



ANNO SECUNDO

ELIZABETHAE II REGINAE

A.D. 1953

No. 52 of 1953.

An Act to amend the Trustee Act, 1936-1950.

[Assented to 17th December, 1953.]

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

Short titles.

1. (1) This Act may be cited as the "Trustee Act Amendment Act, 1953".

(2) The Trustee Act, 1936-1950, as amended by this Act, may be cited as the "Trustee Act, 1936-1953".

(3) The Trustee Act, 1936-1950, is hereinafter referred to as "the principal Act".

Incorporation.

2. This Act is incorporated with the principal Act and that Act and this Act shall be read as one Act.

Enactment of
new section
35b—

3. The following section is enacted and inserted after section 35a of the principal Act :—

Variation of
employees'
benefit fund.

35b. (1) The trustees of any employee's benefit fund may vary the instrument creating the fund as they think fit, subject to the observance of the following conditions :—

- i. The consent of the beneficiaries shall be obtained to the variation :
- ii. The consent shall be obtained by a vote of beneficiaries at a meeting called and held pursuant to not less than four weeks' notice in that behalf stating the

details of the proposed variation to be submitted to the meeting and served personally or by post on every beneficiary. If the notice is served by post it shall be sufficient to address it to the usual or last known place of abode or business of the beneficiary :

III. The consent of the beneficiaries shall not be deemed to have been given unless three-fourths of the beneficiaries present and voting at a meeting held as aforesaid consent to the variation.

(2) A person nominated in that behalf by the trustees of the employees' benefit fund shall preside as chairman at a meeting held under this section unless and until some other person is proposed and seconded by beneficiaries and elected as chairman by a majority of the beneficiaries present and voting at the meeting, in which case that person shall preside as chairman.

(3) A person voting at a meeting under this section shall do so by marking his vote on a ballot-paper provided by the trustees ; and the meeting shall be so conducted as to ensure that the voting shall be secret.

(4) A certificate in writing under the hand of any person who was chairman of a meeting held under this section at the time the beneficiaries voted on the variation shall be *prima facie* evidence that the meeting was duly called and the consent of the beneficiaries to the variation was duly obtained.

(5) Where the instrument creating an employees' benefit fund is varied pursuant to this section, the property of the fund shall be held on the trusts contained in the instrument as varied.

(6) The benefits to which any person is entitled in possession under an employees' benefit fund shall not be prejudiced or diminished in any way by any variation under this section of the instrument creating the fund without the consent in writing of that person.

(7) This section shall apply unless the instrument creating the employees' benefit fund expressly provides that it shall not apply.

(8) Subject to subsection (7) of this section, where the instrument creating an employees' benefit fund provides for the variation of the instrument, the instrument may be varied in accordance with its terms or in accordance with this section.

(9) This section shall apply to any employees' benefit fund whether created before or after the passing of the Trustee Act Amendment Act, 1953.

(10) In this section—

“benefit” means all or any of the following benefits, namely, pensions, retiring allowances, sickness or hospital benefits, payments during unemployment, death or funeral benefits or other like benefits, allowances or payments :

“beneficiary” means a person who is entitled or prospectively entitled to a benefit under an employees' benefit fund by virtue of his employment and who is actually in that employment at the time that the meeting is held pursuant to paragraph II. of subsection (1) of this section :

“employees' benefit fund” means any fund established, provided, or contributed to, by any employer for the purpose of providing any benefit to his employees during or after the determination of their employment or to both those employees and any other persons :

“vary” includes “add to” and “variation” includes addition.

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

R. A. GEORGE, Governor.