



NORTHERN TERRITORY OF AUSTRALIA

No. 52 of 1981

AN ACT

To amend the Public Trustee Act

[Assented to 1 July 1981]

BE it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

1. SHORT TITLE

This Act may be cited as the Public Trustee Amendment Act 1981.

2. COMMENCEMENT

This Act shall come into operation on a date to be fixed by the Administrator by notice in the Gazette.

3. PRINCIPAL ACT

The Public Trustee Act is in this Act referred to as the Principal Act.

4. DEFINITIONS

Section 5 of the Principal Act is amended by inserting after the definition of "Court" the following:

"'employee' means an employee within the meaning of the Public Service Act";

5. REPEAL

Section 7 of the Principal Act is repealed.

6. APPOINTMENT OF PUBLIC TRUSTEE

Section 8(1), (2) and (5) of the Principal Act is amended by omitting "within the meaning of the Public Service Act".

7. COMMON FUND

Section 21(9) of the Principal Act is amended by omitting "the rate of interest" and substituting "the rates of interest".

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8. REPEAL

Section 38 of the Principal Act is repealed and the following section substituted:

"38. PUBLIC TRUSTEE TO HAVE POWERS OF EXECUTOR, &c., WHERE APPOINTED IN SUBSTITUTION

"Where the Public Trustee is given a grant of administration in substitution for the executor, administrator or trustee originally appointed, all property, functions, powers, authorities, discretions and rights vested in or conferred on the original executor, administrator or trustee by the trust instrument shall, by the appointment, without conveyance, transfer or assignment or the execution of any other instrument, become vested in and exercisable by the Public Trustee as fully and effectually as if he had been named as such executor, administrator or trustee by the instrument."

9. EVIDENCE OF DEATH OF EXECUTOR, &c.

Section 56 of the Principal Act is amended by omitting "officers" and substituting "employees".

10. REPEAL

Section 57 of the Principal Act is repealed.

11. NEW SECTION

The Principal Act is amended by inserting after section 59 the following:

"59A. PUBLIC TRUSTEE TO BE DEEMED MANAGER

"Where, pursuant to a law in force in the Territory, legal title to property of a kind referred to in section 58 is for the time being vested in the Public Trustee, the Public Trustee shall be deemed to have been appointed manager of that property for the purposes of section 59 and sections 60 to 67, inclusive, apply accordingly."

12. POWERS AS MANAGER

Section 60(4) of the Principal Act is amended by omitting "officer" and substituting "employee".

13. NEW SECTION

The Principal Act is amended by inserting after section 67 the following:

"67A. BONA VACANTIA

"(1) Where, by virtue of section 66 of the Administration and Probate Act or another law in force in the Territory, an estate or interest in property, whether real or personal, is or is deemed to be

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bona vacantia to which the Territory is entitled, the Public Trustee may take such lawful action as is necessary or desirable to call in, recover, receive, sell, convert or otherwise dispose of or deal with the estate or interest in property.

"(2) Without limiting the power of the Public Trustee under sub-section (1), the Public Trustee may, in relation to an estate or interest in property referred to in that sub-section -

- (a) apply for letters of administration, with or without a will annexed;
- (b) execute all instruments, including instruments under the Real Property Act, deeds and documents which are necessary to transfer the estate or interest in property;
- (c) from amounts received, pay out liabilities, debts, costs, charges and expenses properly incurred and chargeable against the estate or interest in property; and
- (d) give a valid receipt to a person.

"(3) The Public Trustee shall pay the net proceeds from property referred to in sub-section (1) into the Consolidated Fund.

"(4) This section does not apply to, or in relation to, property which is vested in the Registrar of Companies by a provision of the Companies Act."

14. NEW SECTION

The Principal Act is amended by inserting after section 72 the following:

"72A. CERTIFICATE OF PUBLIC TRUSTEE

"(1) Where the Public Trustee is acting as executor, administrator, attorney, trustee, receiver, manager, committee or guardian, a certificate under the seal of the Public Trustee certifying -

- (a) the capacity referred to in this sub-section in which the Public Trustee is authorized to act;
- (b) the manner in which the Public Trustee became authorized to act in that capacity;
- (c) the time at which the Public Trustee became authorized to act in that capacity; and
- (d) that the real or personal property described in the certificate forms part of the estate in respect of which the Public Trustee is acting,

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shall, without further proof, be accepted by all courts, employees and persons, whether acting under an Act or not, as sufficient evidence of the respective matters so certified.

"(2) Where the Public Trustee is executor of, or has a grant of administration of, the estate of any deceased person, a certificate by the Public Trustee under his seal certifying all or any of the following facts, namely:

- (a) the name of the deceased;
- (b) the residential address of the deceased at the time of his death;
- (c) the occupation of the deceased immediately prior to the time of his death;
- (d) the nature or form of the authority by which the Public Trustee is administering the estate;
- (e) the date of granting of the authority referred to in paragraph (d);
- (f) the reference number of the authority referred to in paragraph (d);
- (g) the manner in which the Public Trustee became authorized to administer the estate; and
- (h) the time at which the Public Trustee became authorized to administer the estate,

shall, without further proof, be accepted by all courts, employees and persons, whether acting under an Act or not, as sufficient evidence of the respective matters so certified.

"(3) A certificate made in pursuance of sub-section (1) in relation to any property registered under the Real Property Act shall be sufficient evidence for the Registrar-General to register the Public Trustee as the proprietor of the estate or interest described in the certificate.

"(4) Where the Public Trustee is acting jointly with another person in any of the capacities mentioned in sub-section (1) or (2), a certificate issued in accordance with the conditions of this section shall be accepted by all courts, employees and persons, whether acting under an Act or not, as sufficient evidence of the facts set out therein without any other proof."