

I Certify that this PUBLIC BILL, which originated in the LEGISLATIVE COUNCIL, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

W. L. S. COOPER,
Clerk of the Parliaments.

*Legislative Council Chamber,
Sydney, 27th October, 1917.*

New South Wales.



ANNO OCTAVO

GEORGII V REGIS.

Act No. 26, 1917.

An Act to facilitate the execution of trusts, and to amend the law relating to the limitation of actions and suits during the present war, and for a certain period thereafter; to validate certain powers of attorney, deeds, and acts; and for purposes consequent thereon or incidental thereto. [Assented to, 7th November, 1917.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the "Execution of Short title.
Trusts (War Facilities) Act, 1917." (2)

Execution of Trusts (War Facilities).

(2) In this Act unless the context otherwise requires—"trustee" includes an executor and an administrator as defined in the Wills, Probate, and Administration Act, 1898.

(3) This Act shall not apply to any trustee under an implied or constructive trust.

Delegation of
Trusts.
cf. 5 Geo. V,
c. 13, s. 1.

2. (1) A trustee (whether a sole trustee or a trustee with others) may, notwithstanding any rule of law or equity to the contrary, by power of attorney, attested by one or more witnesses, delegate to any person, including a co-trustee, capable of being appointed to be a trustee of the trust, the execution, during any period for which the trustee is engaged on war service within the meaning of this Act, and a further period of six months thereafter of any trust of which he is trustee.

(2) For the purposes of this Act the words "engaged on war service" shall mean—

(a) engaged on active service in connection with the present war as a member of the military or naval forces of the Crown or of any of His Majesty's allies; or

(b) engaged on active service abroad as a member of the Medical Corps Nursing Service of the military or naval forces of the Crown or of any of His Majesty's allies; or

(c) engaged on active service abroad in connection with the Army Medical Service or of any of His Majesty's allies; or

(d) engaged on service in any work abroad, in connection with the present war, of the British or Australian Red Cross Society, or the Saint John Ambulance Association, or of any religious or patriotic organisation; or

(e) being in connection with the present war a prisoner of war in the enemy's country or being interned in the country of a neutral power; or

(f) engaged abroad in making munitions, or in any other service in connection with the war.

(3) All jurisdiction and powers of any court shall apply to the donee of a power of attorney given under this

Execution of Trusts (War Facilities).

this Act so far as respects the execution of the trusts in the same manner as if the donee were a trustee of the trust.

(4) A statutory declaration by the donee of a power of attorney under which the execution of a trust is delegated, that the donor is engaged on war service within the meaning of this Act, or that in any transaction the donee is acting in execution of the trust, shall be accepted as sufficient evidence of the fact by any person dealing with the donee.

cf. 5 Geo. V,
c. 13, s. 3.

(5) The powers conferred by this section may also be exercised by any trustee not engaged on war service in relation to any period during which, being out of New South Wales, he is for any reason connected with the present war unable to return to New South Wales.

3. In favour of any person dealing with the donee of a power of attorney made under this Act, any act done or instrument executed by the attorney shall, notwithstanding that the power has become revoked by the act of the donor of the power or by his death or otherwise, be as valid and effectual as if the donor of the power were alive and of sound mind and had himself done such act or executed such instrument, unless such person had actual notice of the revocation of the power or of the death or unsoundness of mind of the donor of the power before such act was done or instrument executed.

Revocation of
power of
attorney.
5 & 6 Geo. V,
c. 70, s. 3.

4. A trustee to whom this Act applies shall, for the purposes of this Act, be presumed to remain alive until definite news of his death has been received or such death has been presumed by a court of competent jurisdiction, and the fact that he is reported "missing" or "missing and believed to be killed" shall not be construed as giving to persons having knowledge of such report actual notice of his death, although in fact it has occurred.

Persons
reported
missing.
Ibid. s. 5.

5. Every such power of attorney executed, before the commencement of this Act, by a trustee who was at the time of the execution of the power or who has since been engaged on war service, and every deed, act, matter, or thing heretofore or hereafter executed or done by

Validation.

virtue

Execution of Trusts (War Facilities).

virtue of such power of attorney, shall be deemed to have been and to be as good, valid, and effectual as if this Act had been in force at the time of the execution of such power of attorney.

Delegation
by soldiers
on active
service.

6. Every power of attorney or other delegation under this Act made by a member of the Australian Imperial Forces who is absent from Australia on war service, signed by such member and purporting to be witnessed by an officer of such forces of or above the rank of major shall be deemed to be duly executed.

Act of 1915
not affected.

7. The provisions of this Act shall not affect the provisions of the Trustees Delegation of Powers Act, 1915, or of any Act consolidating or amending that Act.

Certain rights
of persons on
active service
preserved.

8. Any right of entry or distress, and any right to commence any action, suit, or other proceeding, possessed by any person on active service at the time he enters such service, or which accrues to him during such service, shall not be barred by the expiration, during such service or within twelve months thereafter, of the period of limitation fixed by any Act with respect to any such right.

In the event of such expiration such person shall be entitled to make such entry or distress, or commence such action, suit, or proceeding at any time before the expiration of the said period of twelve months.

This section shall take effect whether such service began or such right accrued before or after the commencement of this Act.

In the name and on behalf of His Majesty I assent to this Act.

W. P. CULLEN,

Government House,

Lieutenant-Governor.

Sydney, 7th November, 1917.

This PUBLIC BILL originated in the LEGISLATIVE COUNCIL, and, having this day passed, is now ready for presentation to the LEGISLATIVE ASSEMBLY for its concurrence.

Legislative Council Chamber,
Sydney, Clerk of the Parliaments.
October, 1917.

New South Wales.



ANNO OCTAVO

GEORGI V REGIS.

Act No. , 1917.

An Act to facilitate the execution of trusts, and to amend the law relating to the limitation of actions and suits during the present war, and for a certain period thereafter; to validate certain powers of attorney, deeds, and acts; and for purposes consequent thereon or incidental thereto.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of
5 the same, as follows:—

1. (1) This Act may be cited as the "Execution of Trusts (War Facilities) Act, 1917."

Execution of Trusts (War Facilities).

(2) In this Act unless the context otherwise requires—"trustee" includes an executor and an administrator as defined in the Wills, Probate, and Administration Act, 1898.

5 (3) This Act shall not apply to any trustee under an implied or constructive trust.

2. (1) A trustee (whether a sole trustee or a trustee with others) may, notwithstanding any rule of law or equity to the contrary, by power of attorney, attested
10 by one or more witnesses, delegate to any person, including a co-trustee, capable of being appointed to be a trustee of the trust, the execution, during any period for which the trustee is engaged on war service within the meaning of this Act, and a further period of six
15 months thereafter of any trust of which he is trustee.

Delegation of Trusts.
cf. 5 Geo. V,
c. 13, s. 1.

(2) For the purposes of this Act the words "engaged on war service" shall mean—

- 20 (a) engaged on active service in connection with the present war as a member of the military or naval forces of the Crown or of any of His Majesty's allies; or
- 25 (b) engaged on active service abroad as a member of the Medical Corps Nursing Service of the military or naval forces of the Crown or of any of His Majesty's allies; or
- (c) engaged on active service abroad in connection with the Army Medical Service or of any of His Majesty's allies; or
- 30 (d) engaged on service in any work abroad, in connection with the present war, of the British or Australian Red Cross Society, or the Saint John Ambulance Association, or of any religious or patriotic organisation; or
- 35 (e) being in connection with the present war a prisoner of war in the enemy's country or being interned in the country of a neutral power; or
- (f) engaged abroad in making munitions, or in any other service in connection with the war.

40 (3) All jurisdiction and powers of any court shall apply to the donee of a power of attorney given under this

Execution of Trusts (War Facilities).

this Act so far as respects the execution of the trusts in the same manner as if the donee were a trustee of the trust.

(4) A statutory declaration by the donee of a power of attorney under which the execution of a trust is delegated, that the donor is engaged on war service within the meaning of this Act, or that in any transaction the donee is acting in execution of the trust, shall be accepted as sufficient evidence of the fact by any person dealing with the donee.

cf. 5 Geo. V,
c. 13, s. 3.

(5) The powers conferred by this section may also be exercised by any trustee not engaged on war service in relation to any period during which, being out of New South Wales, he is for any reason connected with the present war unable to return to New South Wales.

3. In favour of any person dealing with the donee of a power of attorney made under this Act, any act done or instrument executed by the attorney shall, notwithstanding that the power has become revoked by the act of the donor of the power or by his death or otherwise, be as valid and effectual as if the donor of the power were alive and of sound mind and had himself done such act or executed such instrument, unless such person had actual notice of the revocation of the power or of the death or unsoundness of mind of the donor of the power before such act was done or instrument executed.

Revocation of
power of
attorney.
5 & 6 Geo. V,
c. 70, s. 3.

4. A trustee to whom this Act applies shall, for the purposes of this Act, be presumed to remain alive until definite news of his death has been received or such death has been presumed by a court of competent jurisdiction, and the fact that he is reported "missing" or "missing and believed to be killed" shall not be construed as giving to persons having knowledge of such report actual notice of his death, although in fact it has occurred.

Persons
reported
missing.
Ibid. s. 5.

5. Every such power of attorney executed, before the commencement of this Act, by a trustee engaged on war service, and every deed, act, matter, or thing heretofore or hereafter executed or done by virtue of such power of attorney, shall be deemed to have been and to be

Validation.

Execution of Trusts (War Facilities).

be as good, valid, and effectual as if this Act had been in force at the time of the execution of such power of attorney.

- 6.** Every power of attorney or other delegation under this Act made by a member of the Australian Imperial Forces who is absent from Australia on war service, signed by such member and purporting to be witnessed by an officer of such forces of or above the rank of major shall be deemed to be duly executed. Delegation by soldiers on active service.
- 7.** The provisions of this Act shall not affect the provisions of the Trustees Delegation of Powers Act, 1915, or of any Act consolidating or amending that Act. Act of 1915 not affected.
- 8.** Any right of entry or distress, and any right to commence any action, suit, or other proceeding, possessed by any person on active service at the time he enters such service, or which accrues to him during such service, shall not be barred by the expiration, during such service or within twelve months thereafter, of the period of limitation fixed by any Act with respect to any such right. Certain rights of persons on active service preserved.
- In the event of such expiration such person shall be entitled to make such entry or distress, or commence such action, suit, or proceeding at any time before the expiration of the said period of twelve months.
- This section shall take effect whether such service began or such right accrued before or after the commencement of this Act.

This PUBLIC BILL originated in the LEGISLATIVE COUNCIL, and, having this day passed, is now ready for presentation to the LEGISLATIVE ASSEMBLY for its concurrence.

W. L. S. COOPER,
Clerk of the Parliaments.

Legislative Council Chamber,
Sydney, 25th October, 1917.

New South Wales.



ANNO OCTAVO

GEORGII V REGIS.

Act No. , 1917.

An Act to facilitate the execution of trusts, and to amend the law relating to the limitation of actions and suits during the present war, and for a certain period thereafter; to validate certain powers of attorney, deeds, and acts; and for purposes consequent thereon or incidental thereto.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the "Execution of Trusts (War Facilities) Act, 1917."

Execution of Trusts (War Facilities).

(2) In this Act unless the context otherwise requires—"trustee" includes an executor and an administrator as defined in the Wills, Probate, and Administration Act, 1898.

5 (3) This Act shall not apply to any trustee under an implied or constructive trust.

2. (1) A trustee (whether a sole trustee or a trustee with others) may, notwithstanding any rule of law or equity to the contrary, by power of attorney, attested
10 by one or more witnesses, delegate to any person, including a co-trustee, capable of being appointed to be a trustee of the trust, the execution, during any period for which the trustee is engaged on war service within the meaning of this Act, and a further period of six
15 months thereafter of any trust of which he is trustee.

Delegation of Trusts.
cf. 5 Geo. V,
c. 13, s. 1.

(2) For the purposes of this Act the words "engaged on war service" shall mean—

(a) engaged on active service in connection with the present war as a member of the military or naval forces of the Crown or of any of His Majesty's allies; or
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(b) engaged on active service abroad as a member of the Medical Corps Nursing Service of the military or naval forces of the Crown or of any of His Majesty's allies; or
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(c) engaged on active service abroad in connection with the Army Medical Service or of any of His Majesty's allies; or

(d) engaged on service in any work abroad, in connection with the present war, of the British or Australian Red Cross Society, or the Saint John Ambulance Association, or of any religious or patriotic organisation; or
30

(e) being in connection with the present war a prisoner of war in the enemy's country or being interned in the country of a neutral power; or
35

(f) engaged abroad in making munitions, or in any other service in connection with the war.

40 (3) All jurisdiction and powers of any court shall apply to the donee of a power of attorney given under this

Execution of Trusts (War Facilities).

this Act so far as respects the execution of the trusts in the same manner as if the donee were a trustee of the trust.

(4) A statutory declaration by the donee of a cf. 5 Geo. V, c. 13, s. 3.
 5 power of attorney under which the execution of a trust is delegated, that the donor is engaged on war service within the meaning of this Act, or that in any transaction the donee is acting in execution of the trust, shall be accepted as sufficient evidence of the fact by any
 10 person dealing with the donee.

(5) The powers conferred by this section may also be exercised by any trustee not engaged on war service in relation to any period during which, being out of New South Wales, he is for any reason connected with
 15 the present war unable to return to New South Wales.

3. In favour of any person dealing with the donee Revocation of power of attorney. 5 & 6 Geo. V, c. 70, s. 3.
 of a power of attorney made under this Act, any act done or instrument executed by the attorney shall, notwithstanding that the power has become revoked by the
 20 act of the donor of the power or by his death or otherwise, be as valid and effectual as if the donor of the power were alive and of sound mind and had himself done such act or executed such instrument, unless such person had actual notice of the revocation
 25 of the power or of the death or unsoundness of mind of the donor of the power before such act was done or instrument executed.

4. A trustee to whom this Act applies shall, for the Persons reported missing. Ibid. s. 5.
 purposes of this Act, be presumed to remain alive until
 30 definite news of his death has been received or such death has been presumed by a court of competent jurisdiction, and the fact that he is reported "missing" or "missing and believed to be killed" shall not be construed as giving to persons having knowledge of
 35 such report actual notice of his death, although in fact it has occurred.

5. Every such power of attorney executed, before Validation.
 the commencement of this Act, by a trustee engaged on war service, and every deed, act, matter, or thing here-
 4 tofore or hereafter executed or done by virtue of such power of attorney, shall be deemed to have been and to be
 be

Execution of Trusts (War Facilities).

be as good, valid, and effectual as if this Act had been in force at the time of the execution of such power of attorney.

6. Every power of attorney or other delegation under this Act made by a member of the Australian Imperial Forces who is absent from Australia on war service, signed by such member and purporting to be witnessed by an officer of such forces of or above the rank of major shall be deemed to be duly executed.

Delegation by soldiers on active service.

7. The provisions of this Act shall not affect the provisions of the Trustees Delegation of Powers Act, 1915, or of any Act consolidating or amending that Act.

Act of 1915 not affected.

8. Any right of entry or distress, and any right to commence any action, suit, or other proceeding, possessed by any person on active service at the time he enters such service, or which accrues to him during such service, shall not be barred by the expiration, during such service or within twelve months thereafter, of the period of limitation fixed by any Act with respect to any such right.

Certain rights of persons on active service preserved.

In the event of such expiration such person shall be entitled to make such entry or distress, or commence such action, suit, or proceeding at any time before the expiration of the said period of twelve months.

This section shall take effect whether such service began or such right accrued before or after the commencement of this Act.

Legislative Council.

No. , 1917.

A BILL

To facilitate the execution of trusts, and to amend the law relating to the limitation of actions and suits during the present war, and for a certain period thereafter; to validate certain powers of attorney, deeds, and acts; and for purposes consequent thereon or incidental thereto.

[MR. GARLAND;—24 October, 1917.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the "Execution of Trusts (War Facilities) Act, 1917."

(2) In this Act unless the context otherwise requires—"trustee" includes an executor and an administrator as defined in the Wills, Probate, and Administration Act, 1898.

(3) This Act shall not apply to any trustee under an implied or constructive trust. 5

Delegation of
Trusts.
cf. 5 Geo. V,
c. 13, s. 1.

2. (1) A trustee (whether a sole trustee or a trustee with others) may, notwithstanding any rule of law or equity to the contrary, by power of attorney, attested by one or more witnesses, delegate to any person, including a co-trustee, capable of being appointed to be a trustee of the trust, the execution, during any period for which the trustee is engaged on war service within the meaning of this Act, and a further period of six months thereafter of any trust of which he is trustee. 10 15

(2) For the purposes of this Act a trustee shall be deemed to be engaged on war service—

- (a) if he is engaged on active service in connection with the present war as a member of any of the military or naval forces of the Crown; or 20
- (b) if he is engaged on service in any work abroad, in connection with the present war, of the British or Australian Red Cross Society, or the Saint John Ambulance Association, or of any religious or patriotic association; or 25
- (c) if he is engaged on active service abroad as a member of the Medical Corps Nursing Service of the military or naval forces of the Crown or of any of His Majesty's allies; or
- (d) if he is engaged on active service abroad in connection with the Army Medical Service of any of His Majesty's Allies; or 30
- (e) if in connection with the present war he is a prisoner of war in the enemy's country or is interned in the country of a neutral Power; or 35
- (f) if he is engaged abroad in making munitions, or in any other service in connection with the war.

(3) All jurisdiction and powers of any court shall apply to the donee of a power of attorney given under this Act so far as respects the execution of the trusts in the same manner as if the donee were a trustee of the trust. 40

(4)

(4) A statutory declaration by the donee of a power of attorney under which the execution of a trust is delegated, that the donor is engaged on war service within the meaning of this Act, or that in any transaction the donee is acting in execution of the trust, shall be accepted as sufficient evidence of the fact by any person dealing with the donee.

cf. 5 Geo. V,
c. 13, s. 3.

(5) The powers conferred by this section may also be exercised by any trustee not engaged on war service in relation to any period during which, being out of New South Wales, he is for any reason connected with the present war unable to return to New South Wales.

3. In favour of any person dealing with the donee of a power of attorney made under this Act, any act done or instrument executed by the attorney shall, notwithstanding that the power has become revoked by the act of the donor of the power or by his death or otherwise, be as valid and effectual as if the donor of the power were alive and of sound mind and had himself done such act or executed such instrument, unless such person had actual notice of the revocation of the power or of the death or unsoundness of mind of the donor of the power before such act was done or instrument executed.

Revocation of
power of
attorney.
5 & 6 Geo. V,
c. 70, s. 3.

4. A trustee to whom this Act applies shall, for the purposes of this Act, be presumed to remain alive until definite news of his death has been received or such death has been presumed by a court of competent jurisdiction, and the fact that he is reported "missing" or "missing and believed to be killed" shall not be construed as giving to persons having knowledge of such report actual notice of his death, although in fact it has occurred.

Persons
reported
missing.
Ibid. s. 5.

5. Every such power of attorney executed, before the commencement of this Act, by a trustee engaged on war service, and every deed, act, matter, or thing heretofore or hereafter executed or done by virtue of such power of attorney, shall be deemed to have been and to be as good, valid, and effectual as if this Act had been in force at the time of the execution of such power of attorney.

Validation.

6.

Delegation
by soldiers
on active
service.

6. Every power of attorney or other delegation under this Act made by a member of the Australian Imperial Forces who is absent from Australia on war service, signed by such member and purporting to be witnessed by an officer of such forces of or above the rank of major shall be deemed to be duly executed. 5

Act of 1915
not affected.

7. The provisions of this Act shall not affect the provisions of the Trustees Delegation of Powers Act, 1915, or of any Act consolidating or amending that Act. 10

Certain rights
of persons on
active service
preserved.

8. Any right of entry or distress, and any right to commence any action, suit, or other proceeding, possessed by any person on active service at the time he enters such service, or which accrues to him during such service, shall not be barred by the expiration, 15 during such service or within twelve months thereafter, of the period of limitation fixed by any Act with respect to any such right.

In the event of such expiration such person shall be entitled to make such entry or distress, or commence 20 such action, suit, or proceeding at any time before the expiration of the said period of twelve months.

This section shall take effect whether such service began or such right accrued before or after the commencement of this Act. 25