method of registration.

(a) Entering on a separate folium of the register of successive trusts—

- (i) the name in which the trust is registered, being the name specified in the application for registration of the trust as the name in which the trust is proposed to be registered, or if such last-mentioned name is, in the opinion of the Registrar-General, so similar to the name of any other trust, registered or not, as to be likely to cause confusion, such other name as shall be agreed upon by the Registrar-General and the applicants ;
- (ii) the day and hour of the registration of the trust ; and
- (iii) the names, addresses, and description of the trustees for the time being (if any) ; and

(b) authenticating such entries by his signature.

8. When any person whose consent appears to the Registrar-General to be necessary for the registration of any trust under this Act cannot be found, or has been absent from New South Wales for six consecutive months, or refuses or neglects for twenty-eight days after demand to give such consent the Registrar-General may if he thinks fit order by writing under his hand that the consent of such person be dispensed with ; and every such order shall be published in the Gazette, and thereupon such trust may be registered under this Act notwithstanding that the consent of such person has not been obtained : Provided that the Registrar-General shall not dispense with the consent of any such person who can be found, and is in New South Wales, except after

Power of Registrar-General to dispense with the authority of trustees absent or not to be found, &c.
Vic. Act No. 2741, s. 85.

after notice to such person of the application and giving him an opportunity to be heard in opposition to the same: Provided also that, if it appears to the Registrar-General that any such person has, or is likely to have, any claim to any payment or indemnity of which he could lawfully demand satisfaction in respect of the trust property, the Registrar-General may require as a condition to dispensing with the consent of such person that security be given in such form and in such amount as the Registrar-General may deem sufficient for the satisfaction of such claim.

Documents relating to trust.

9. Upon registering any such trust the Registrar-General shall upon each document produced to him showing the nature of such trust, or the manner of changing the trustees thereof, write or cause to be written a memorandum setting forth the name by which and the folium of the register of successive trusts on which such trust is registered so as to connect such document with such register, together with the date of such memorandum, and shall sign such memorandum.

Memo-
randum on
documents on
registering
trusts.

10. The Registrar-General shall retain in his custody all documents upon which he has made memoranda under this Act: Provided that he may give up any such document to any person who would, apart from this Act, be entitled to the custody of the same upon the deposit of a true copy thereof certified as prescribed.

Documents
retained by
Registrar-
General.

11. Upon the production to the Registrar-General of any document of title, and proof to the Registrar-General that the property to which such document relates, or any part thereof, is the subject of a trust registered under this Act, the Registrar-General shall make and sign on such document of title a memorandum that the said property or the said part thereof is held by the trustees for the time being of such trust, describing such trust by the name in which it is registered in the register of successive trusts and by the number of the folium of such register on which such trust is registered, and stating the date of the signing of such memorandum.

Memo-
randum on
documents
relating to
registered
trusts.

Upon.

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Upon any such memorandum being so made and signed, all the estate, right, title, and interest of any predecessors in title of the registered trustees in any property comprised in such document of title or in any part thereof referred to in such memorandum as held upon such trust shall vest in such registered trustees, and the registered trustees for the time being may do and suffer all acts, matters, or things, and exercise all powers and discretions in respect of such document or such property as if their names were written in such document in place of the names of their predecessors in office named therein.

12. When upon any document of title relating to or affecting any land or interest in land in New South Wales a memorandum has been made and signed by the Registrar-General under this Act a like memorandum shall forthwith be made and signed by the Registrar-General upon any copy of such document registered under the Registration of Deeds Act, 1897, or if the land or interest in land is held under the provisions of the Real Property Act, 1900, or any amendment thereof, an entry shall forthwith be made in the manner prescribed upon the folium of the register book upon which dealings with the said land or interest in land are recorded under the Real Property Act, 1900, or any amendment thereof.

Memorandum
on registered
copy of
document.

Death or change of trustee.

13. Upon the death, resignation, or removal of any trustee of a trust registered under this Act the Registrar-General, upon being satisfied thereof, shall register such death, resignation, or removal in the proper folium of the register of successive trusts in the manner prescribed, and upon the appointment of any new trustee the Registrar-General, upon receiving satisfactory proof of such appointment, shall register such appointment in the said register in the manner prescribed.

Registration
of death,
resignation,
or removal of
trustee.

14. (1) Upon the registration of the appointment of any new trustee or trustees of a registered trust all the property for the time being subject to the trust in respect of

Vesting of
trust
property in
new trustee.

of which the Registrar-General shall have made and signed a memorandum under the provisions of section eleven of this Act shall, by virtue of such registration and without other assurance in the law, become vested in such new trustee or trustees, either alone or jointly, with the surviving or continuing trustee or trustees as the case may require.

(2) Every new trustee whose appointment shall have been registered as aforesaid shall have the same powers, authorities, obligations, and discretions with regard to such property as if he had been originally made a trustee on the creation of the trust, and no person appointed as a trustee of any registered trust shall be deemed to have been validly appointed as a new trustee of a registered trust so far as such property is concerned until his appointment as such trustee shall have been registered under the provisions of this Act.

15. The entries in the register of Entries in register conclusive. **successory trusts** purporting to show who are or at any time were the trustees of a trust registered as aforesaid shall be conclusive evidence of the facts purporting to be shown by such entries, and may be proved by any copy thereof certified under the hand of the Registrar-General.

16. Nothing done under this Act shall be deemed Persons with notice of trust not affected. to affect any person with notice of any trust.

17. Any dealing with land under the Real Property Act, 1900, may be made in favour of the trustees for the time being of any registered trust, describing them as such trustees as aforesaid, and stating that the trust is registered under this Act, and describing such trust so as to identify it with its description in the register of Transfer and certificate of title to registered trustees. **successory trusts.**

A certificate of title may be issued to such trustees by the same description; but no such description shall be deemed to affect any person with notice of the trusts, or entitle, require, or concern any person to inquire into or ascertain such trusts.

The persons for the time being registered as trustees of such trust in the register of **successory trusts shall,**
upon

upon registration of any such dealing or upon the issue of any such certificate, be deemed to be the registered proprietors of the property comprised therein.

18. Every trust registered under this Act shall be deemed to be a trust which might properly be so registered.

Trusts duly registered.

Powers of Registrar-General.

19. The Registrar-General may, by summons under his hand, require any person to appear, at a time and place to be appointed in such summons, and to give any explanation concerning any application under this Act, and to produce any documents in his possession or within his control affecting such application, and may administer an oath to any person and examine him in relation to any such application.

Powers of Registrar-General.

The Registrar-General may, in the manner prescribed, compel the production of any document evidencing title to any land which is the subject of a trust registered or sought to be registered under this Act.

If any person refuses or neglects, when duly required, to appear as aforesaid, or to produce any documents, or to take an oath or give evidence in relation to any such application, he shall be liable to a penalty not exceeding *one hundred pounds*.

20. The Registrar-General may, when any question arises with regard to the performance of any duty or the exercise of any function conferred or imposed on him by this Act, state a case for the opinion of the Supreme Court, and thereupon the said court may give its judgment thereon, and such judgment shall be binding on the Registrar-General.

Registrar-General may state case for Supreme Court.

21. If any person is dissatisfied with the decision of the Registrar-General on any application under this Act he may appeal therefrom to the Supreme Court in its equitable jurisdiction by giving to the Registrar-General eighteen days' notice of his intention.

Appeal against decision of Registrar-General.

Within fourteen days after the delivery of such notices the Registrar-General shall forward to the Master in Equity all documents and notes of evidence in relation to

to the application and a statement of the reasons for his decision, and also, if he thinks fit, any affidavits as to matters which he may desire to bring under the notice of the court.

Upon hearing such appeal the said court may affirm, vary, or reverse the decision of the Registrar-General, and may make such orders and give such direction and make such orders as to the costs of the application and of the appeal as it deems just.

22. The Registrar-General may correct any error in any entry made in the register of successive trusts or in any memorandum made in pursuance of this Act, and may supply entries and memoranda omitted to be made under this Act. Correction of errors.

But in any such correction he shall not erase or render illegible the original words or figures, and shall affix the date on which such correction was made, or such entry or memorandum was supplied, and initial the same.

Every entry or memorandum so corrected or supplied shall have the like validity and effect as if such error had not been made, or such entry or memorandum omitted, except as regards any transactions prior to the actual time of correcting the error, or supplying the omitted entry or memorandum.

Penalties.

23. Whosoever—

Penalties.

- (a) wilfully makes any false statement or declaration in or upon any application under this Act; or
- (b) in or in relation to any application under this Act suppresses, or withholds, or conceals from the Registrar-General, or assists or joins in, or is privy to suppressing or so withholding or concealing any material document, fact, or matter; or
- (c) in the course of his examination before the Registrar-General under this Act, wilfully and corruptly gives false evidence not on oath; or
- (d)

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Registration of Successory Trusts.

- (d) fraudulently procures or is privy to the fraudulent procuring of any entry in the register of successive trusts, or of any erasure, alteration, or addition in or to any entry in such register; or
 - (e) knowingly misleads or deceives the Registrar-General as to any explanation or information required by him in pursuance of this Act,
- shall be guilty of a misdemeanor, and shall be liable to imprisonment for a term not exceeding *three* years, or to a penalty not exceeding *five hundred* pounds.

Regulations.

24. The Governor may make regulations for carrying out the provisions of this Act, and prescribing the matters requiring the payment of a fee and the amount of such fees, and may in such regulations impose any penalty not exceeding *fifty* pounds for any breach of the same.

SCHEDULES.

SCHEDULE ONE.

Name of trust.

Date of registration of trustee.	Name of trustee.	Address and description of trustee.	Authentication of registration of trustee.	Cause of cessation from office.	Date of entry of cessation from office.	Authentication of entry of cessation from office.

SCHEDULE

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Registration of Successory Trusts.

SCHEDULE TWO.

To the Registrar-General,—

I, _____, or _____, hereby apply to have a trust for _____ purposes [*if the trust is connected with a religious denomination add "connected with," naming the denomination*] registered under the Registration of Successory Trusts Act, 1918.

1. The nature of the trust appears from the following documents :—
[*Set out a list of the documents.*]
2. The names of the present trustees are [*state names, addresses, and description of trustees.*]
3. Their due appointment appears from the following documents :—
[*Set out a list of the documents.*]
4. The manner in which the trustees may be changed appears from the following documents :—[*Set out a list of the documents.*]
5. The trust property consists of the following particulars :—
[*Set out a descriptive list of the property.*]
6. The name in which the trust is proposed to be registered is [*state name.*]
