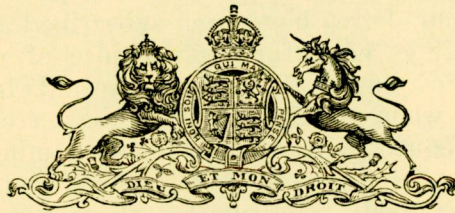


New South Wales.



ANNO QUARTO

GEORGII VI REGIS.

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An Act to confer powers upon Burns Philp Trust Company Limited. [Assented to, 13th December, 1940.]

**W**HEREAS it is often difficult to procure proper persons to undertake the onerous and responsible duties of executor, administrator, administrator with the will annexed, trustee, receiver, committee in lunacy, trustee in bankruptcy or agent: And whereas the deaths, resignations and absence from this State of persons who have undertaken such duties are often attended with great disadvantages and loss to the estates with the administration of which they are entrusted: And whereas it is desirable for the purpose of obtaining regularity security and continuity in the administration of trust

Preamble.



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*Burns Philp Trust Company Limited.*

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estates that permanent corporations should be empowered to fill the offices of executor, administrator, administrator with the will annexed, trustee, receiver, committee in lunacy, trustee in bankruptcy and agent and other similar offices: And whereas a certain company styled "Burns Philp Trust Company Limited" (hereinafter referred to as the company) has been incorporated under the provisions of the Companies Act 1936 of New South Wales and is now possessed of a capital of Two hundred thousand pounds divided into two hundred thousand shares of one pound each of which fifty thousand shares are fully paid up and one hundred and fifty thousand shares have been subscribed and paid up to two shillings each for the purpose of undertaking the duties of such offices as aforesaid for commission: And whereas the company has from time to time been requested to undertake the administration of estates comprising assets in this State and elsewhere: And whereas it is expedient that the necessary powers should be conferred upon the company in order to enable it to act as executor, administrator, administrator with the will annexed, trustee, receiver, committee in lunacy, trustee in bankruptcy and agent and to perform and discharge all the duties of such offices and to receive remuneration therefor and to confer upon the company all such privileges and powers as are necessary or expedient for the purposes aforesaid: Be it therefore 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:

Company  
may act  
as executor  
and obtain  
probate.

1. Whenever the company has been or shall be named either alone or jointly with any other corporation or any person as executor in the last will or in any codicil thereto of any testator it shall be lawful for the company to act as executor and to apply for and obtain probate of such will and to perform and discharge all other the acts and duties of an executor as fully and effectually as any other executor.

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*Burns Philp Trust Company Limited.*

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**2.** It shall be lawful for any person or persons entitled to obtain letters of administration with the will of any testator annexed of the estate of such testator to authorise the company, either alone or jointly with any other corporation or any person, to apply for and to obtain letters of administration with the will annexed, which may be granted to the company upon its own application when so authorised.

Persons entitled to obtain letters of administration c.t.a. may authorise the company to do so.

**3.** Any person who has been appointed executor of the will of any testator and has not renounced or taken probate thereof may by deed appoint the company to be executor of such will in his stead and on compliance with the provisions as to registration and filing contained in subsections eight and nine of section 75A of the Wills Probate and Administration Act 1898-1938 such will shall be construed and take effect in all respects as if the name of the company had been originally inserted in such will as the executor or one of the executors thereof in lieu of the person in whose stead the company has been appointed.

Persons entitled to probate may appoint company in their stead.

**4.** It shall be lawful for any person entitled to obtain letters of administration of the estate of any intestate person to authorise the company to apply for such letters of administration either alone or jointly with any other corporation or person so entitled to apply and administration of the estate of such intestate person may upon its own application be granted to the company either alone or jointly as aforesaid.

Persons entitled to obtain letters of administration may authorise the company to do so.

**5.** It shall be lawful for the company, where the administration of any estate with or without the will annexed has been granted to it, either alone or jointly with any other corporation or any person, to do and perform all acts and duties which belong to the office of the administrator, or administrator with the will annexed, as the case may be, notwithstanding its incorporation.

Company may perform acts as administrator notwithstanding its incorporation.

**6.** It shall be lawful for the company (a) to be appointed executor or administrator or co-executor or co-administrator pursuant to the provisions of section

Delegation to company of office of executor or administrator.



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*Burns Philp Trust Company Limited.*

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75A subsection (2) of the Wills Probate and Administration Act 1898-1938 but subject nevertheless to the conditions in the said section contained; (b) to exercise any other power and authority and enjoy any benefit conferred by law upon a trustee company as defined by section five of the Trustee Act 1925-1938.

Court to act on affidavit of managing director, manager, etc.

7. In all cases in which the company is empowered by this or any other Act to apply for probate of any will or for letters of administration in respect of the estate of any deceased person an affidavit by a managing director, manager, assistant manager, acting manager or the secretary or by such other officer of the company as may from time to time be appointed by the board of directors of the company for that purpose shall be received, instead of any affidavit required by any Act of Parliament or rule of court to be made by the person making application for such probate or letters of administration.

Assets of company to be liable for proper administration of estates and no bond required in certain cases.

8. All the capital both paid and unpaid (and all other assets of the company) of which paid up capital twenty-five thousand pounds shall be invested in the purchase of debentures or inscribed stock in such of the public funds of the State of New South Wales or of the Commonwealth of Australia as the board of directors of the company may select in the name of the Treasurer of the State of New South Wales in trust for the company but transferable only with the joint consent of the said Treasurer and the company under its common seal or upon the order of the Supreme Court or a judge thereof shall be liable for the proper administration of all estates of which the company shall act as executor or administrator and no bond for the due administration of any estate shall be required to be given by or on behalf of the company except in respect of estates exceeding twenty-five thousand pounds in value as to which the said court or a judge thereof may otherwise order. All interest and income to accrue from time to time from or in respect of all such debentures and inscribed stock shall be paid by the said Treasurer to the company as and when the same shall respectively become payable.



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*Burns Philp Trust Company Limited.*


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**9.** (1) In all cases where any court of justice or judge thereof or person has power to appoint any person as—

(a) trustee; or

(b) receiver; or

(c) committee or manager of the estate of an insane person, insane patient, or incapable person, within the meaning of the Lunacy Act of 1898; or

(d) guardian of the estate of an infant,

the company may be so appointed.

*Company may be appointed trustee, receiver, committee or guardian of estate.*

(2) (a) Subject as hereinafter provided the company may be appointed or may continue to act as sole trustee in all cases notwithstanding that it is provided by the terms of the instrument (if any) creating the trust or of any power or otherwise that there shall be more than one trustee to perform the trust.

(b) Where the company and one or more individuals are co-trustees, any one or more of such individuals may retire, and the company shall for the purposes of any Act now or hereafter in force relating to the retirement of trustees and the vesting of the trust property be deemed to be equivalent to two trustees.

(3) The company shall not be appointed in any case in which the instrument creating the trust or power forbids the appointment of the company.

(4) The company shall not be appointed or be entitled to act as sole trustee in any case in which the instrument creating the trust or power expressly provides that there shall be another trustee in addition to the company or that the company shall not be appointed or act as sole trustee.

(5) In every case in which the company is appointed or acts in any of the offices in subsection (1) hereof mentioned all the capital of the company, both paid and unpaid, and all other assets of the company and the directors,



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*Burns Philp Trust Company Limited.*

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directors, manager, and assistant manager thereof in their proper persons and estates shall be individually and collectively responsible for the due administration during the respective tenures of their respective offices of the estates entrusted to the company.

(6) No bond, recognizance, or other security for the proper discharge of such duties shall be required to be given by or on behalf of the company.

Property vested in company and another as trustees to be held on joint tenancy.

**10.** Where any property is now or hereafter becomes vested in the company and an individual, or in the company and another body corporate, to the intent that they should hold the same jointly in any fiduciary capacity, or as mortgagees, they shall be deemed to be joint tenants thereof and not tenants in common unless otherwise expressly provided.

Company may act under power of attorney by managing director, acting manager or two directors.

**11.** It shall be lawful for the company to act, either alone or jointly with any other corporation or any person, as attorney, whenever it shall be appointed by deed attorney for any person or any corporation, and all the powers conferred upon the company by any power of attorney may be exercised and carried into execution by the managing director, manager, assistant manager, acting manager, or secretary, or by such other officer of the company as may from time to time be appointed by the board of directors for that purpose, or by any two of the directors of the company; but in all cases the capital, both paid and unpaid, and all other assets of the company, shall be liable for the due execution of the powers so conferred upon the company: Provided always that nothing herein contained shall be deemed to authorise any person, company, or corporation to confer any power upon the company which cannot by law be delegated or performed by attorney.

Executor and others may delegate trusts to company.

**12.** It shall be lawful for any executor, administrator or trustee to delegate by deed to the company, either alone or jointly with any other corporation or any person, as his attorney all such trusts and powers as may by law be delegated, and all acts done by the company within the scope of such delegation shall, in favour of any persons



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*Burns Philp Trust Company Limited.*

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persons dealing with the company without notice of death or revocation of authority by such executor, administrator or trustee, be valid and effectual notwithstanding such death or revocation.

**13.** It shall be lawful for the Supreme Court or any judge thereof sitting in its equity or probate jurisdiction, on the application of any executor or administrator acting under any probate or letters of administration granted either before or after the coming into operation of this Act, to appoint the company, either alone or jointly with any other corporation or any person, to be administrator in his place or stead, and thereupon the company shall have the same powers and authorities as if it had been the original executor or administrator as the case may be; and in every such case all the capital, both paid and unpaid, and all other assets of the company, and the manager, assistant manager and the directors and their respective estates, shall be liable for the due administration during the respective tenures of their respective offices of the estates of which the company shall be so appointed administrator.

Executors or administrators, with the consent of judge, may appoint company to discharge duties.

**14.** (1) Every application under this Act to any court or judge shall be by motion.

Applications to court or judge.

(2) Subject as hereinafter provided, notice of the application and of the date on which the same is intended to be made shall be advertised once—

- (a) in a daily newspaper circulating in Sydney, and published at least seven days before such date; and
- (b) where the application is made by the executors or administrators of any person who died at any place situated more than thirty miles from Sydney, also in a newspaper circulating in the district in which the deceased resided at the date of his death, and published within the time aforesaid.

(3) It shall not be necessary to advertise in any newspaper notice of any application for the appointment of



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*Burns Philp Trust Company Limited.*

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of the company as a trustee where all persons beneficially interested are before the court or have had notice of the intended application.

(4) The court or judge may in any case require notice to be served on any person entitled to the immediate receipt of the whole or part of the income or corpus of the estate in respect of which the application is made.

(5) The court or judge may order the costs and expenses of and incident to any such application to be paid or raised out of the estate in respect whereof the same is made, or out of the income thereof, or to be borne and paid in such manner and by such persons as to the court or judge may seem just.

Commission.

**15.** The company shall be entitled to receive, in addition to all moneys properly expended by it and chargeable against any estate of which the administration shall be committed to the company, whether as executor, administrator, trustee, receiver, committee, or guardian, a commission at a rate to be fixed from time to time by the board of directors of the company, but not to exceed in any case two pounds ten shillings for every hundred pounds of the corpus or capital value of any such estate, and five pounds for every one hundred pounds of the annual income of any such estate received by the company, and of all moneys, whether capital or income, received by the company as an attorney acting under power of attorney, and such commission shall be payable out of the moneys in possession of the company representing the estate upon which the same shall be chargeable, and shall be accepted by the company in full satisfaction of any claim to remuneration for acting as such executor, administrator, receiver, trustees, committee, guardian, or attorney, and no other charges beyond such commission and moneys properly expended by the company shall be made or allowed: Provided that if in any estate any judge of the Supreme Court sitting in its equitable or probate jurisdiction shall be of opinion that the rate of commission charged is excessive such judge may review any such commission: Provided also that the commission charged by the company against any



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*Burns Philp Trust Company Limited.*


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any estate shall not exceed the amount of the published scale of charges of the company at the time when the administration of such estate was committed to the company, nor shall this enactment prevent the payment of any commission directed by a testator in his will either in addition to or in lieu of the commission hereinbefore authorised.

**16.** Whenever the company shall have been appointed executor, administrator, trustee, receiver, committee, guardian, or attorney, it shall be subject in all respects to the same control and to removal or restraint from acting and generally to the jurisdiction of the courts, in the same manner as any other executor, administrator, trustee, receiver, committee, guardian or attorney.

Removal  
from  
office.

**17.** (1) In all cases in which the personal attendance of an executor, administrator, trustee, receiver, committee or guardian is required in any court of justice or elsewhere, the company shall be entitled to make such attendance in the person of the managing director, manager, assistant manager, acting manager, or secretary, or such other officer of the company as may from time to time be appointed by the board of directors for that purpose.

Managing  
director  
and others  
may repre-  
sent com-  
pany.

(2) All declarations and all affidavits statements of defence, or other statements required by law to be made on oath may be made and sworn on behalf of the company by the managing director, manager, assistant manager, acting manager or secretary.

(3) In every case where the company obtains probate or letters of administration, or is appointed and acts as trustee, receiver, committee, or guardian, the managing director, manager, assistant manager and directors in their proper persons and estates shall be individually and collectively responsible for the due administration during the respective tenures of their respective offices of the estates entrusted to the company, and shall in their own proper persons be liable by process of attachment, commitment for contempt, or by other process, to all courts having jurisdiction in that behalf in the event of disobedience to the rules, orders, and



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*Burns Philp Trust Company Limited.*

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decrees of such courts made against the company in the same manner and to the same extent as if such managing director, manager, assistant manager and directors had personally obtained probate or letters of administration, and had acted as executor or administrator, trustee, receiver, committee or guardian, and as if the rule, order or decree had been made against them personally instead of against the company.

(4) Notwithstanding such personal responsibility of the said managing director, manager, assistant manager and directors, the capital both paid and unpaid, and all other assets of the company, shall remain liable for any loss which may be occasioned by or which may happen through any breach of trust or duty committed by the company or any of its officers, whether such trust or duty is implied by law or expressly conferred or imposed by the instrument under which the company acts.

(5) No person shall be appointed a director or manager of the company unless he is a bona fide resident of New South Wales, and any person being a director or manager of the company who ceases to reside in New South Wales shall, upon so ceasing to reside, vacate his office, and such vacancy shall be filled up in the manner provided by the articles of association for filling casual vacancies.

Court may  
order  
account.

**18.** It shall be lawful for any trustee, cestui que trust, executor, legatee, administrator, next of kin or creditor entitled to or interested in any estate which shall for the time being be under the management or control of the company, after demand in writing made to the managing director, manager, assistant manager or acting manager of the company, for a sufficient account of the property and assets of which such estate shall consist, and of the disposal and expenditure thereof or thereout; and upon non-compliance with such demand within a reasonable time, to apply to any judge of the Supreme Court sitting in its equitable jurisdiction in a summary manner upon motion after notice to the company for an account, and if the said judge shall be of opinion that



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*Burns Philp Trust Company Limited.*

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no sufficient account has been rendered by the company, the said judge shall order such account to be rendered by the company as to the said judge shall seem just, or if the said judge shall think that in the circumstances the company was not bound to furnish any account or that a sufficient account had been furnished, it shall be lawful for the said judge to dismiss the application, and the said judge shall have power in all cases to make such orders as to costs either against the company or against the applicant, or as to payment of costs out of the estate as to the said judge shall seem right.

**19.** It shall be lawful for a judge of the Supreme Court sitting in its equitable jurisdiction upon the making of any application under the last preceding section, to order, in addition to or in substitution for any account to be rendered by the company, that a person to be named in such order shall examine the books and accounts of the company in reference to the estate as to which the order is made, and in that case the directors and officers of the company shall deliver to the person named in such order a list of all the books kept by the company, and shall produce to such person at the office of the company at all reasonable times when required all books and accounts, vouchers, papers and other documents of the company relating to such estate, and shall afford him all necessary information and all other necessary facilities for enabling him to make the said examination, and the said judge shall have the same power over the costs of such examination as is given by the last preceding section over the costs of an application under that section.

Judge may  
order audit.

**20.** So long as any estate, in respect of which the company is executor, administrator, trustee, committee or guardian, shall remain in whole or in part unadministered, it shall not be lawful to proceed to wind up the company voluntarily unless with the sanction of a judge of the Supreme Court sitting in its equitable jurisdiction, and it shall be lawful for any person interested in such estate, or who may have any claim in respect thereof, to apply to any such judge in a summary way by motion

Judge may  
restrain sale  
of shares  
or volun-  
tary wind-  
ing up.

to



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*Burns Philp Trust Company Limited.*

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to restrain any director or any shareholder from disposing of any shares which such director or shareholder may hold in the company, or to restrain the winding up voluntarily of the company, and such judge shall have power to make such order upon such application as the circumstances of the case shall appear to the said judge to require.

Judge may order winding up of company.

**21.** If it be proved at any time to the satisfaction of any judge of the Supreme Court sitting in its equitable jurisdiction that three-fourths or more of the amount of capital authorised by this Act to be called up has been lost by the company, it shall be lawful for the said judge upon the application of any member, creditor, or cestui que trust of the company, to make an order for the winding up of the company.

Provision as to liability of directors and shareholders on winding up.

**22.** The following provisions with respect to the liability of directors and of shareholders in the company shall be and remain in force notwithstanding any alteration which may be made in its articles of association:—

Not more than two shillings shall be called up or received by the company on one hundred and fifty thousand of the subscribed shares of one pound each in the capital of the company except in the event of and for the purpose of the winding up of the company and every member shall in such event be liable to contribute the unpaid balance of every share held by him. And it shall not be lawful for the company to mortgage charge or in anywise encumber the uncalled capital on the aforesaid subscribed one hundred and fifty thousand shares.

In the event of the company being wound up every person who has been a director of the company at any time within the period of two years preceding the commencement of the winding up shall be liable for the balance unpaid on every share which he may have transferred during such two years in the event of the holder or holders of such shares being unable to pay the said balance per share in full in addition to his liability upon any such shares held by him at the commencement of the winding up.

Partly



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*Burns Philp Trust Company Limited.*

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Partly paid up shares in the company shall not be transferable unless in any case the proposed transferee is in the opinion of the directors possessed of such an amount of property as they consider reasonable.

It shall not be lawful for any shareholder in the company other than Burns Philp & Company Limited to be the owner of more than two thousand shares in the company in his own right.

The capital of the company shall be and remain divided into shares of one pound each and the number of shares in the company shall not be at any time reduced to less than one hundred thousand.

**23.** No more than four-fifths of the profits made by the company in any one year shall be distributed as dividends or otherwise until there has been accumulated out of profits a fund of sixty-five thousand pounds. Such fund shall constitute a special reserve and shall not be in any manner distributed amongst the shareholders except in the event of the winding up of the company

Special  
Reserve  
Fund.

**24.** All moneys which form part of any estate of which at any time the company shall be executor, administrator or trustee, and which moneys shall remain unclaimed by the person entitled to the same for a period of five years after the time when the same shall have become payable to such person, except where payment has been or shall be restrained by the injunction of some court of competent jurisdiction, shall, together with interest at current rates on fixed deposits in banks, be paid by the company into the State Treasury to be placed to the credit of a fund to be called the testamentary and trust fund, distinguishing the particular estates in respect of which such moneys shall have been paid, and the Treasurer shall from time to time invest such moneys in the purchase of Government debentures or stock of the Commonwealth of Australia or the State of New South Wales to be placed to the credit of the said testamentary and trust fund, distinguishing in the ledger the particular estate in respect of which such moneys shall have been invested; and the interest payable on such debentures or stock shall be placed to the credit of

the

Unclaimed  
moneys.



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*Burns Philp Trust Company Limited.*

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the said fund, and the said Treasurer's said account in the ledger shall be an official and not a nominal account, and in all transfers of the said debentures and stock by the said Treasurer he shall be so styled without any name, addition or description, and he shall not sign any such transfers or pay over any of the moneys standing to the credit of the said fund unless an order of any judge of the Supreme Court sitting in its equitable jurisdiction directing such transfer and specifying the amount of moneys, debentures or stock, and the name, description and addition of the person to whom the proceeds of such sale are to be paid shall be left at the office of the said Treasurer, nor until the purchase money of the debentures or stock to be sold has been received in the Treasury; and the company shall at the end of every six months deliver to the said Treasurer a statement of all such unclaimed moneys which during the preceding six months shall have been in its hands, and distinguishing the several estates in respect of which the same have been received, and setting out the dates and amounts of the several payments of the same under this section; and if the said moneys or any part thereof have not been paid into the Treasury with a statement of the reason for the delay of such payments, and if default is made in compliance with the foregoing provisions of this section, the company shall be liable to a penalty not exceeding five pounds for every day while such default continues, and every director and manager, assistant manager, or acting manager of the company who knowingly and wilfully authorises or permits such default shall incur the like penalty.

Applications  
by persons  
entitled to  
trust funds.

**25.** It shall be lawful for any person who shall be entitled to any stock, debentures or moneys which shall at any time form part of the said testamentary and trust fund to apply to any judge of the Supreme Court sitting in its equitable jurisdiction, upon petition in a summary way, for such order as is in the last-preceding section referred to, and the said judge shall deal with such application as nearly as may be in the same manner as in the case of applications to the said court under the Trustee Act of 1925-1938; and in all cases in which the

Treasurer



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*Burns Philp Trust Company Limited.*

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Treasurer may see fit to appear upon such petition, he shall be entitled to such costs against the applicant or out of the fund as the said judge may direct.

**26.** It shall be lawful for the Treasurer after demand in writing addressed to the managing director, manager, assistant manager, or acting manager of the company for a sufficient account of the property and assets of which any or every estate included in or which ought to be or to have been included in the hereinbefore mentioned statement of unclaimed moneys shall consist, and of the disposal and expenditure thereof, of or thereout, to apply in a summary way to a judge of the Supreme Court sitting in its equitable jurisdiction, upon motion after notice to the company, for an account, and if the said judge shall be of opinion that no sufficient account has been rendered by the company, the said judge shall order such account to be rendered by the company as to the said judge shall seem just, or if the said judge shall think that in the circumstances the company was not bound to furnish any account, or that any account furnished by the company was sufficient, it shall be lawful for the said judge to dismiss the application, and the said judge shall have power in all cases to make such order as to costs either against the company or as to payment of costs out of the estate as to the said judge shall seem right.

Treasurer  
may apply  
for account.

**27.** The managing director, manager, assistant manager or acting manager of the company shall during the months of June and December in every year during which the company carries on business, make before some justice of the peace a declaration in the form contained in the Schedule hereto, or as near thereto as circumstances will admit, of the receipts, expenditure and investments of and in all estates and property held by the company in trust up to the thirty-first day of May or thirtieth day of November then last past; such declaration shall within seven days after the making thereof be filed in the office of the Registrar-General of New South Wales, and a copy of such declaration shall

Returns by  
company.

be



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*Burns Philp Trust Company Limited.*

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be put up in a conspicuous place in the registered office of the company and in every branch office or place where the business of the company is carried on, and shall be given to any member or creditor of the company, or any cestui que trust who applies for the same; and if default is made in compliance with the provisions of this section the company shall be liable to a penalty not exceeding five pounds for every day whilst such default continues, and every managing director, manager, assistant manager, or acting manager of the company who knowingly and wilfully authorises or permits such default shall incur the like penalty.

Appeals.

**28.** Every order made by any judge under this Act shall be subject to appeal in the same manner and under the same conditions as other orders of such judge.

Other companies may apply for similar powers.

**29.** Nothing in this Act contained shall be deemed to give to the company any right to oppose the granting of similar powers to those conferred upon the company by this Act to any other company or to corporations generally, or to claim or to seek compensation in consequence of such powers being conferred upon any other company, or upon corporations generally, or in the event of provision being made by Parliament for the management of trust estates by a public trustee or department or officer of the Government, or in the event of the repeal of this Act.

Settlers or testators may appoint their own solicitors.

**30.** Where by any settlement, will, codicil, or other testamentary writing, a settlor or testator shall direct that any practising solicitor shall conduct the legal business of his estate, such solicitor shall be entitled to act therein accordingly, but in such case the company shall not be liable for the negligence, misfeasance, non-feasance or misconduct of such solicitor, and such solicitor may be removed by the order of any judge of the Supreme Court sitting in its equitable jurisdiction upon the application of the company or of any person interested in the said estate upon cause shown, and then and in such case the said judge may appoint the solicitor nominated by the company to conduct such legal business.

**31.**



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*Burns Philp Trust Company Limited.*


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**31.** Except so far as is herein expressly provided, the company shall have and be subject to the same restrictions, liabilities, penalties, privileges and powers as it has and is subject to under its present incorporation, and this Act shall not otherwise affect the incorporation of the company.

Incorporation of company not otherwise affected.

**32.** Any penalty imposed by this Act may be recovered in a summary way before two or more justices of the peace.

Recovery of penalties.

**33.** This Act shall be called and may be cited as "Burns Philp Trust Company Limited Act."

Short title of Act.

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THE SCHEDULE.

Sec. 27.

BURNS PHILP TRUST COMPANY LIMITED.

I,  
of

BURNS PHILP TRUST COMPANY LIMITED do hereby solemnly and sincerely declare:—

1. THAT the liability of the Members is limited.
2. THAT the Capital of the Company is pounds divided into shares of one pound each.
3. THAT the number of shares is .
4. THAT calls to the amount of per share have been made under which the sum of has been received.
5. THAT the Assets of the Company other than Assets held on trust on the day of , 19 , were:—
 

Government securities .. .. .	£
Bills of exchange and promissory notes .. .. .	£
Cash at the banks .. .. .	£
Other securities .. .. .	£
Other assets .. .. .	£
—	
Total .. .. .	£



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*Burns Philp Trust Company Limited.*

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6. THAT the liabilities of the Company on the day of \_\_\_\_\_, 19\_\_\_\_, were \_\_\_\_\_.

7. THAT the investments and moneys held by the Company upon trust on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, were as follows:—

Advanced on mortgage of real estate .. .. .	£
Debentures and inscribed stock .. .. .	£
Landed property .. .. .	£
Station properties and live stock .. .. .	£
Shares in banks and public companies .. .. .	£
Fixed deposits and other securities .. .. .	£
Cash at Bankers at credit of trust and current accounts .. .. .	£
Total .. .. .	£

AND I MAKE this solemn declaration as to the matters aforesaid, conscientiously believing the same to be true, and by virtue of the provisions of the Oaths Act, 1900-1936.

Declared before me at Sydney, }  
 this \_\_\_\_\_ day of \_\_\_\_\_ }  
 19\_\_\_\_\_ }

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By Authority:

THOMAS HENRY TENNANT, Government Printer, Sydney, 1940.

[9a.]

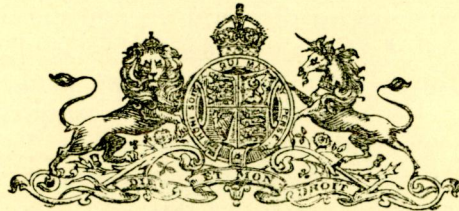


*I Certify that this PRIVATE BILL, which originated in the LEGISLATIVE COUNCIL, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.*

W. K. CHARLTON,  
*Clerk of the Parliaments.*

*Legislative Council Chamber,  
Sydney, 5th December, 1940.*

## New South Wales.



ANNO QUARTO

## GEORGII VI REGIS.

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An Act to confer powers upon Burns Philp Trust Company Limited. [Assented to, 13th December, 1940.]

**W**HEREAS it is often difficult to procure proper persons to undertake the onerous and responsible duties of executor, administrator, administrator with the will annexed, trustee, receiver, committee in lunacy, trustee in bankruptcy or agent: And whereas the deaths, resignations and absence from this State of persons who have undertaken such duties are often attended with great disadvantages and loss to the estates with the administration of which they are entrusted: And whereas it is desirable for the purpose of obtaining regularity security and continuity in the administration of trust estates

Preamble.



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*Burns Philp Trust Company Limited.*

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estates that permanent corporations should be empowered to fill the offices of executor, administrator, administrator with the will annexed, trustee, receiver, committee in lunacy, trustee in bankruptcy and agent and other similar offices: And whereas a certain company styled "Burns Philp Trust Company Limited" (hereinafter referred to as the company) has been incorporated under the provisions of the Companies Act 1936 of New South Wales and is now possessed of a capital of Two hundred thousand pounds divided into two hundred thousand shares of one pound each of which fifty thousand shares are fully paid up and one hundred and fifty thousand shares have been subscribed and paid up to two shillings each for the purpose of undertaking the duties of such offices as aforesaid for commission: And whereas the company has from time to time been requested to undertake the administration of estates comprising assets in this State and elsewhere: And whereas it is expedient that the necessary powers should be conferred upon the company in order to enable it to act as executor, administrator, administrator with the will annexed, trustee, receiver, committee in lunacy, trustee in bankruptcy and agent and to perform and discharge all the duties of such offices and to receive remuneration therefor and to confer upon the company all such privileges and powers as are necessary or expedient for the purposes aforesaid: Be it therefore 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:

Company  
may act  
as executor  
and obtain  
probate.

1. Whenever the company has been or shall be named either alone or jointly with any other corporation or any person as executor in the last will or in any codicil thereto of any testator it shall be lawful for the company to act as executor and to apply for and obtain probate of such will and to perform and discharge all other the acts and duties of an executor as fully and effectually as any other executor.

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*Burns Philp Trust Company Limited.*

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**2.** It shall be lawful for any person or persons entitled to obtain letters of administration with the will of any testator annexed of the estate of such testator to authorise the company, either alone or jointly with any other corporation or any person, to apply for and to obtain letters of administration with the will annexed, which may be granted to the company upon its own application when so authorised.

Persons entitled to obtain letters of administration c.t.a. may authorise the company to do so.

**3.** Any person who has been appointed executor of the will of any testator and has not renounced or taken probate thereof may by deed appoint the company to be executor of such will in his stead and on compliance with the provisions as to registration and filing contained in subsections eight and nine of section 75A of the Wills Probate and Administration Act 1898-1938 such will shall be construed and take effect in all respects as if the name of the company had been originally inserted in such will as the executor or one of the executors thereof in lieu of the person in whose stead the company has been appointed.

Persons entitled to probate may appoint company in their stead.

**4.** It shall be lawful for any person entitled to obtain letters of administration of the estate of any intestate person to authorise the company to apply for such letters of administration either alone or jointly with any other corporation or person so entitled to apply and administration of the estate of such intestate person may upon its own application be granted to the company either alone or jointly as aforesaid.

Persons entitled to obtain letters of administration may authorise the company to do so.

**5.** It shall be lawful for the company, where the administration of any estate with or without the will annexed has been granted to it, either alone or jointly with any other corporation or any person, to do and perform all acts and duties which belong to the office of the administrator, or administrator with the will annexed, as the case may be, notwithstanding its incorporation.

Company may perform acts as administrator notwithstanding its incorporation.

**6.** It shall be lawful for the company (a) to be appointed executor or administrator or co-executor or co-administrator pursuant to the provisions of section

Delegation to company of office of executor or administrator.

75A



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*Burns Philp Trust Company Limited.*

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75A subsection (2) of the Wills Probate and Administration Act 1898-1938 but subject nevertheless to the conditions in the said section contained; (b) to exercise any other power and authority and enjoy any benefit conferred by law upon a trustee company as defined by section five of the Trustee Act 1925-1938.

Court to act on affidavit of managing director, manager, etc.

7. In all cases in which the company is empowered by this or any other Act to apply for probate of any will or for letters of administration in respect of the estate of any deceased person an affidavit by a managing director, manager, assistant manager, acting manager or the secretary or by such other officer of the company as may from time to time be appointed by the board of directors of the company for that purpose shall be received, instead of any affidavit required by any Act of Parliament or rule of court to be made by the person making application for such probate or letters of administration.

Assets of company to be liable for proper administration of estates and no bond required in certain cases.

8. All the capital both paid and unpaid (and all other assets of the company) of which paid up capital twenty-five thousand pounds shall be invested in the purchase of debentures or inscribed stock in such of the public funds of the State of New South Wales or of the Commonwealth of Australia as the board of directors of the company may select in the name of the Treasurer of the State of New South Wales in trust for the company but transferable only with the joint consent of the said Treasurer and the company under its common seal or upon the order of the Supreme Court or a judge thereof shall be liable for the proper administration of all estates of which the company shall act as executor or administrator and no bond for the due administration of any estate shall be required to be given by or on behalf of the company except in respect of estates exceeding twenty-five thousand pounds in value as to which the said court or a judge thereof may otherwise order. All interest and income to accrue from time to time from or in respect of all such debentures and inscribed stock shall be paid by the said Treasurer to the company as and when the same shall respectively become payable.

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*Burns Philp Trust Company Limited.*

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9. (1) In all cases where any court of justice or judge thereof or person has power to appoint any person as—

Company  
may be  
appointed  
trustee,  
receiver,  
committee  
or guardian  
of estate.

(a) trustee; or

(b) receiver; or

(c) committee or manager of the estate of an insane person, insane patient, or incapable person, within the meaning of the Lunacy Act of 1898; or

(d) guardian of the estate of an infant,

the company may be so appointed.

(2) (a) Subject as hereinafter provided the company may be appointed or may continue to act as sole trustee in all cases notwithstanding that it is provided by the terms of the instrument (if any) creating the trust or of any power or otherwise that there shall be more than one trustee to perform the trust.

(b) Where the company and one or more individuals are co-trustees, any one or more of such individuals may retire, and the company shall for the purposes of any Act now or hereafter in force relating to the retirement of trustees and the vesting of the trust property be deemed to be equivalent to two trustees.

(3) The company shall not be appointed in any case in which the instrument creating the trust or power forbids the appointment of the company.

(4) The company shall not be appointed or be entitled to act as sole trustee in any case in which the instrument creating the trust or power expressly provides that there shall be another trustee in addition to the company or that the company shall not be appointed or act as sole trustee.

(5) In every case in which the company is appointed or acts in any of the offices in subsection (1) hereof mentioned all the capital of the company, both paid and unpaid, and all other assets of the company and the directors,



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*Burns Philp Trust Company Limited.*

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directors, manager, and assistant manager thereof in their proper persons and estates shall be individually and collectively responsible for the due administration during the respective tenures of their respective offices of the estates entrusted to the company.

(6) No bond, recognizance, or other security for the proper discharge of such duties shall be required to be given by or on behalf of the company.

Property vested in company and another as trustees to be held on joint tenancy.

**10.** Where any property is now or hereafter becomes vested in the company and an individual, or in the company and another body corporate, to the intent that they should hold the same jointly in any fiduciary capacity, or as mortgagees, they shall be deemed to be joint tenants thereof and not tenants in common unless otherwise expressly provided.

Company may act under power of attorney by managing director, acting manager or two directors.

**11.** It shall be lawful for the company to act, either alone or jointly with any other corporation or any person, as attorney, whenever it shall be appointed by deed attorney for any person or any corporation, and all the powers conferred upon the company by any power of attorney may be exercised and carried into execution by the managing director, manager, assistant manager, acting manager, or secretary, or by such other officer of the company as may from time to time be appointed by the board of directors for that purpose, or by any two of the directors of the company; but in all cases the capital, both paid and unpaid, and all other assets of the company, shall be liable for the due execution of the powers so conferred upon the company: Provided always that nothing herein contained shall be deemed to authorise any person, company, or corporation to confer any power upon the company which cannot by law be delegated or performed by attorney.

Executor and others may delegate trusts to company.

**12.** It shall be lawful for any executor, administrator or trustee to delegate by deed to the company, either alone or jointly with any other corporation or any person, as his attorney all such trusts and powers as may by law be delegated, and all acts done by the company within the scope of such delegation shall, in favour of any persons



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*Burns Philp Trust Company Limited.*

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persons dealing with the company without notice of death or revocation of authority by such executor, administrator or trustee, be valid and effectual notwithstanding such death or revocation.

**13.** It shall be lawful for the Supreme Court or any judge thereof sitting in its equity or probate jurisdiction, on the application of any executor or administrator acting under any probate or letters of administration granted either before or after the coming into operation of this Act, to appoint the company, either alone or jointly with any other corporation or any person, to be administrator in his place or stead, and thereupon the company shall have the same powers and authorities as if it had been the original executor or administrator as the case may be; and in every such case all the capital, both paid and unpaid, and all other assets of the company, and the manager, assistant manager and the directors and their respective estates, shall be liable for the due administration during the respective tenures of their respective offices of the estates of which the company shall be so appointed administrator.

Executors or administrators, with the consent of judge, may appoint company to discharge duties.

**14.** (1) Every application under this Act to any court or judge shall be by motion.

Applications to court or judge.

(2) Subject as hereinafter provided, notice of the application and of the date on which the same is intended to be made shall be advertised once—

- (a) in a daily newspaper circulating in Sydney, and published at least seven days before such date; and
- (b) where the application is made by the executors or administrators of any person who died at any place situated more than thirty miles from Sydney, also in a newspaper circulating in the district in which the deceased resided at the date of his death, and published within the time aforesaid.

(3) It shall not be necessary to advertise in any newspaper notice of any application for the appointment of



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*Burns Philp Trust Company Limited.*

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of the company as a trustee where all persons beneficially interested are before the court or have had notice of the intended application.

(4) The court or judge may in any case require notice to be served on any person entitled to the immediate receipt of the whole or part of the income or corpus of the estate in respect of which the application is made.

(5) The court or judge may order the costs and expenses of and incident to any such application to be paid or raised out of the estate in respect whereof the same is made, or out of the income thereof, or to be borne and paid in such manner and by such persons as to the court or judge may seem just.

Commission. **15.** The company shall be entitled to receive, in addition to all moneys properly expended by it and chargeable against any estate of which the administration shall be committed to the company, whether as executor, administrator, trustee, receiver, committee, or guardian, a commission at a rate to be fixed from time to time by the board of directors of the company, but not to exceed in any case two pounds ten shillings for every hundred pounds of the corpus or capital value of any such estate, and five pounds for every one hundred pounds of the annual income of any such estate received by the company, and of all moneys, whether capital or income, received by the company as an attorney acting under power of attorney, and such commission shall be payable out of the moneys in possession of the company representing the estate upon which the same shall be chargeable, and shall be accepted by the company in full satisfaction of any claim to remuneration for acting as such executor, administrator, receiver, trustees, committee, guardian, or attorney, and no other charges beyond such commission and moneys properly expended by the company shall be made or allowed: Provided that if in any estate any judge of the Supreme Court sitting in its equitable or probate jurisdiction shall be of opinion that the rate of commission charged is excessive such judge may review any such commission: Provided also that the commission charged by the company against  
any



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*Burns Philp Trust Company Limited.*

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any estate shall not exceed the amount of the published scale of charges of the company at the time when the administration of such estate was committed to the company, nor shall this enactment prevent the payment of any commission directed by a testator in his will either in addition to or in lieu of the commission hereinbefore authorised.

**16.** Whenever the company shall have been appointed executor, administrator, trustee, receiver, committee, guardian, or attorney, it shall be subject in all respects to the same control and to removal or restraint from acting and generally to the jurisdiction of the courts, in the same manner as any other executor, administrator, trustee, receiver, committee, guardian or attorney.

Removal  
from  
office.

**17.** (1) In all cases in which the personal attendance of an executor, administrator, trustee, receiver, committee or guardian is required in any court of justice or elsewhere, the company shall be entitled to make such attendance in the person of the managing director, manager, assistant manager, acting manager, or secretary, or such other officer of the company as may from time to time be appointed by the board of directors for that purpose.

Managing  
director  
and others  
may repre-  
sent com-  
pany.

(2) All declarations and all affidavits statements of defence, or other statements required by law to be made on oath may be made and sworn on behalf of the company by the managing director, manager, assistant manager, acting manager or secretary.

(3) In every case where the company obtains probate or letters of administration, or is appointed and acts as trustee, receiver, committee, or guardian, the managing director, manager, assistant manager and directors in their proper persons and estates shall be individually and collectively responsible for the due administration during the respective tenures of their respective offices of the estates entrusted to the company, and shall in their own proper persons be liable by process of attachment, commitment for contempt, or by other process, to all courts having jurisdiction in that behalf in the event of disobedience to the rules, orders, and  
decrees



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*Burns Philp Trust Company Limited.*

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decrees of such courts made against the company in the same manner and to the same extent as if such managing director, manager, assistant manager and directors had personally obtained probate or letters of administration, and had acted as executor or administrator, trustee, receiver, committee or guardian, and as if the rule, order or decree had been made against them personally instead of against the company.

(4) Notwithstanding such personal responsibility of the said managing director, manager, assistant manager and directors, the capital both paid and unpaid, and all other assets of the company, shall remain liable for any loss which may be occasioned by or which may happen through any breach of trust or duty committed by the company or any of its officers, whether such trust or duty is implied by law or expressly conferred or imposed by the instrument under which the company acts.

(5) No person shall be appointed a director or manager of the company unless he is a bona fide resident of New South Wales, and any person being a director or manager of the company who ceases to reside in New South Wales shall, upon so ceasing to reside, vacate his office, and such vacancy shall be filled up in the manner provided by the articles of association for filling casual vacancies.

Court may  
order  
account.

**18.** It shall be lawful for any trustee, cestui que trust, executor, legatee, administrator, next of kin or creditor entitled to or interested in any estate which shall for the time being be under the management or control of the company, after demand in writing made to the managing director, manager, assistant manager or acting manager of the company, for a sufficient account of the property and assets of which such estate shall consist, and of the disposal and expenditure thereof or thereout; and upon non-compliance with such demand within a reasonable time, to apply to any judge of the Supreme Court sitting in its equitable jurisdiction in a summary manner upon motion after notice to the company for an account, and if the said judge shall be of opinion that

no



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*Burns Philp Trust Company Limited.*

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no sufficient account has been rendered by the company, the said judge shall order such account to be rendered by the company as to the said judge shall seem just, or if the said judge shall think that in the circumstances the company was not bound to furnish any account or that a sufficient account had been furnished, it shall be lawful for the said judge to dismiss the application, and the said judge shall have power in all cases to make such orders as to costs either against the company or against the applicant, or as to payment of costs out of the estate as to the said judge shall seem right.

**19.** It shall be lawful for a judge of the Supreme Court sitting in its equitable jurisdiction upon the making of any application under the last preceding section, to order, in addition to or in substitution for any account to be rendered by the company, that a person to be named in such order shall examine the books and accounts of the company in reference to the estate as to which the order is made, and in that case the directors and officers of the company shall deliver to the person named in such order a list of all the books kept by the company, and shall produce to such person at the office of the company at all reasonable times when required all books and accounts, vouchers, papers and other documents of the company relating to such estate, and shall afford him all necessary information and all other necessary facilities for enabling him to make the said examination, and the said judge shall have the same power over the costs of such examination as is given by the last preceding section over the costs of an application under that section.

Judge may  
order audit.

**20.** So long as any estate, in respect of which the company is executor, administrator, trustee, committee or guardian, shall remain in whole or in part unadministered, it shall not be lawful to proceed to wind up the company voluntarily unless with the sanction of a judge of the Supreme Court sitting in its equitable jurisdiction, and it shall be lawful for any person interested in such estate, or who may have any claim in respect thereof, to apply to any such judge in a summary way by motion

Judge may  
restrain sale  
of shares  
or volun-  
tary wind-  
ing up.

to



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*Burns Philp Trust Company Limited.*

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to restrain any director or any shareholder from disposing of any shares which such director or shareholder may hold in the company, or to restrain the winding up voluntarily of the company, and such judge shall have power to make such order upon such application as the circumstances of the case shall appear to the said judge to require.

Judge may order winding up of company.

**21.** If it be proved at any time to the satisfaction of any judge of the Supreme Court sitting in its equitable jurisdiction that three-fourths or more of the amount of capital authorised by this Act to be called up has been lost by the company, it shall be lawful for the said judge upon the application of any member, creditor, or cestui que trust of the company, to **make** an order for the winding up of the company.

Provision as to liability of directors and shareholders on winding up.

**22.** The following provisions with respect to the liability of directors and of shareholders in the company shall be and remain in force notwithstanding any alteration which may be made in its articles of association:—

Not more than two shillings shall be called up or received by the company on one hundred and fifty thousand of the subscribed shares of one pound each in the capital of the company except in the event of and for the purpose of the winding up of the company and every member shall in such event be liable to contribute the unpaid balance of every share held by him. And it shall not be lawful for the company to mortgage charge or in anywise encumber the uncalled capital on the aforesaid subscribed one hundred and fifty thousand shares.

In the event of the company being wound up every person who has been a director of the company at any time within the period of two years preceding the commencement of the winding up shall be liable for the balance unpaid on every share which he may have transferred during such two years in the event of the holder or holders of such shares being unable to pay the said balance per share in full in addition to his liability upon any such shares held by him at the commencement of the winding up.

Partly



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*Burns Philp Trust Company Limited.*

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Partly paid up shares in the company shall not be transferable unless in any case the proposed transferee is in the opinion of the directors possessed of such an amount of property as they consider reasonable.

It shall not be lawful for any shareholder in the company other than Burns Philp & Company Limited to be the owner of more than two thousand shares in the company in his own right.

The capital of the company shall be and remain divided into shares of one pound each and the number of shares in the company shall not be at any time reduced to less than one hundred thousand.

**23.** No more than four-fifths of the profits made by the company in any one year shall be distributed as dividends or otherwise until there has been accumulated out of profits a fund of sixty-five thousand pounds. Such fund shall constitute a special reserve and shall not be in any manner distributed amongst the shareholders except in the event of the winding up of the company

Special  
Reserve  
Fund.

**24.** All moneys which form part of any estate of which at any time the company shall be executor, administrator or trustee, and which moneys shall remain unclaimed by the person entitled to the same for a period of five years after the time when the same shall have become payable to such person, except where payment has been or shall be restrained by the injunction of some court of competent jurisdiction, shall, together with interest at current rates on fixed deposits in banks, be paid by the company into the State Treasury to be placed to the credit of a fund to be called the testamentary and trust fund, distinguishing the particular estates in respect of which such moneys shall have been paid, and the Treasurer shall from time to time invest such moneys in the purchase of Government debentures or stock of the Commonwealth of Australia or the State of New South Wales to be placed to the credit of the said testamentary and trust fund, distinguishing in the ledger the particular estate in respect of which such moneys shall have been invested; and the interest payable on such debentures or stock shall be placed to the credit of

Unclaimed  
moneys.

the



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*Burns Philp Trust Company Limited.*

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the said fund, and the said Treasurer's said account in the ledger shall be an official and not a nominal account, and in all transfers of the said debentures and stock by the said Treasurer he shall be so styled without any name, addition or description, and he shall not sign any such transfers or pay over any of the moneys standing to the credit of the said fund unless an order of any judge of the Supreme Court sitting in its equitable jurisdiction directing such transfer and specifying the amount of moneys, debentures or stock, and the name, description and addition of the person to whom the proceeds of such sale are to be paid shall be left at the office of the said Treasurer, nor until the purchase money of the debentures or stock to be sold has been received in the Treasury; and the company shall at the end of every six months deliver to the said Treasurer a statement of all such unclaimed moneys which during the preceding six months shall have been in its hands, and distinguishing the several estates in respect of which the same have been received, and setting out the dates and amounts of the several payments of the same under this section; and if the said moneys or any part thereof have not been paid into the Treasury with a statement of the reason for the delay of such payments, and if default is made in compliance with the foregoing provisions of this section, the company shall be liable to a penalty not exceeding five pounds for every day while such default continues, and every director and manager, assistant manager, or acting manager of the company who knowingly and wilfully authorises or permits such default shall incur the like penalty.

Applications  
by persons  
entitled to  
trust funds.

25. It shall be lawful for any person who shall be entitled to any stock, debentures or moneys which shall at any time form part of the said testamentary and trust fund to apply to any judge of the Supreme Court sitting in its equitable jurisdiction, upon petition in a summary way, for such order as is in the last-preceding section referred to, and the said judge shall deal with such application as nearly as may be in the same manner as in the case of applications to the said court under the Trustee Act of 1925-1938; and in all cases in which the  
Treasurer



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*Burns Philp Trust Company Limited.*

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Treasurer may see fit to appear upon such petition, he shall be entitled to such costs against the applicant or out of the fund as the said judge may direct.

**26.** It shall be lawful for the Treasurer after demand in writing addressed to the managing director, manager, assistant manager, or acting manager of the company for a sufficient account of the property and assets of which any or every estate included in or which ought to be or to have been included in the hereinbefore mentioned statement of unclaimed moneys shall consist, and of the disposal and expenditure thereof, of or there-out, to apply in a summary way to a judge of the Supreme Court sitting in its equitable jurisdiction, upon motion after notice to the company, for an account, and if the said judge shall be of opinion that no sufficient account has been rendered by the company, the said judge shall order such account to be rendered by the company as to the said judge shall seem just, or if the said judge shall think that in the circumstances the company was not bound to furnish any account, or that any account furnished by the company was sufficient, it shall be lawful for the said judge to dismiss the application, and the said judge shall have power in all cases to make such order as to costs either against the company or as to payment of costs out of the estate as to the said judge shall seem right.

Treasurer  
may apply  
for account.

**27.** The managing director, manager, assistant manager or acting manager of the company shall during the months of June and December in every year during which the company carries on business, make before some justice of the peace a declaration in the form contained in the Schedule hereto, or as near thereto as circumstances will admit, of the receipts, expenditure and investments of and in all estates and property held by the company in trust up to the thirty-first day of May or thirtieth day of November then last past; such declaration shall within seven days after the making thereof be filed in the office of the Registrar-General of New South Wales, and a copy of such declaration shall be

Returns by  
company.



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*Burns Philp Trust Company Limited.*

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be put up in a conspicuous place in the registered office of the company and in every branch office or place where the business of the company is carried on, and shall be given to any member or creditor of the company, or any cestui que trust who applies for the same; and if default is made in compliance with the provisions of this section the company shall be liable to a penalty not exceeding five pounds for every day whilst such default continues, and every managing director, manager, assistant manager, or acting manager of the company who knowingly and wilfully authorises or permits such default shall incur the like penalty.

Appeals.

**28.** Every order made by any judge under this Act shall be subject to appeal in the same manner and under the same conditions as other orders of such judge.

Other companies may apply for similar powers.

**29.** Nothing in this Act contained shall be deemed to give to the company any right to oppose the granting of similar powers to those conferred upon the company by this Act to any other company or to corporations generally, or to claim or to seek compensation in consequence of such powers being conferred upon any other company, or upon corporations generally, or in the event of provision being made by Parliament for the management of trust estates by a public trustee or department or officer of the Government, or in the event of the repeal of this Act.

Settlors or testators may appoint own solicitors.

**30.** Where by any settlement, will, codicil, or other testamentary writing, a settlor or testator shall direct that any practising solicitor shall conduct the legal business of his estate, such solicitor shall be entitled to act therein accordingly, but in such case the company shall not be liable for the negligence, misfeasance, non-feasance or misconduct of such solicitor, and such solicitor may be removed by the order of any judge of the Supreme Court sitting in its equitable jurisdiction upon the application of the company or of any person interested in the said estate upon cause shown, and then and in such case the said judge may appoint the solicitor nominated by the company to conduct such legal business.

**31.**



*Burns Philp Trust Company Limited.*

**31.** Except so far as is herein expressly provided, the company shall have and be subject to the same restrictions, liabilities, penalties, privileges and powers as it has and is subject to under its present incorporation, and this Act shall not otherwise affect the incorporation of the company.

Incorporation of company not otherwise affected.

**32.** Any penalty imposed by this Act may be recovered in a summary way before two or more justices of the peace.

Recovery of penalties.

**33.** This Act shall be called and may be cited as "Burns Philp Trust Company Limited Act."

Short title of Act.

THE SCHEDULE.

Sec. 27.

BURNS PHILP TRUST COMPANY LIMITED.

I,  
of

BURNS PHILP TRUST COMPANY LIMITED do hereby solemnly and sincerely declare:—

1. THAT the liability of the Members is limited.
2. THAT the Capital of the Company is pounds divided into shares of one pound each.
3. THAT the number of shares is .
4. THAT calls to the amount of per share have been made under which the sum of has been received.

5. THAT the Assets of the Company other than Assets held on trust on the day of , 19 , were:—

Government securities .. .. .	£
Bills of exchange and promissory notes .. .. .	£
Cash at the banks .. .. .	£
Other securities .. .. .	£
Other assets .. .. .	£
—	
<b>Total .. .. .</b>	<b>£</b>



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*Burns Philp Trust Company Limited.*

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6. THAT the liabilities of the Company on the day of \_\_\_\_\_, 19\_\_\_\_, were \_\_\_\_\_.

7. THAT the investments and moneys held by the Company upon trust on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, were as follows:—

Advanced on mortgage of real estate .. .. .	£	
Debentures and inscribed stock .. .. .	£	
Landed property .. .. .	£	
Station properties and live stock .. .. .	£	
Shares in banks and public companies .. .. .	£	
Fixed deposits and other securities .. .. .	£	
Cash at Bankers at credit of trust and current accounts .. .. .	£	
	—	
<b>Total .. .. .</b>	<b>£</b>	

AND I MAKE this solemn declaration as to the matters aforesaid, conscientiously believing the same to be true, and by virtue of the provisions of the Oaths Act, 1900-1936.

Declared before me at Sydney, )  
 this \_\_\_\_\_ day of \_\_\_\_\_ )  
 19\_\_\_\_ )

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

**WAKEHURST,**  
*Governor.*

*Government House,*  
*Sydney, 13th December, 1940.*



Legislative Council.

1940.

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## A BILL

To confer powers upon Burns Philp Trust Company Limited.

*(As amended and agreed to in Select Committee.)*

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**W**HEREAS it is often difficult to procure proper Preamble.  
persons to undertake the onerous and responsible  
duties of executor, administrator, administrator with  
the will annexed, trustee, receiver, committee in lunacy,  
5 trustee in bankruptcy or agent: And whereas the deaths,  
resignations and absence from this State of persons who  
have undertaken such duties are often attended with great  
disadvantages and loss to the estates with the adminis-  
tration of which they are entrusted: And whereas it is  
10 desirable for the purpose of obtaining regularity  
security and continuity in the administration of trust  
estates that permanent corporations should be  
39029 C 144—A empowered

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NOTE.—The words to be *omitted* are ruled through; those to be *inserted* are printed in **black letter**



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*Burns Philp Trust Company Limited.*

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empowered to fill the offices of executor, administrator, administrator with the will annexed, trustee, receiver, committee in lunacy, trustee in bankruptcy and agent and other similar offices: And whereas a certain company

5 styled "Burns Philp Trust Company Limited" (hereinafter referred to as the company) has been incorporated under the provisions of the Companies Act 1936 of New South Wales with a capital of One hundred thousand pounds divided into one hundred thousand shares of one

10 pound each and is now possessed of a capital of Two hundred thousand pounds divided into two hundred thousand shares of one pound each of which fifty thousand shares are fully paid up and one hundred and fifty thousand shares have been subscribed and paid up to two shillings each for the purpose of under-

15 taking the duties of such offices as aforesaid for a commission: And whereas the company has from time to time been requested to undertake the administration of estates comprising assets in this State and elsewhere: And whereas it is expedient that the necessary powers

20 should be conferred upon the company in order to enable it to act as executor, administrator, administrator with the will annexed, trustee, receiver, committee in lunacy, trustee in bankruptcy and agent and to perform and discharge all the duties of such offices and to receive

25 remuneration therefor and to confer upon the company all such privileges and powers as are necessary or expedient for the purposes aforesaid: Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council

30 and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same, as follows:

1. Whenever the company has been or shall be named either alone or jointly with any other corporation or any

35 person as executor in the last will or in any codicil thereto of any testator it shall be lawful for the company to act as executor and to apply for and obtain probate of such will and to perform and discharge all other the acts and duties of an executor as fully and effectually as

40 any other executor.

Company may act as executor and obtain probate.

2.



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*Burns Philp Trust Company Limited.*

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**2.** It shall be lawful for any person or persons entitled to obtain letters of administration with the will of any testator annexed of the estate of such testator to authorise the company, either alone or jointly with any  
 5 other corporation or any person, to apply for and to obtain letters of administration with the will annexed, which may be granted to the company upon its own application when so authorised.

Persons entitled to obtain letters of administration c.t.a. may authorise the company to do so.

**3.** Any person who has been appointed executor of the  
 10 will of any testator and has not renounced or taken probate thereof may by deed appoint the company to be executor of such will in his stead and on compliance with the provisions as to registration and filing contained in subsections eight and nine of section 75A of the Wills  
 15 Probate and Administration Act 1898-1938 such will shall be construed and take effect in all respects as if the name of the company had been originally inserted in such will as the executor or one of the executors thereof in lieu of the person in whose stead the company has  
 20 been appointed.

Persons entitled to probate may appoint company in their stead.

**4.** It shall be lawful for any person entitled to obtain letters of administration of the estate of any intestate person to authorise the company to apply for such letters of administration either alone or jointly with any  
 25 other corporation or person so entitled to apply and administration of the estate of such intestate person may upon its own application be granted to the company either alone or jointly as aforesaid.

Persons entitled to obtain letters of administration may authorise the company to do so.

**5.** It shall be lawful for the company, where the  
 30 administration of any estate with or without the will annexed has been granted to it, either alone or jointly with any other corporation or any person, to do and perform all acts and duties which belong to the office of the administrator, or administrator with the will annexed,  
 35 as the case may be, notwithstanding its incorporation.

Company may perform acts as administrator notwithstanding its incorporation.

**6.** It shall be lawful for the company (a) to be appointed executor or administrator or co-executor or co-administrator pursuant to the provisions of section

Delegation to company of office of executor or administrator.

75A



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*Burns Philp Trust Company Limited.*

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75A subsection (2) of the Wills Probate and Administration Act 1898-1938 but subject nevertheless to the conditions in the said section contained; (b) to exercise any other power and authority and enjoy any benefit conferred by law upon a trustee company as defined by section five of the Trustee Act 1925-1938.

7. In all cases in which the company is empowered by this or any other Act to apply for probate of any will or for letters of administration in respect of the estate of any deceased person an affidavit by a managing director, manager, assistant manager, acting manager or the secretary or by such other officer of the company as may from time to time be appointed by the board of directors of the company for that purpose shall be received, instead of any affidavit required by any Act of Parliament or rule of court to be made by the person making application for such probate or letters of administration.

Court to act on affidavit of managing director, manager, etc.

8. All the capital both paid and unpaid (and all other assets of the company) of which paid up capital ~~twenty~~ **twenty-five** thousand pounds shall be invested in the purchase of debentures or inscribed stock in such of the public funds of the State of New South Wales or of the Commonwealth of Australia as the board of directors of the company may select in the name of the Treasurer of the State of New South Wales in trust for the company but transferable only with the joint consent of the said Treasurer and the company under its common seal or upon the order of the Supreme Court or a judge thereof shall be liable for the proper administration of all estates of which the company shall act as executor or administrator and no bond for the due administration of any estate shall be required to be given by or on behalf of the company except in respect of estates exceeding ~~twenty~~ **twenty-five** thousand pounds in value ~~in as to~~ which the said court or a judge thereof ~~shall~~ **may** otherwise order. All interest and income to accrue from time to time from or in respect of all such debentures and inscribed stock shall be paid by the said Treasurer to the company as and when the same shall respectively become payable.

Assets of company to be liable for proper administration of estates and no bond required in certain cases.



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*Burns Philp Trust Company Limited.*

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- 9.** (1) In all cases where any court of justice or judge thereof or person has power to appoint any person as—
- Company  
may be  
appointed  
trustee,  
receiver,  
committee  
or guardian  
of estate.
- (a) trustee; or
- (b) receiver; or
- 5** (c) committee or manager of the estate of an insane person, insane patient, or incapable person, within the meaning of the Lunacy Act of 1898; or
- (d) guardian of the estate of an infant,
- 10** the company may be so appointed.
- (2) (a) Subject as hereinafter provided the company may be appointed or may continue to act as sole trustee in all cases notwithstanding that it is provided by the terms of the instrument (if any) creating the trust
- 15** or of any power or otherwise that there shall be more than one trustee to perform the trust.
- (b) Where the company and one or more individuals are co-trustees, any one or more of such individuals may retire, and the company shall for the
- 20** purposes of any Act now or hereafter in force relating to the retirement of trustees and the vesting of the trust property be deemed to be equivalent to two trustees.
- (3) The company shall not be appointed in any case in which the instrument creating the trust or power
- 25** forbids the appointment of the company.
- (4) The company shall not be appointed or be entitled to act as sole trustee in any case in which the instrument creating the trust or power expressly provides that there shall be another trustee in addition to
- 30** the company or that the company shall not be appointed or act as sole trustee.
- (5) In every case in which the company is appointed or acts in any of the offices in subsection (1) hereof mentioned all the capital of the company, both paid and
- 35** unpaid, and all other assets of the company and the directors,



*Burns Philp Trust Company Limited.*

directors, manager, and assistant manager thereof ~~and~~  
~~their respective estates shall be liable for the proper~~  
~~discharge of the duties of such office in their proper per-~~  
~~sons and estates shall be individually and collectively responsible~~  
**5 for the due administration during the respective tenures of their**  
**respective offices of the estates entrusted to the company.**

(6) No bond, recognizance, or other security for the proper discharge of such duties shall be required to be given by or on behalf of the company.

**10 10.** Where any property is now or hereafter becomes  
vested in the company and an individual, or in the com-  
pany and another body corporate, to the intent that they  
should hold the same jointly in any fiduciary capacity, or  
as mortgagees, they shall be deemed to be joint tenants  
**15** thereof and not tenants in common unless otherwise  
expressly provided.

Property vested  
in company  
and another  
as trustees to  
be held on  
joint tenancy.

**11.** It shall be lawful for the company to act, either  
alone or jointly with any other corporation or any person,  
as attorney, whenever it shall be appointed by deed  
**20** attorney for any person or any corporation, and all the  
powers conferred upon the company by any power of  
attorney may be exercised and carried into execution by  
the managing director, manager, assistant manager, act-  
ing manager, or secretary, or by such other officer of the  
**25** company as may from time to time be appointed by the  
board of directors for that purpose, or by any two of  
the directors of the company; but in all cases the capital,  
both paid and unpaid, and all other assets of the com-  
pany, shall be liable for the due execution of the powers  
**30** so conferred upon the company: Provided always that  
nothing herein contained shall be deemed to authorise  
any person, company, or corporation to confer any power  
upon the company which cannot by law be delegated or  
performed by attorney.

Company  
may act  
under power  
of attorney  
by managing  
director,  
acting  
manager or  
two  
directors.

**12.** It shall be lawful for any executor, administrator  
or trustee to delegate by deed to the company, either  
alone or jointly with any other corporation or any person,  
as his attorney all such trusts and powers as may by  
law be delegated, and all acts done by the company within  
**40** the scope of such delegation shall, in favour of any  
persons

Executor  
and others  
may dele-  
gate trusts  
to company.



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*Burns Philp Trust Company Limited.*

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persons dealing with the company without notice of death or revocation of authority by such executor, administrator or trustee, be valid and effectual notwithstanding such death or revocation.

- 5   **13.** It shall be lawful for the Supreme Court or any judge thereof sitting in its equity or probate jurisdiction, on the application of any executor or administrator acting under any probate or letters of administration granted either before or after the coming into operation
- 10 of this Act, to appoint the company, either alone or jointly with any other corporation or any person, to be administrator in his place or stead, and thereupon the company shall have the same powers and authorities as if it had been the original executor or administrator as
- 15 the case may be; and in every such case all the capital, both paid and unpaid, and all other assets of the company, and the manager, assistant manager and the directors and their respective estates, shall be liable for the due administration **during the respective tenures of their**
- 20 **respective offices** of the estates of which the company shall be so appointed administrator.

Executors or administrators, with the consent of judge, may appoint company to discharge duties.

**14.** (1) Every application under this Act to any court or judge shall be by motion.

Applica-  
tions to  
court or  
judge.

25 (2) Subject as hereinafter provided, notice of the application and of the date on which the same is intended to be made shall be advertised once—

- (a) in a daily newspaper circulating in Sydney, and published at least seven days before such date; and
- 30 (b) where the application is made by the executors or administrators of any person who died at any place situated more than thirty miles from Sydney, also in a newspaper circulating in the district in which the deceased resided at the
- 35 date of his death, and published within the time aforesaid.

(3) It shall not be necessary to advertise in any newspaper notice of any application for the appointment of



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*Burns Philp Trust Company Limited.*

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of the company as a trustee where all persons beneficially interested are before the court or have had notice of the intended application.

(4) The court or judge may in any case require  
 5 notice to be served on any person entitled to the immediate receipt of the whole or part of the income or corpus of the estate in respect of which the application is made.

(5) The court or judge may order the costs and  
 10 expenses of and incident to any such application to be paid or raised out of the estate in respect whereof the same is made, or out of the income thereof, or to be borne and paid in such manner and by such persons as to the court or judge may seem just.

15 **15.** The company shall be entitled to receive, in Commission.  
 addition to all moneys properly expended by it and chargeable against any estate of which the administration shall be committed to the company, whether as executor, administrator, trustee, receiver, committee, or  
 20 guardian, a commission at a rate to be fixed from time to time by the board of directors of the company, but not to exceed in any case two pounds ten shillings for every hundred pounds of the corpus or capital value of any such estate, and five pounds for every one hundred  
 25 pounds of the annual income of any such estate received by the company, and of all moneys, whether capital or income, received by the company as an attorney acting under power of attorney, and such commission shall be payable out of the moneys in possession of the company  
 30 representing the estate upon which the same shall be chargeable, and shall be accepted by the company in full satisfaction of any claim to remuneration for acting as such executor, administrator, receiver, trustees, committee, guardian, or attorney, and no other charges  
 35 beyond such commission and moneys properly expended by the company shall be made or allowed: Provided that if in any estate any judge of the Supreme Court sitting in its equitable or probate jurisdiction shall be of opinion that the rate of commission charged is excessive such  
 40 judge may review any such commission: Provided also that the commission charged by the company against any



*Burns Philp Trust Company Limited.*

any estate shall not exceed the amount of the published scale of charges of the company at the time when the administration of such estate was committed to the company, nor shall this enactment prevent the payment of  
 5 any commission directed by a testator in his will either in addition to or in lieu of the commission hereinbefore authorised.

16. Whenever the company shall have been appointed executor, administrator, trustee, receiver, committee,  
 10 guardian, or attorney, it shall be subject in all respects to the same control and to removal or restraint from acting and generally to the jurisdiction of the courts, in the same manner as any other executor, administrator, trustee, receiver, committee, guardian or attorney.

Removal  
from  
office.

15 17. (1) In all cases in which the personal attendance of an executor, administrator, trustee, receiver, committee or guardian is required in any court of justice or elsewhere, the company shall be entitled to make such  
 20 attendance in the person of the managing director, manager, assistant manager, acting manager, or secretary, or such other officer of the company as may from time to time be appointed by the board of directors for that purpose.

Managing  
director  
and others  
may repre-  
sent com-  
pany.

(2) All declarations and all affidavits statements  
 25 of defence, or other statements required by law to be made on oath may be made and sworn on behalf of the company by the managing director, manager, assistant manager, acting manager or secretary.

(3) In every case where the company obtains  
 30 probate or letters of administration, or is appointed and acts as trustee, receiver, committee, or guardian, the managing director, manager, assistant manager and directors in their proper persons and estates shall be individually and collectively responsible for the due  
 35 administration **during the respective tenures of their respective offices** of the estates entrusted to the company, and shall in their own proper persons be liable by process of attachment, commitment for contempt, or by other process, to all courts having jurisdiction in that behalf  
 40 in the event of disobedience to the rules, orders, and decrees



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*Burns Philp Trust Company Limited.*

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decrees of such courts made against the company in the same manner and to the same extent as if such managing director, manager, assistant manager and directors had personally obtained probate or letters of  
 5 administration, and had acted as executor or administrator, trustee, receiver, committee or guardian, and as if the rule, order or decree had been made against them personally instead of against the company.

(4) Notwithstanding such personal responsibility of the said managing director, manager, assistant manager and directors, the capital both paid and unpaid, and all other assets of the company, shall remain liable for any loss which may be occasioned by or which may happen through any breach of trust or duty committed  
 10 by the company or any of its officers, whether such trust or duty is implied by law or expressly conferred or imposed by the instrument under which the company acts.

(5) No person shall be appointed a director or  
 20 manager of the company unless he is a bona fide resident of New South Wales, and any person being a director or manager of the company who ceases to reside in New South Wales shall, upon so ceasing to reside, vacate his office, and such vacancy shall be filled up in the manner provided by the articles of association for filling  
 25 casual vacancies.

18. It shall be lawful for any trustee, cestui que trust, executor, legatee, administrator, next of kin or creditor entitled to or interested in any estate which shall for  
 30 the time being be under the management or control of the company, after demand in writing made to the managing director, manager, assistant manager or acting manager of the company, for a sufficient account of the property and assets of which such estate shall consist, and of the disposal and expenditure thereof or thereout;  
 35 and upon non-compliance with such demand within a reasonable time, to apply to any judge of the Supreme Court sitting in its equitable jurisdiction in a summary manner upon motion after notice to the company for an  
 40 account, and if the said judge shall be of opinion that

Court may  
order  
account.

no



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*Burns Philp Trust Company Limited.*

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no sufficient account has been rendered by the company, the said judge shall order such account to be rendered by the company as to the said judge shall seem just, or if the said judge shall think that in the circumstances

5 the company was not bound to furnish any account or that a sufficient account had been furnished, it shall be lawful for the said judge to dismiss the application, and the said judge shall have power in all cases to make such orders as to costs either against the company or against

10 the applicant, or as to payment of costs out of the estate as to the said judge shall seem right.

19. It shall be lawful for a judge of the Supreme Court sitting in its equitable jurisdiction upon the making of any application under the last preceding section,

15 to order, in addition to or in substitution for any account to be rendered by the company, that a person to be named in such order shall examine the books and accounts of the company in reference to the estate as to which the order is made, and in that case the directors and officers of

20 the company shall deliver to the person named in such order a list of all the books kept by the company, and shall produce to such person at the office of the company at all reasonable times when required all books and accounts, vouchers, papers and other documents of the

25 company relating to such estate, and shall afford him all necessary information and all other necessary facilities for enabling him to make the said examination, and the said judge shall have the same power over the costs of such examination as is given by the last preceding section

30 over the costs of an application under that section.

Judge may order audit.

20. So long as any estate, in respect of which the company is executor, administrator, trustee, committee or guardian, shall remain in whole or in part unadministered, it shall not be lawful to proceed to wind up the

35 company voluntarily unless with the sanction of a judge of the Supreme Court sitting in its equitable jurisdiction, and it shall be lawful for any person interested in such estate, or who may have any claim in respect thereof, to apply to any such judge in a summary way by motion

Judge may restrain sale of shares or voluntary winding up.

to



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*Burns Philp Trust Company Limited.*

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to restrain any director or any shareholder from disposing of any shares which such director or shareholder may hold in the company, or to restrain the winding up voluntarily of the company, and such judge shall have  
 5 power to make such order upon such application as the circumstances of the case shall appear to the said judge to require.

21. If it be proved at any time to the satisfaction of any judge of the Supreme Court sitting in its equitable jurisdiction that three-fourths or more of the amount  
 10 of capital authorised by this Act to be called up has been lost by the company, it shall be lawful for the said judge upon the application of any member, creditor, or cestui que trust of the company, to make an order for  
 15 the winding up of the company.

Judge may order winding up of company.

22. The following provisions with respect to the liability of directors and of shareholders in the company shall be and remain in force notwithstanding any alteration which may be made in its articles of association:—

Provision as to liability of directors and shareholders on winding up.

20 Not more than ~~ten~~ **two** shillings shall be called up or received by the company on ~~fifty thousand one hundred and fifty thousand of the subscribed~~ shares of one pound each in the capital of the company except  
 25 in the event of and for the purpose of the winding up of the company and every member shall in such event be liable to contribute the unpaid balance of every share held by him.

30 In the event of the company being wound up every person who has been a director of the company at any time within the period of two years preceding the commencement of the winding up shall be liable for the balance unpaid on every share which he may have transferred during such two years **in the event of the holder or holders of such shares being unable to pay the said balance per share in full** in addition to his  
 35 liability upon any such shares held by him at the commencement of the winding up ~~in the event of the holder or holders of such shares being unable to pay the said balance per share in full.~~

**Partly**



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*Burns Philp Trust Company Limited.*

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Partly paid up shares in the company shall not be transferable unless in any case the proposed transferee is in the opinion of the directors possessed of such an amount of property as they consider reasonable.

5 It shall not be lawful for any shareholder in the company other than Burns Philp & Company Limited to be the owner of more than two thousand shares in the company in his own right.

10 The capital of the company shall be and remain divided into shares of one pound each and the number of shares in the company shall not be at any time reduced to less than one hundred thousand.

15 **23. No more than four-fifths of the profits made by the company in any one year shall be distributed as dividends or otherwise until there has been accumulated out of profits a fund of sixty-five thousand pounds. Such fund shall constitute a special reserve and shall not be in any manner distributed amongst the shareholders except in the event of the winding up of the company.**

Special Reserve Fund.

20 **24. ~~23.~~ All moneys which form part of any estate of which at any time the company shall be executor, administrator or trustee, and which moneys shall remain unclaimed by the person entitled to the same for a period of five years after the time when the same shall have**

25 **become payable to such person, except where payment has been or shall be restrained by the injunction of some court of competent jurisdiction, shall, together with interest at current rates on fixed deposits in banks, be paid by the company into the State Treasury to be placed**

30 **to the credit of a fund to be called the testamentary and trust fund, distinguishing the particular estates in respect of which such moneys shall have been paid, and the Treasurer shall from time to time invest such moneys in the purchase of Government debentures or**

35 **stock of the Commonwealth of Australia or the State of New South Wales to be placed to the credit of the said testamentary and trust fund, distinguishing in the ledger the particular estate in respect of which such moneys shall have been invested; and the interest payable on**

40 **such debentures or stock shall be placed to the credit of the**

Unclaimed moneys.



*Burns Philp Trust Company Limited.*

the said fund, and the said Treasurer's said account in the ledger shall be an official and not a nominal account, and in all transfers of the said debentures and stock by the said Treasurer he shall be so styled without any  
**5** name, addition or description, and he shall not sign any such transfers or pay over any of the moneys standing to the credit of the said fund unless an order of any judge of the Supreme Court sitting in its equitable jurisdiction directing such transfer and specifying the  
**10** amount of moneys, debentures or stock, and the name, description and addition of the person to whom the proceeds of such sale are to be paid shall be left at the office of the said Treasurer, nor until the purchase money of the debentures or stock to be sold has been received in  
**15** the Treasury; and the company shall at the end of every six months deliver to the said Treasurer a statement of all such unclaimed moneys which during the preceding six months shall have been in its hands, and distinguishing the several estates in respect of which the same have  
**20** been received, and setting out the dates and amounts of the several payments of the same under this section; and if the said moneys or any part thereof have not been paid into the Treasury with a statement of the reason for the delay of such payments, and if default is  
**25** made in compliance with the foregoing provisions of this section, the company shall be liable to a penalty not exceeding five pounds for every day while such default continues, and every director and manager, assistant manager, or acting manager of the company who know-  
**30** ingly and wilfully authorises or permits such default shall incur the like penalty.

**25. 24.** It shall be lawful for any person who shall be entitled to any stock, debentures or moneys which shall at any time form part of the said testamentary and trust  
**35** fund to apply to any judge of the Supreme Court sitting in its equitable jurisdiction, upon petition in a summary way, for such order as is in the last-preceding section referred to, and the said judge shall deal with such application as nearly as may be in the same manner as  
**40** in the case of applications to the said court under the Trustee Act of 1925-1938; and in all cases in which the  
 Treasurer

Applications  
by persons  
entitled to  
trust funds.



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*Burns Philp Trust Company Limited.*

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Treasurer may see fit to appear upon such petition, he shall be entitled to such costs against the applicant or out of the fund as the said judge may direct.

26. ~~25.~~ It shall be lawful for the Treasurer after  
 5 demand in writing addressed to the managing director,  
 manager, assistant manager, or acting manager of the  
 company for a sufficient account of the property and  
 assets of which any or every estate included in or which  
 ought to be or to have been included in the hereinbefore  
 10 mentioned statement of unclaimed moneys shall consist,  
 and of the disposal and expenditure thereof, of or there-  
 out, to apply in a summary way to a judge of the Supreme  
 Court sitting in its equitable jurisdiction, upon motion  
 after notice to the company, for an account, and if the said  
 15 judge shall be of opinion that no sufficient account has  
 been rendered by the company, the said judge shall order  
 such account to be rendered by the company as to the  
 said judge shall seem just, or if the said judge shall  
 think that in the circumstances the company was not  
 20 bound to furnish any account, or that any account  
 furnished by the company was sufficient, it shall be law-  
 ful for the said judge to dismiss the application, and the  
 said judge shall have power in all cases to make such  
 order as to costs either against the company or as to  
 25 payment of costs out of the estate as to the said judge  
 shall seem right.

Treasurer  
may apply  
for account.

27. ~~26.~~ The managing director, manager, assistant  
 manager or acting manager of the company shall during  
 the months of **June** and **December** in every year during  
 30 which the company carries on business, make before  
 some justice of the peace a declaration in the form con-  
 tained in the Schedule hereto, or as near thereto as cir-  
 cumstances will admit, of the receipts, expenditure and  
 investments of and in all estates and property held by  
 35 the company in trust up to the **thirty-first** day of  
~~or~~ **day of May or thirtieth day of November**  
 then last past; such declaration shall within seven days  
 after the making thereof be filed in the office of the  
 Registrar-General of New South Wales, and a copy of  
 40 such declaration shall be put up in a conspicuous place  
 in

Returns by  
company.



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*Burns Philp Trust Company Limited.*

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in the registered office of the company and in every branch office or place where the business of the company is carried on, and shall be given to any member or creditor of the company, or any cestui que trust who  
 5 applies for the same; and if default is made in compliance with the provisions of this section the company shall be liable to a penalty not exceeding five pounds for every day whilst such default continues, and every managing director, manager, assistant manager, or acting  
 10 manager of the company who knowingly and wilfully authorises or permits such default shall incur the like penalty.

**28. ~~27.~~** Every order made by any judge under this Act shall be subject to appeal in the same manner and under  
 15 the same conditions as other orders of such judge. Appeals.

**29. ~~28.~~** Nothing in this Act contained shall be deemed to give to the company any right to oppose the granting of similar powers to those conferred upon the company by this Act to any other company or to corporations  
 20 generally, or to claim or to seek compensation in consequence of such powers being conferred upon any other company, or upon corporations generally, or in the event of provision being made by Parliament for the management of trust estates by a public trustee or department  
 25 or officer of the Government, or in the event of the repeal of this Act. Other companies may apply for similar powers.

**30. ~~29.~~** Where by any settlement, will, codicil, or other testamentary writing, a settlor or testator shall direct that any practising solicitor shall conduct the legal  
 30 business of his estate, such solicitor shall be entitled to act therein accordingly, but in such case the company shall not be liable for the negligence, misfeasance, non-feasance or misconduct of such solicitor, and such solicitor may be removed by the order of any judge of  
 35 the Supreme Court sitting in its equitable jurisdiction upon the application of the company or of any person interested in the said estate upon cause shown, and then and in such case the said judge may appoint the solicitor nominated by the company to conduct such legal business. Settlors or testators may appoint own solicitors.



*Burns Philp Trust Company Limited.*

**31.** ~~30.~~ Except so far as is herein expressly provided, the company shall have and be subject to the same restrictions, liabilities, penalties, privileges and powers as it has and is subject to under its present incorporation, **5** and this Act shall not otherwise affect the incorporation of the company. Incorporation of company not otherwise affected.

**32.** ~~31.~~ Any penalty imposed by this Act may be recovered in a summary way before two or more justices of the peace. Recovery of penalties.

**10** **33.** ~~32.~~ This Act shall be called and may be cited as "Burns Philp Trust Company Limited Act." Short title of Act.

THE SCHEDULE.

Sec. 26.

BURNS PHILP TRUST COMPANY LIMITED.

**15** I, **BURNS PHILP TRUST COMPANY LIMITED** Manager of  
solemnly and sincerely declare:— do hereby

THAT the liability of the Members is limited.

THAT the Capital of the Company is pounds  
divided into shares of one pound each.

**20** THAT the number of shares is  
THAT calls to the amount of per share have  
been made under which the sum of has been received.

THAT the Assets of the Company other than Assets held on  
trust on the day of 193 were:—

<b>25</b>	Government Securities .. .. .	£
	Bills of Exchange and Promissory Notes .. .. .	£
	Cash at the Banks .. .. .	£
	Other Securities .. .. .	£

**30** Total .. .. . £

THAT the value of the Real and Personal Property come to the  
hands of the Company as Trustees, Executors, Administrators,  
Receivers, and Agents since its registration in the State of New  
South Wales up to and inclusive of the day of  
**35** 19 was as follows:—

		Estimated Values.	
Real Property .. .. .	£		
Chattels, Real .. .. .	£		
Moneys secured by Mortgage of Real Property	£		

C 144—B

Moneys



*Burns Philp Trust Company Limited.*

	Moneys secured by Mortgage of Personal	
	Property .. .. .	£
	Unsecured Debts and Claims .. .. .	£
	Debentures .. .. .	£
5	Bank Shares .. .. .	£
	Shares in other Companies (other than Bank Shares) .. .. .	£
	Cash .. .. .	£
	Sundry Assets .. .. .	£
10		—
	Total Receipts ..	£
	<p>15 THAT from the date of the Registration of the Company in the State of New South Wales to the nine hundred and one thousand , the following are the amounts of—</p>	
	Real Property conveyed to Beneficiaries ..	£
	Cash paid to Beneficiaries as Corpus ..	£
	Cash paid to Beneficiaries as Income ..	£
	Cash applied in payment of Debts ..	£
20	Cash applied in payment of Administration Expenses ..	£
	Commision retained ..	£
		—
	Total Expenditure	£
25	<p>THAT the Investments and Moneys held by the Company upon trust on the day of one thousand nine hundred and were as follows:—</p>	
	Real Property .. .. .	£
	Chattels, Real .. .. .	£
30	Mortgages .. .. .	£
	Debentures .. .. .	£
	Bank Shares .. .. .	£
	Shares in other Companies ..	£
	Money on Deposit with Banks and other Companies .. .. .	£
35	Cash on hand .. .. .	£
	Sundry Assets .. .. .	£
		—
	Total .. .. .	£
40	<p>AND I MAKE this solemn declaration as to the matters aforesaid, conscientiously believing the same to be true, and by virtue of the provisions of the Oaths Act of 1900.</p>	
	Declared before me at Sydney,	}
	this day of	
45	19 .	}

**SCHEDULE.**



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*Burns Philp Trust Company Limited.*


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**THE SCHEDULE.**

Sec. 27.

**BURNS PHILP TRUST COMPANY LIMITED.**

I,  
of  
5 **BURNS PHILP TRUST COMPANY LIMITED** do hereby solemnly and sincerely declare:—

1. THAT the liability of the Members is limited.

2. THAT the Capital of the Company is pounds divided into shares of one pound each.

10 3. THAT the number of shares is

4. THAT calls to the amount of per share have been made under which the sum of has been received.

15 5. THAT the Assets of the Company other than Assets held on trust on the day of , 19 , were:—

	Government securities .. .. .	£
	Bills of exchange and promissory notes ..	£
	Cash at the banks .. .. .	£
	Other securities .. .. .	£
20	Other assets .. .. .	£
	<b>Total .. .. .</b>	<b>£</b>

6. THAT the liabilities of the Company on the day of , 19 , were

25 7. THAT the investments and moneys held by the Company upon trust on the day of , were as follows:—

	Advanced on mortgage of real estate .. ..	£
	Debentures and inscribed stock .. ..	£
30	Landed property .. .. .	£
	Station properties and live stock .. ..	£
	Shares in banks and public companies .. ..	£
	Fixed deposits and other securities .. ..	£
35	Cash at Bankers at credit of trust and current accounts .. .. .	£
	<b>Total .. .. .</b>	<b>£</b>

40 AND I MAKE this solemn declaration as to the matters aforesaid, conscientiously believing the same to be true, and by virtue of the provisions of the Oaths Act, 1900-1936.

Declared before me at Sydney, }  
this day of }  
19



1901

THE SCHEDULE  
GENERAL COMPANY LIMITED

1. The name of the company shall be "General Company Limited".

2. The registered office of the company shall be at the office of the company.

3. The objects of the company shall be to carry on business of all kinds.

4. The authorized share capital of the company shall be Rs. 1,00,000.

5. The liability of the members shall be limited to the amount unpaid on the shares by them respectively.

6. The company shall have power to borrow money and to charge all or any of its assets for the purpose.

7. The company shall have power to acquire and dispose of immovable and movable property.

8. The company shall have power to make and alter its memorandum and articles of association.

9. The company shall have power to do all such other things as are necessary for the purposes of the company.

10. The company shall have power to sue and be sued in its corporate name.

11. The company shall have power to do all such other things as are necessary for the purposes of the company.

12. The company shall have power to do all such other things as are necessary for the purposes of the company.

13. The company shall have power to do all such other things as are necessary for the purposes of the company.

14. The company shall have power to do all such other things as are necessary for the purposes of the company.

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17. The company shall have power to do all such other things as are necessary for the purposes of the company.

18. The company shall have power to do all such other things as are necessary for the purposes of the company.

19. The company shall have power to do all such other things as are necessary for the purposes of the company.

20. The company shall have power to do all such other things as are necessary for the purposes of the company.