



ANNO TRICESIMO TERTIO

# ELIZABETHAE II REGINAE

A.D. 1984

\*\*\*\*\*

No. 2 of 1984

**An Act to amend the Trustee Act, 1936.**

*[Assented to 12 April 1984]*

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

1. (1) This Act may be cited as the "Trustee Act Amendment Act, 1984". Short title.

(2) The Trustee Act, 1936, is in this Act referred to as "the principal Act".

2. This Act shall come into operation on a day to be fixed by proclamation. Commencement.

3. Section 17 of the principal Act is repealed and the following section is substituted: Repeal of s. 17 and substitution of new section.

17. (1) Notwithstanding any rule of law or equity to the contrary, a trustee may, if not expressly prohibited by the instrument creating the trust, by power of attorney created by deed, delegate to any person or persons residing in the State all or any of the powers, authorities and discretions vested in him as trustee either alone or jointly with any other person or persons. Trustee's power of delegation.

(2) The persons who may be donees of a power of attorney under this section include a trustee company but not (unless a trustee company) the only other co-trustee of the donor of the power.

(3) A power of attorney under this section—

(a) must come into operation on or within six months after the giving of the power;

and

(b) shall, unless sooner terminated, terminate on the expiration of twelve months from the date on which it came into operation.

(4) Before or within seven days after giving a power of attorney under this section, the donor shall give written notice of the power to—

(a) each person (other than himself), if any, who under any instrument creating the trust has power (whether alone or jointly) to appoint a new trustee;

and

(b) each of the other trustees, if any.

(5) A notice under subsection (4) must specify—

(a) the date on which the power of attorney comes into operation and its duration;

(b) the donee of the power;

(c) the reason why the power is given;

and

(d) where some only are delegated, the powers, authorities and discretions delegated by the power of attorney.

(6) Failure to comply with subsection (4) or (5) shall not invalidate any act done or instrument executed by the donee.

(7) Every act done or instrument executed by the donee of a power of attorney under this section in pursuance of the power shall be as valid and effectual as if done or executed by the donor.

(8) The donee of a power of attorney under this section shall, in the exercise of the powers, authorities and discretions delegated to him by the power, be regarded as a trustee.

(9) The donor and donee of a power of attorney under this section shall be jointly and severally liable for any act or default of the donee.

(10) This section does not limit or affect any power to appoint a new trustee in place of a trustee who has given a power of attorney under this section or any power of the Supreme Court to make any order in relation to the trustee.

Repeal of s. 34.

4. Section 34 of the principal Act is repealed.

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

C. L. LAUCKE, Governor's Deputy