



ANNO TRICESIMO TERTIO

ELIZABETHAE II REGINAE

A.D. 1984

No. 1 of 1984

An Act to amend the trusts of the Indenture constituting the David Jones Employees' Welfare Trust (S.A. Stores).

[Assented to 12 April 1984]

WHEREAS the Trust Deed constituted a trust called Charles Birks & Co. Limited Employees' Welfare Trust for the benefit of employees in the service of Charles Birks & Co. Limited:

AND WHEREAS the name of Charles Birks & Co. Limited was changed to David Jones (Adelaide) Limited on the 19th day of November, 1962:

AND WHEREAS the business carried on by David Jones (Adelaide) Limited was taken over on the 2nd day of August, 1976, by David Jones (Australia) Pty. Ltd. and persons who immediately before that date were employed by David Jones (Adelaide) Limited, were from that date employed by David Jones (Australia) Pty. Ltd.:

AND WHEREAS in relation to the present employees of David Jones (Australia) Pty. Ltd. the Trust Deed provides benefits only for those employees who are also former employees of David Jones (Adelaide) Limited:

AND WHEREAS it is desirable that the Trust Deed be amended to provide benefits for all employees of David Jones (Australia) Pty. Ltd. resident and employed by that Company in South Australia:

AND WHEREAS the Trust Deed does not authorize such an amendment:

BE IT THEREFORE ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. This Act may be cited as the "David Jones Employees' Welfare Trust Short title. (S.A. Stores) Act, 1984".

2. (1) This Act shall be deemed to have come into operation on the Commencement. 2nd day of August, 1976.

(2) The Indenture dated the 25th day of February, 1982, shall be deemed to have had effect from the 2nd day of August, 1976.

Interpretation.

3. In this Act, unless the contrary intention appears—

“the Trust Deed” means the Indenture made the 3rd day of June, 1921, between Napier Kyffin Birks, James Frederick Brock Marshall, Theodore Rechner, John Carter Williams and Florence Margaret Jones, as amended by—

- (a) the Charles Birks & Co. Limited Employees' Welfare Trust Act, 1946;
 - (b) an Indenture dated the 28th day of March, 1963;
 - (c) an Indenture dated the 20th day of August, 1964;
 - (d) an Indenture dated the 12th day of November, 1965;
 - (e) an Indenture dated the 25th day of February, 1982;
- and
- (f) an Indenture dated the 22nd day of September, 1983.

Amendment of
Trust Deed.

4. The Trust Deed is amended as follows—

(a) Clause 1 is amended—

- (i) by striking out the definition of “the Company” and substituting the following definitions:

“The Company” means David Jones (Adelaide) Limited (formerly called Charles Birks & Co. Limited) or David Jones (Australia) Pty. Ltd. a company incorporated in New South Wales and includes any company formed upon a reconstruction of that lastmentioned company:

“Employee” means a resident of South Australia employed by the Company in relation to the business carried on by the Company at 44 Rundle Mall Adelaide or at such other place or places in South Australia as the Trustees may from time to time by Deed declare to be a place or places of business of the Company for the purposes of this Deed, and the expression “in the employ of the Company” has a corresponding meaning;

- (ii) by striking out the definition of “The Trust Property” and substituting the following definition:

“The Trust Property” means—

- (a) the shares specified in the said Schedule, any shares that may from time to time be acquired pursuant to the provisions hereinafter contained or received by the Trustees by way of bonus or otherwise upon the trusts of these presents or be taken up by the Trustees in the event of the reconstruction of the Company, and any liquidation dividends in the event of the Company being wound up;

(b) all moneys, investments and property paid or transferred to and accepted by the Trustees as additions to the Trust Property;

and

(c) all accumulations of income in accordance with the terms hereof,

or the investments and property from time to time representing such shares, dividends, moneys, investments, property, additions and accumulations; ;

(b) Clause 3 is amended by striking out the word "persons" and substituting the passage "employees in the actual service of the Company";

(c) Clause 22B is amended by striking out the passage "in the purchase of fully paid up shares of £1 each in the Company" and by substituting the passage "in the purchase of fully paid ordinary or preference shares in David Jones Limited";

(d) Clause 23 is amended—

(i) by striking out from paragraph (a) the definition of "Service" and "Service with the Company" and inserting the following definition:

"Service" and "Service with the Company" mean continuous service as an employee of the Company and, in the case of a person who leaves the employ of the Company and is afterwards re-employed by the Company, means his service from the date of his last re-employment (except that a person shall not be held to have left the employ of the Company by virtue only of the fact that, upon the taking over of the business of David Jones (Adelaide) Limited by David Jones (Australia) Pty. Ltd., his employment with the former company ceased);

and

(ii) by striking out from paragraph (b) the passage "If the company shall be wound up otherwise than for the purpose of reconstruction" and substituting the passage "If David Jones (Australia) Pty. Ltd. shall be wound up otherwise than for the purpose of reconstruction, or shall cease to carry on business at 44 Rundle Mall Adelaide and at each other place declared by the Trustees to be a place of business of the Company for the purposes of this Deed,";

(e) Clause 29 is struck out;

(f) Clause 30 is amended by inserting after its present contents (now to be designated as paragraph (a)) the following paragraph:

(b) If at any time, whether by the operation of Clause 5 of this Deed or otherwise, the number of Trustees able

to act as trustees under this Deed is reduced to less than three, then, notwithstanding anything to the contrary contained in this Deed, the remaining Trustees or Trustee or, if there is no such person, or no such person willing to act, the Attorney-General for the State of South Australia may, by writing, appoint not more than three persons in the actual service of the Company to act as Trustee or Trustees under this Deed.;

and

(g) The following clause is inserted after clause 31:

32. The powers authorities and discretions by the Indenture dated 3rd June 1921 constituting these trusts as such Indenture has been amended from time to time conferred upon the Company or the Board of Directors thereof shall with effect on and from the 2nd day of August 1976 cease to be exercisable by the said David Jones (Adelaide) Ltd. and the Directors thereof and shall be exercisable by the said David Jones (Australia) Pty. Ltd. and the Directors thereof respectively.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

C. L. LAUCKE, Governor's Deputy