

FIRST PRINT

TRUSTEE COMPANIES (AMENDMENT) BILL 1986

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The object of this Bill is to amend the Trustee Companies Act 1964—

- (a) to facilitate the payment to claimants of money held in the testamentary and trust fund administered by the Treasurer pursuant to that Act; and
- (b) to allow the National Trustees Executors and Agency Company of Australasia Limited to operate as a trustee company in New South Wales.

Clause 1 specifies the short title of the proposed Act.

Clause 2 is a formal provision which gives effect to the Schedule of amendments.

Schedule 1 (1) amends section 26 of the Principal Act in consequence of the amendment made by Schedule 1 (2).

Schedule 1 (2) repeals and substitutes section 27 of the Principal Act. The old section provided that persons entitled to money forming part of the testamentary and trust fund (that is, certain unclaimed money from deceased estates) could obtain the money by approaching the Supreme Court for orders directing payment to them of their entitlements. The proposed new section enables the Treasurer, if satisfied that an applicant's claim for an amount less than \$10,000 is justified, to pay over such an amount without a court order. The function of the Supreme Court is preserved in relation to claims for amounts of or exceeding \$10,000 or claims which the Treasurer otherwise cannot accept.

Schedule 1 (3) amends the Second Schedule to the Principal Act by inserting provisions concerning the constitution of the National Trustees Executors and Agency Company of Australasia Limited as a trustee company.

Schedule 1 (4) amends the Third Schedule to the Principal Act to add the name of the above company for the purposes of the definition of "trustee company" in section 3 (1) of the Principal Act.

TRUSTEE COMPANIES (AMENDMENT) BILL 1986

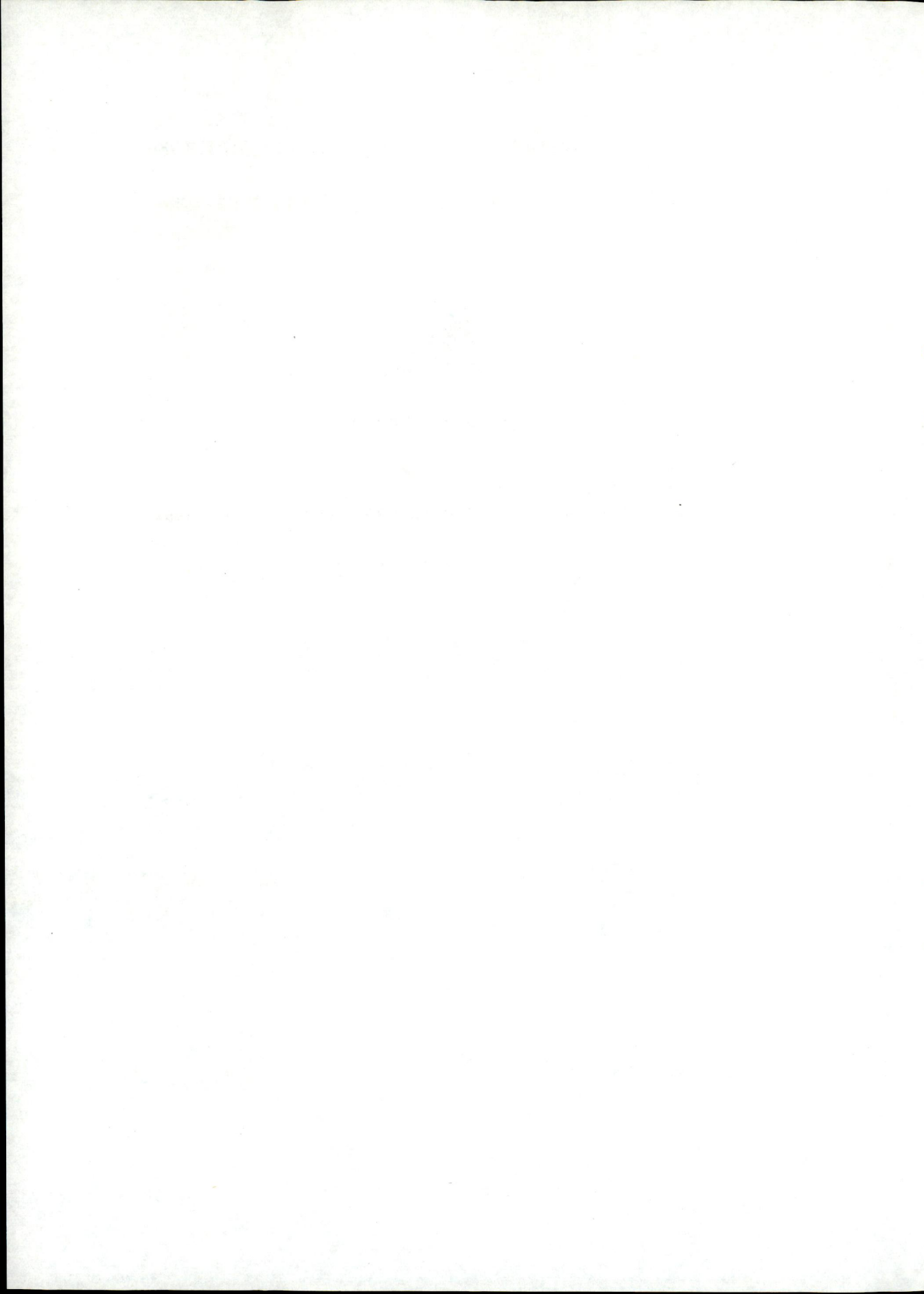
NEW SOUTH WALES



TABLE OF PROVISIONS

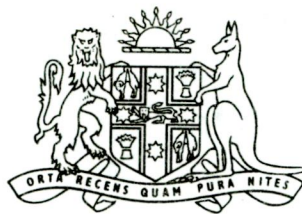
1. Short title
2. Amendment of Act No. 6, 1964

SCHEDULE 1—AMENDMENTS TO THE TRUSTEE COMPANIES ACT 1964



TRUSTEE COMPANIES (AMENDMENT) BILL 1986

NEW SOUTH WALES



No. , 1986

A BILL FOR

An Act to amend the Trustee Companies Act 1964 to facilitate the payment of money to claimants entitled to certain trust funds and to allow the National Trustees Executors and Agency Company of Australasia Limited to operate as a trustee company in New South Wales.

Trustee Companies (Amendment) 1986

BE it enacted by the Queen'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:

5 Short title

1. This Act may be cited as the "Trustee Companies (Amendment) Act 1986".

Amendment of Act No. 6, 1964

2. The Trustee Companies Act 1964 is amended in the manner set forth in Schedule 1.

SCHEDULE 1

(Sec. 2)

AMENDMENTS TO THE TRUSTEE COMPANIES ACT 1964

(1) Section 26 (Unclaimed moneys)—

15 Section 26 (7)–(7B)—

Omit section 26 (7), insert instead:

20 (7) All debentures, stock and securities constituting investments by the Treasurer under subsection (4) shall be purchased by the Treasurer as such without any name, addition or description and in all transfers of the debentures, stock and securities the Treasurer shall be so styled without any name, addition or description.

25 (7A) The Treasurer shall not pay over any money or sign any transfer of debentures, stock or securities standing to the credit of the testamentary and trust fund except in accordance with section 27 (2) or (4).

30 (7B) The Treasurer may realise any investments made under the authority of this section for the purpose of granting an application, or complying with an order of the Court, under section 27.

Trustee Companies (Amendment) 1986

SCHEDULE 1—*continued*
 AMENDMENTS TO THE TRUSTEE COMPANIES ACT 1964—
continued

(2) Section 27—

Omit the section, insert instead:

Applications by persons entitled to trust funds

5 27. (1) Any person entitled to any money forming part of the
 testamentary and trust fund may—

- (a) where the amount claimed is less than \$10,000—apply in
 writing to the Treasurer requesting payment of the money
 to the person; or
- 10 (b) where the amount claimed is \$10,000 or more—apply to
 the Court for an order directing payment of the money to
 the person.

(2) If the Treasurer is satisfied that an applicant under
 subsection (1) (a) is entitled to the whole or part of the amount
 claimed, the Treasurer may pay over any money standing to the
 15 credit of the testamentary and trust fund to which the person, in
 the Treasurer's opinion, is entitled.

(3) An applicant under subsection (1) (a) whose claim the
 Treasurer has refused to accept in whole or in part may apply to
 the Court for an order directing payment of any money to which
 20 the applicant is entitled and which has not been paid to the
 applicant by the Treasurer.

(4) Where the Court makes an order directing payment of any
 money and specifies the amount which the claimant is entitled to
 be paid from the amount at credit of the particular estate in the
 25 testamentary and trust fund, the Treasurer shall not pay over any
 money or for that purpose sign any transfer of investments
 standing to the credit of the fund unless—

- (a) a copy of the order and particulars of the name, addition
 or description of the claimant to whom the money is to be
 30 paid has been left at the office of the Treasurer; and
- (b) the purchase money of any investments to be sold has been
 received by the Treasurer.

Trustee Companies (Amendment) 1986

SCHEDULE 1—*continued*

AMENDMENTS TO THE TRUSTEE COMPANIES ACT 1964—
continued

(5) If the Treasurer appears on an application to the Court under this section, the Treasurer shall be entitled to such costs against the applicant or out of the testamentary and trust fund as the Court may direct.

5 (3) Second Schedule—

At the end of the Schedule, insert:

NATIONAL TRUSTEES EXECUTORS AND AGENCY
COMPANY OF AUSTRALASIA LIMITED

10 (a) The reserve liability of the company, being that portion of the company's share capital which is not capable of being called up except in the event of and for the purposes of a winding-up of the company, shall be not less than \$300,000 and every member shall in that event be liable to contribute the unpaid balance of every share held by the member.

15 (b) The capital of the company shall be and remain divided into shares of \$1 each and the number of shares in the company shall not at any time be reduced to less than 300,000.

20 (c) A special reserve of at least \$100,000 shall be maintained and shall not be in any manner distributed among the shareholders except in the event of the winding-up of the company.

25 (d) 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.

Trustee Companies (Amendment) 1986

SCHEDULE 1—*continued*

AMENDMENTS TO THE TRUSTEE COMPANIES ACT 1964—
continued

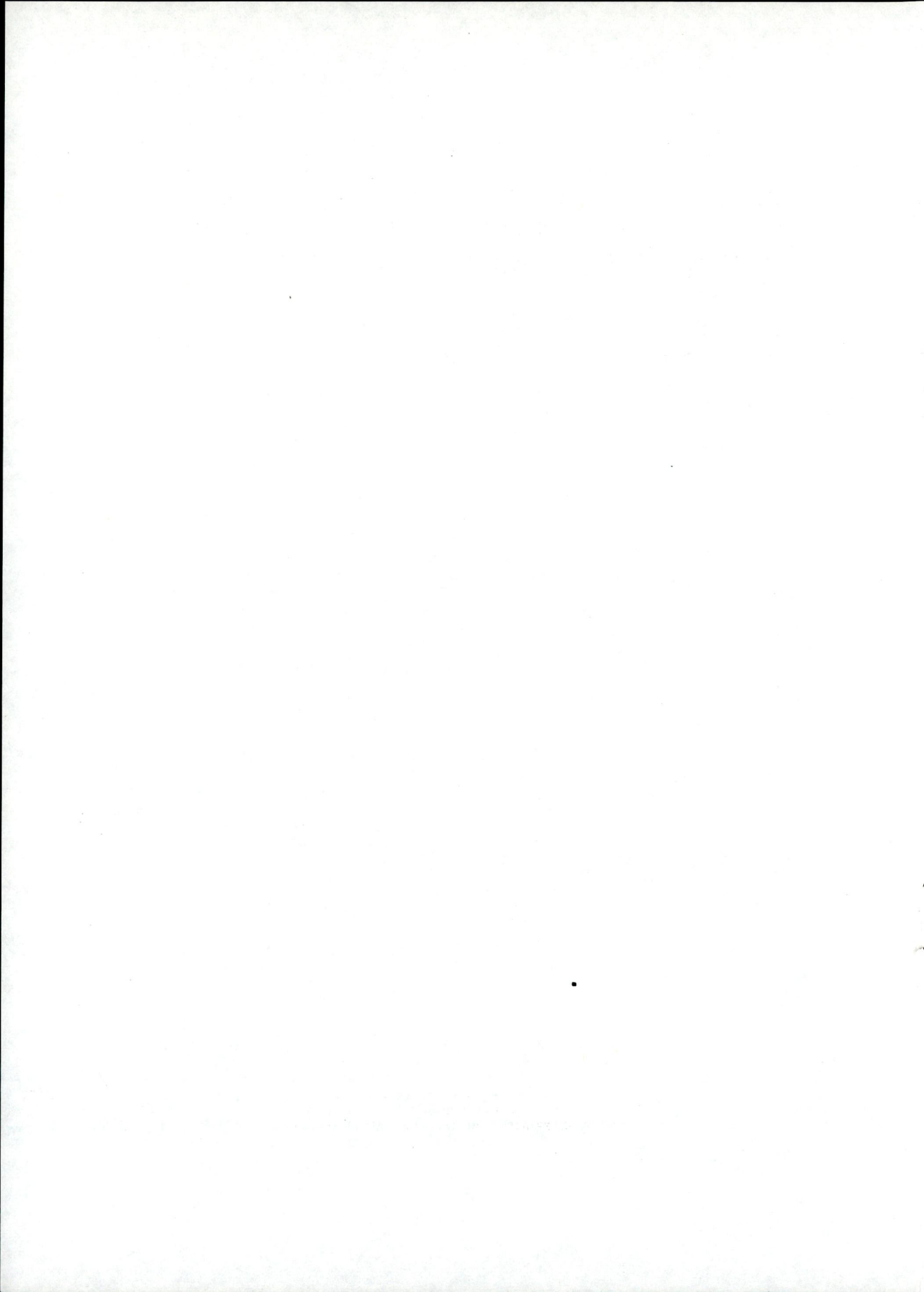
(4) Third Schedule, First Part—

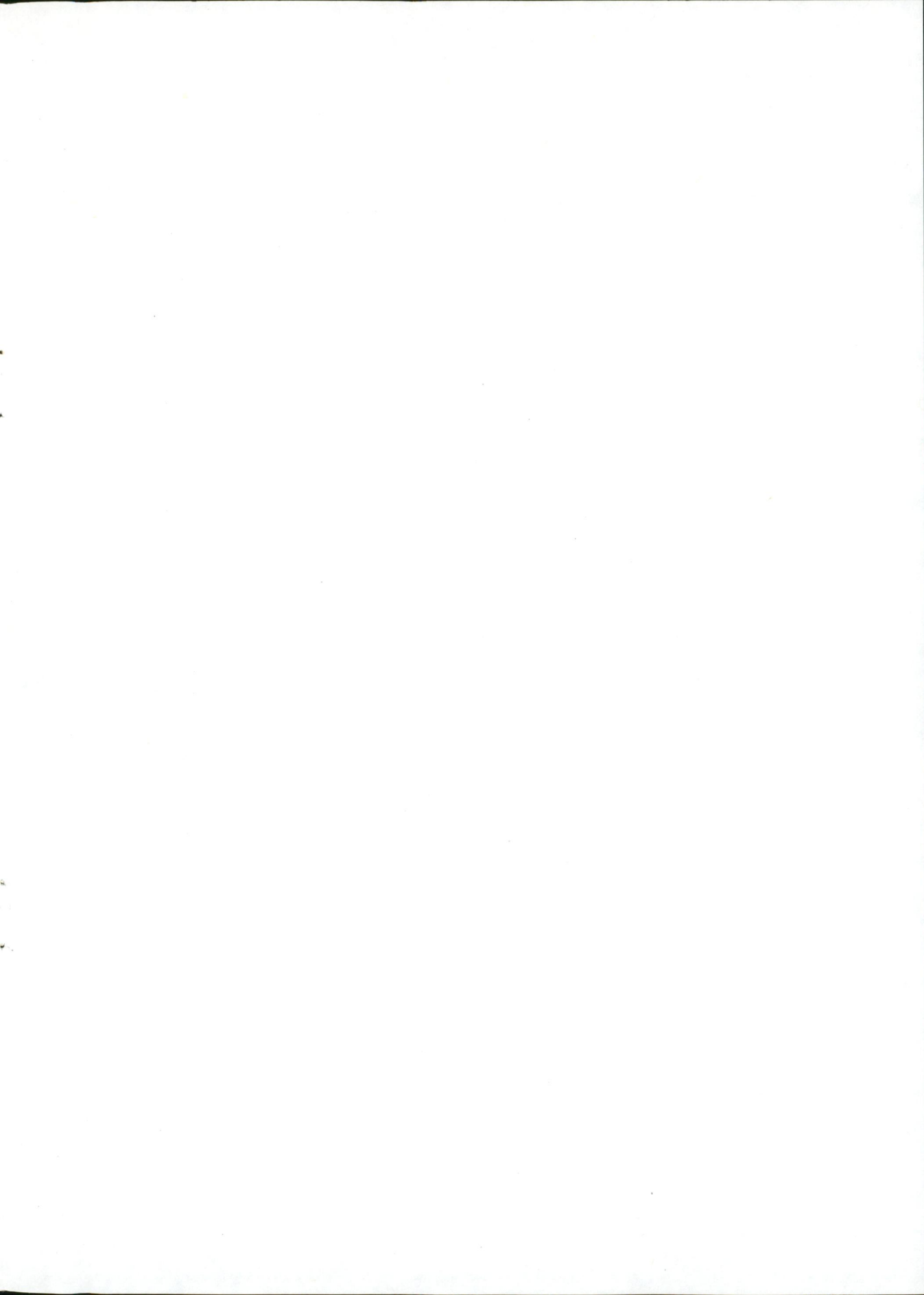
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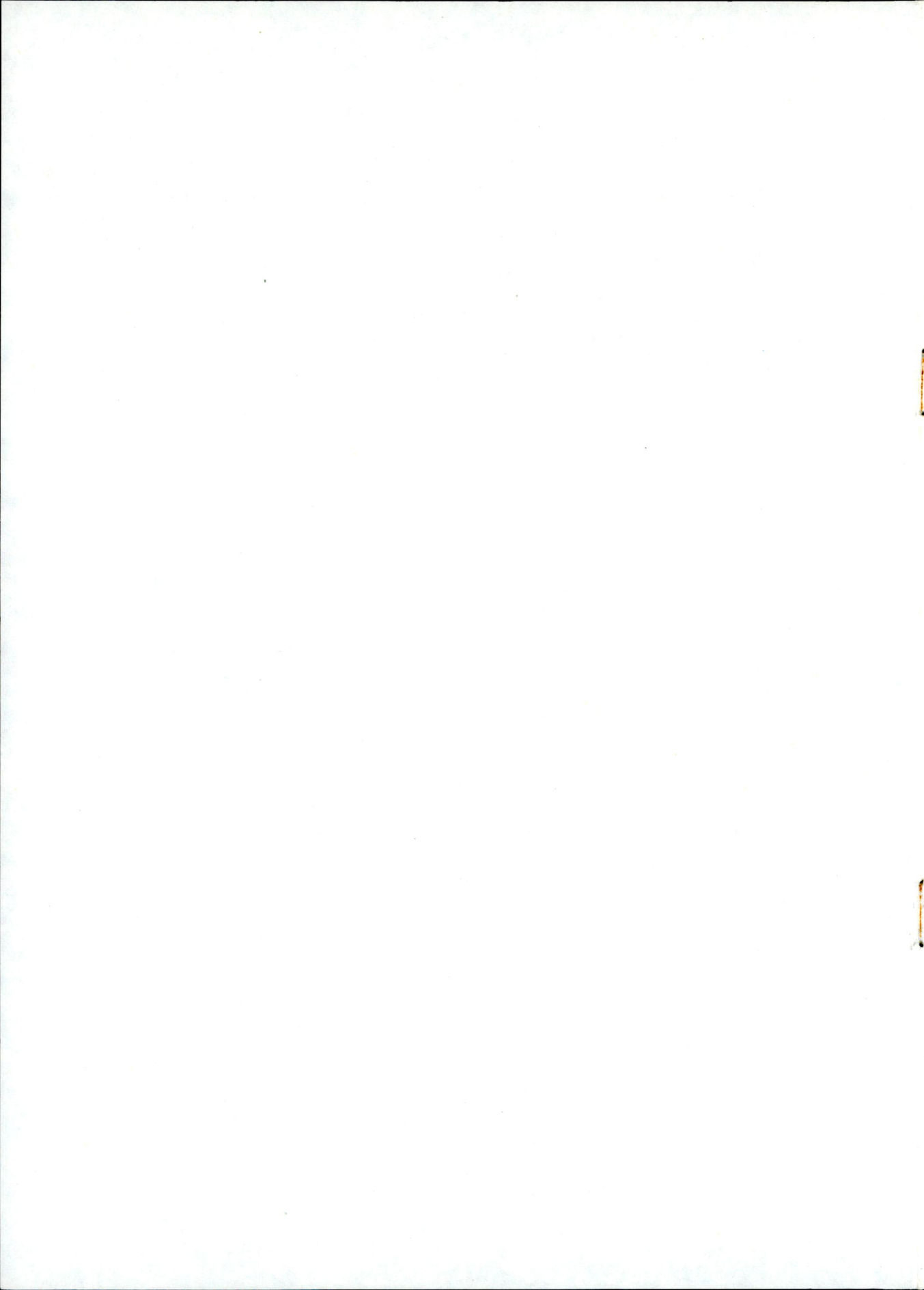
National Trustees Executors and Agency Company of
Australasia Limited.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1986







TRUSTEE COMPANIES (AMENDMENT) ACT 1986
No. 121

NEW SOUTH WALES



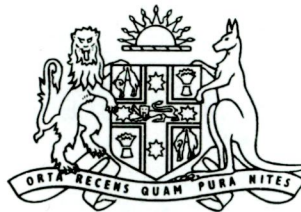
TABLE OF PROVISIONS

1. Short title
2. Amendment of Act No. 6, 1964

SCHEDULE 1—AMENDMENTS TO THE TRUSTEE COMPANIES ACT 1964

TRUSTEE COMPANIES (AMENDMENT) ACT 1986 No. 121

NEW SOUTH WALES



Act No. 121, 1986

An Act to amend the Trustee Companies Act 1964 to facilitate the payment of money to claimants entitled to certain trust funds and to allow the National Trustees Executors and Agency Company of Australasia Limited to operate as a trustee company in New South Wales. [Assented to, 27 November 1986]

Trustee Companies (Amendment) 1986

BE it enacted by the Queen'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:

Short title

1. This Act may be cited as the "Trustee Companies (Amendment) Act 1986".

Amendment of Act No. 6, 1964

2. The Trustee Companies Act 1964 is amended in the manner set forth in Schedule 1.

SCHEDULE 1

(Sec. 2)

AMENDMENTS TO THE TRUSTEE COMPANIES ACT 1964

(1) Section 26 (**Unclaimed moneys**)—

Section 26 (7)–(7B)—

Omit section 26 (7), insert instead:

(7) All debentures, stock and securities constituting investments by the Treasurer under subsection (4) shall be purchased by the Treasurer as such without any name, addition or description and in all transfers of the debentures, stock and securities the Treasurer shall be so styled without any name, addition or description.

(7A) The Treasurer shall not pay over any money or sign any transfer of debentures, stock or securities standing to the credit of the testamentary and trust fund except in accordance with section 27 (2) or (4).

(7B) The Treasurer may realise any investments made under the authority of this section for the purpose of granting an application, or complying with an order of the Court, under section 27.

SCHEDULE 1—*continued*AMENDMENTS TO THE TRUSTEE COMPANIES ACT 1964—
continued

(2) Section 27—

Omit the section, insert instead:

Applications by persons entitled to trust funds

27. (1) Any person entitled to any money forming part of the testamentary and trust fund may—

- (a) where the amount claimed is less than \$10,000—apply in writing to the Treasurer requesting payment of the money to the person; or
- (b) where the amount claimed is \$10,000 or more—apply to the Court for an order directing payment of the money to the person.

(2) If the Treasurer is satisfied that an applicant under subsection (1) (a) is entitled to the whole or part of the amount claimed, the Treasurer may pay over any money standing to the credit of the testamentary and trust fund to which the person, in the Treasurer's opinion, is entitled.

(3) An applicant under subsection (1) (a) whose claim the Treasurer has refused to accept in whole or in part may apply to the Court for an order directing payment of any money to which the applicant is entitled and which has not been paid to the applicant by the Treasurer.

(4) Where the Court makes an order directing payment of any money and specifies the amount which the claimant is entitled to be paid from the amount at credit of the particular estate in the testamentary and trust fund, the Treasurer shall not pay over any money or for that purpose sign any transfer of investments standing to the credit of the fund unless—

- (a) a copy of the order and particulars of the name, addition or description of the claimant to whom the money is to be paid has been left at the office of the Treasurer; and
- (b) the purchase money of any investments to be sold has been received by the Treasurer.

Trustee Companies (Amendment) 1986

SCHEDULE 1—*continued*

AMENDMENTS TO THE TRUSTEE COMPANIES ACT 1964—
continued

(5) If the Treasurer appears on an application to the Court under this section, the Treasurer shall be entitled to such costs against the applicant or out of the testamentary and trust fund as the Court may direct.

(3) Second Schedule—

At the end of the Schedule, insert:

NATIONAL TRUSTEES EXECUTORS AND AGENCY
COMPANY OF AUSTRALASIA LIMITED

(a) The reserve liability of the company, being that portion of the company's share capital which is not capable of being called up except in the event of and for the purposes of a winding-up of the company, shall be not less than \$300,000 and every member shall in that event be liable to contribute the unpaid balance of every share held by the member.

(b) The capital of the company shall be and remain divided into shares of \$1 each and the number of shares in the company shall not at any time be reduced to less than 300,000.

(c) A special reserve of at least \$100,000 shall be maintained and shall not be in any manner distributed among the shareholders except in the event of the winding-up of the company.

(d) 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.

Trustee Companies (Amendment) 1986

SCHEDULE 1—*continued*

AMENDMENTS TO THE TRUSTEE COMPANIES ACT 1964—
continued

(4) Third Schedule, First Part—

At the end of the Part, insert:

National Trustees Executors and Agency Company of
Australasia Limited.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1986

