



ANNO TRICESIMO QUINTO

# ELIZABETHAE II REGINAE

A.D. 1986

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No. 109 of 1986

**An Act to amend the ANZ Executors & Trustee Company (South Australia) Limited Act, 1985, the Bagot's Executor Company Act, 1910, the Elder's Executor Company's Act, 1910, the Executors Company's Act, 1885 and the Farmers' Co-operative Executors Act, 1919.**

*[Assented to 18 December 1986]*

Short title.

The Parliament of South Australia enacts as follows:

Amendment of  
ANZ Executors &  
Trustee Company  
(South Australia)  
Limited Act,  
1985.

1. This Act may be cited as the "Statutes Amendment (Executor Companies) Act, 1986".

2. The ANZ Executors & Trustee Company (South Australia) Limited Act, 1985, is amended—

(a) by striking out from subsection (4) of section 8 "The rate" and substituting "Subject to this section, the rate";

(b) by striking out subsection (6) of section 8 and substituting the following subsections:

(6) Where the Company has, under an instrument, a right to charge commission, the Company may charge commission either under the instrument or under this section but, subject to any express provision of the instrument to the contrary, not under both.

(6a) The beneficiaries of an estate or trust may, by instrument in writing, authorize the Company to charge a commission or fee independently of this section but if any of those beneficiaries is a minor or a person under a disability such an authorization is not effective unless confirmed by the Court.;

(c) by striking out from subsection (8) of section 13 "first day of each month" and substituting "first business day of each month and, if the Company thinks fit, as at such other times as may be appropriate according to the nature of the particular fund";

(d) by striking out from subsection (9) of section 13 " , during any month,";

- (e) by striking out from subsection (9) of section 13 “made pursuant to subsection (8) as on the first day of that month” and substituting “last made under subsection (8)”;

and

- (f) by striking out subsection (10) of section 13 and substituting the following subsections:

(10) The Company may charge against each common fund an administration fee in respect of each month of the Company’s administration of the fund.

(11) The administration fee must not exceed one-twelfth of one per cent of the value of the fund as at the first business day of the month.

(12) The Company shall, after deduction of any fees and charges to which it is entitled, divide the income arising from the investment of the common fund among the estates, trusts and persons entitled to the income according to the sums invested and the period of the investment.

(13) In this section—

“business day” means a day other than a Saturday, Sunday or public holiday.

3. The Bagot’s Executor Company Act, 1910, is amended—

Amendment of  
the Bagot’s  
Executor  
Company Act,  
1910.

- (a) by striking out from paragraph (1) of section 10 “the manager or by any two of the directors” and substituting “an officer”;
- (b) by striking out from subsection (4) of section 16 “The rate” and substituting “Subject to this section, the rate”;
- (c) by striking out subsection (6) of section 16 and substituting the following subsections:

(6) Where the Company has, under an instrument, a right to charge a commission, the Company may charge commission either under the instrument or under this section but, subject to any express provision of the instrument to the contrary, not under both.

(6a) The beneficiaries of an estate or trust may, by instrument in writing, authorize the Company to charge a commission or fee independently of this section but if any of those beneficiaries is a minor or a person under a disability such an authorization is not effective unless confirmed by the Court.;

- (d) by striking out subsection (10) of section 22a and substituting the following subsection:

(10) The Company shall determine the value of the investments in which each common fund has been invested as at the first business day of each month and, if the Company thinks fit, as at such other times as may be appropriate according to the nature of the particular fund.;

- (e) by striking out from subsection (11) of section 22a “first day of the month in question” and substituting “day of the valuation”;

- (f) by striking out from subsection (12) of section 22a “, during any month,”;
- (g) by striking out from subsection (12) of section 22a “made pursuant to subsection (10) of this section as on the first day of that month” and substitute “last made under subsection (10)”;
- (h) by striking out subsection (13) of section 22a and substituting the following subsections:

(13) The Company may charge against each common fund an administration fee in respect of each month of the Company’s administration of the fund.

(13a) The administration fee shall not exceed one-twelfth of one per cent of the value of the fund as at the first business day of the month.

(13b) The Company shall, after deduction of any fees and charges to which it is entitled, divide the income arising from the investment of the common fund among the estates, trusts and persons entitled to the income according to the sums invested and the period of the investment.;

and

- (i) by inserting after subsection (14) of section 22a the following subsection:

(15) In this section—

“business day” means a day other than a Saturday, Sunday or public holiday.

Amendment of  
Elder’s Executor  
Company’s Act,  
1910.

4. The Elder’s Executor Company’s Act, 1910, is amended—

- (a) by striking out from section 13 “the manager, or by any two of the directors” and substituting “an officer”;
- (b) by striking out from subsection (4) of section 20 “The rate” and substituting “Subject to this section, the rate”;
- (c) by striking out subsection (6) of section 20 and substituting the following subsections:

(6) Where the Company has, under an instrument, a right to charge a commission, the Company may charge commission either under the instrument or under this section but, subject to any express provision of the instrument to the contrary, not under both.

(6a) The beneficiaries of an estate or trust may, by instrument in writing, authorize the Company to charge a commission or fee independently of this section but if any of those beneficiaries is a minor or a person under a disability such an authorization is not effective unless confirmed by the Court.;

- (d) by striking out subsection (10) of section 25a and substituting the following subsection:

(10) The Company shall determine the value of the investments in which each common fund has been invested as at the first business day of each month and, if the Com-

pany thinks fit, as at such other times as may be appropriate according to the nature of the particular fund.;

- (e) by striking out from subsection (11) of section 25a “first day of the month in question” and substituting “day of the valuation”;
- (f) by striking out from subsection (12) of section 25a “, during any month,”;
- (g) by striking out from subsection (12) of section 25a “made pursuant to subsection (10) of this section as on the first day of that month” and substituting “last made under subsection (10)”;
- (h) by striking out subsection (13) of section 25a and substituting the following subsections:

(13) The Company may charge against each common fund an administration fee in respect of each month of the Company’s administration of the fund.

(13a) The administration fee shall not exceed one-twelfth of one per cent of the value of the fund as at the first business day of the month.

(13b) The Company shall, after deduction of any fees and charges to which it is entitled, divide the income arising from the investment of the common fund among the estates, trusts and persons entitled to the income according to the sums invested and the period of the investment.;

and

- (i) by inserting after subsection (14) of section 25a the following subsection:

(15) In this section—

“business day” means a day other than a Saturday, Sunday or public holiday.

**5. The Executors Company’s Act, 1885, is amended—**

- (a) by striking out from paragraph (1) of section 7 “the manager or by any two of the directors” and substituting “an officer”;
- (b) by striking out from subsection (4) of section 10 “The rate” and substituting “Subject to this section, the rate”;
- (c) by striking out subsection (6) of section 10 and substituting the following subsections:

(6) Where the Company has, under an instrument, a right to charge a commission, the Company may charge commission either under the instrument or under this section but, subject to any express provision of the instrument to the contrary, not under both.

(6a) The beneficiaries of an estate or trust may, by instrument in writing, authorize the Company to charge a commission or fee independently of this section but if any of those beneficiaries is a minor or a person under a disability such an authorization is not effective unless confirmed by the Court.;

Amendment of  
Executors  
Company’s Act,  
1885.

- (d) by striking out subsection (10) of section 16a and substituting the following subsection:

(10) The Company shall determine the value of the investments in which each common fund has been invested as at the first business day of each month and, if the Company thinks fit, as at such other times as may be appropriate according to the nature of the particular fund.;

- (e) by striking out from subsection (11) of section 16a "first day of the month in question" and substituting "day of the valuation";

- (f) by striking out from subsection (12) of section 16a ", during any month,";

- (g) by striking out from subsection (12) of section 16a "made pursuant to subsection (10) of this section as on the first day of that month" and substituting "last made under subsection (10)";

- (h) by striking out subsection (13) of section 16a and substituting the following subsections:

(13) The Company may charge against each common fund an administration fee in respect of each month of the Company's administration of the fund.

(13a) The administration fee shall not exceed one-twelfth of one per cent of the value of the fund as at the first business day of the month.

(13b) The Company shall, after deduction of any fees and charges to which it is entitled, divide the income arising from the investment of the common fund among the estates, trusts and persons entitled to the income according to the sums invested and the period of the investment.;

and

- (i) by inserting after subsection (14) of section 16a the following subsection:

(15) In this section—

"business day" means a day other than a Saturday, Sunday or public holiday.

**6. The Farmers' Co-operative Executors Act, 1919, is amended—**

- (a) by striking out from section 13 "the manager, or by any two of the directors" and substituting "an officer";

- (b) by striking out from subsection (4) of section 20 "The rate" and substituting "Subject to this section, the rate";

- (c) by striking out subsection (6) of section 20 and substituting the following subsections:

(6) Where the Company has, under an instrument, a right to charge a commission, the Company may charge commission either under the instrument or under this section but, subject to any express provision of the instrument to the contrary, not under both.

(6a) The beneficiaries of an estate or trust may, by instrument in writing, authorize the Company to charge a commission or fee independently of this section but if any of those beneficiaries is a minor or a person under a disability such an authorization is not effective unless confirmed by the Court.;

(d) by striking out subsection (10) of section 25a and substituting the following subsection:

(10) The Company shall determine the value of the investments in which each common fund has been invested as at the first business day of each month and, if the Company thinks fit, as at such other times as may be appropriate according to the nature of the particular fund.;

(e) by striking out from subsection (11) of section 25a "first day of the month in question" and substituting "day of the valuation";

(f) by striking out from subsection 12 of section 25a " , during any month,";

(g) by striking out from subsection (12) of section 25a "made pursuant to subsection (10) of this section as on the first day of that month" and substituting "last made under subsection (10)";

(h) by striking out subsection (13) of section 25a and substituting the following subsections:

(13) The Company may charge against each common fund an administration fee in respect of each month of the Company's administration of the fund.

(13a) The administration fee shall not exceed one-twelfth of one per cent of the value of the fund as at the first business day of the month.

(13b) The Company shall, after deduction of any fees and charges to which it is entitled, divide the income arising from the investment of the common fund among the estates, trusts and persons entitled to the income according to the sums invested and the period of the investment.;

and

(i) by inserting after subsection (14) of section 25a the following subsection:

(15) In this section—

"business day" means a day other than a Saturday, Sunday or public holiday.

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

D. B. DUNSTAN, Governor