

First print



New South Wales

Trustee Companies Amendment (Reserve Liabilities) Bill 1998

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to allow for the removal of the statutory requirement that certain trustee companies maintain specified reserves to meet their liabilities and for the imposition, instead, of a requirement that the companies concerned either:

- (a) maintain a policy of indemnity insurance approved by the Attorney General, or
 - (b) lodge a bank guarantee approved by the Attorney General with the Attorney General.
-

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent.

Clause 3 is a formal provision giving effect to the amendments to the *Trustee Companies Act 1964* set out in Schedule 1.

Schedule 1 Amendments

Section 36A (Indemnities) requires the trustee companies named in that section either to maintain policies of indemnity insurance approved by the Attorney General or to lodge with the Attorney General a bank guarantee approved by the Attorney General. **Schedule 1 [1]** amends that section so as to extend its application to such other trustee companies named in the Second Schedule as are declared by a proclamation made under section 36AA to be trustee companies to which the section applies.

Schedule 1 [2] inserts proposed section 36AA, which empowers the making of the proclamation referred to above. The proposed section also allows the proclamation to amend the Second Schedule in relation to the trustee company concerned by omitting from that Schedule the requirements that the insurance policy or bank guarantee are intended to replace.

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New South Wales

Trustee Companies Amendment (Reserve Liabilities) Bill 1998

No , 1998

A Bill for

An Act to amend the *Trustee Companies Act 1964* in relation to the prudential requirements for certain trustee companies.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Trustee Companies Amendment (Reserve Liabilities) Act 1998*.

2 Commencement

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This Act commences on the date of assent.

3 Amendment of Trustee Companies Act 1964 No 6

The *Trustee Companies Act 1964* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Section 3)

[1] Section 36A Indemnities

Omit "and Perpetual Trustees Australia Limited" from section 36A (1). 5

Insert instead " , Perpetual Trustees Australia Limited and such other trustee companies named in the Second Schedule as are declared by a proclamation under section 36AA to be trustee companies to which this section applies".

[2] Section 36AA 10

Insert after section 36A:

36AA Extension of section 36A to other trustee companies

- (1) The Governor may, by proclamation, declare a trustee company named in the Second Schedule to be a trustee company to which section 36A applies. 15
- (2) Any such proclamation may also amend the Second Schedule by omitting from it such of its provisions as impose (in whatever terms) any of the following requirements or restrictions on the trustee company concerned: 20
 - (a) a requirement that the portion of the trustee company's share capital which is not capable of being called up except in the event of and for the purposes of the company being wound up be not less than a specified amount, 25
 - (b) a restriction on the amount of share capital that the trustee company may call up or receive,
 - (c) a restriction on the distribution, as dividends or otherwise, of the trustee company's profits before the accumulation out of those profits of a special reserve of a specified amount, 30
 - (d) a restriction on the distribution of a special reserve.

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Schedule 1 Amendments

- (3) This section has effect despite the other provisions of this Act, and, accordingly, nothing in this Act prevents:
- (a) the making of a proclamation under this section, or
 - (b) a proclamation made under this section from having effect according to its terms. 5