



ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1971

No. 9 of 1972

An Act to amend the Bagot's Executor Company Act; the Elder's Executor Company's Act, 1910, as amended; the Executors Company's Act, 1885, and Executors Company's Amendment Act, 1900, as amended, and the Farmers' Co-operative Executors Act, 1919.

[Assented to 23rd March, 1972]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

PART I

PART I

PRELIMINARY

Short title and arrangement.

1. (1) This Act may be cited as the "Statutes Amendment (Executor Companies) Act, 1971-1972".

(2) This Act is arranged as follows:—

PART I—PRELIMINARY, s. 1

PART II—AMENDMENT OF BAGOT'S EXECUTOR COMPANY ACT, ss. 2-20

PART III—AMENDMENT OF ELDER'S EXECUTOR COMPANY'S ACT, 1910, AS AMENDED, ss. 21-35

PART IV—AMENDMENT OF EXECUTORS COMPANY'S
ACT, 1885, AND EXECUTORS COMPANY'S
AMENDMENT ACT, 1900, AS AMENDED,
ss. 36-51

PART V—AMENDMENT OF FARMERS' CO-OPERA-
TIVE EXECUTORS ACT, 1919, ss. 52-66.

PART II

PART II

AMENDMENT OF BAGOT'S EXECUTOR COMPANY
ACT

2. In this Part the Bagot's Executor Company Act, a Private Act passed in the year 1910, is referred to as "the principal Act".

Definition of
"principal Act"

3. The Bagot's Executor Company Act, a Private Act passed in the year 1910, as amended by this Act, may be cited as the "Bagot's Executor Company Act, 1910-1972".

Citation.

4. Section 2 of the principal Act is repealed and the following section is enacted and inserted in its place:—

Repeal of s. 2
of principal
Act and
enactment of
section in its
place.

2. (1) In this Act, unless the contrary intention appears—

Interpretation.

"administrator" means administrator to whom letters of administration have been granted:

"estate" includes all real and personal property of whatever nature or kind committed to the administration or management of the Company:

"letters of administration" means letters of administration with or without the will annexed:

"officer", in relation to the Company, means the manager or the managing director, general manager, acting or assistant general manager, State manager, assistant manager or secretary of the Company and, for the purposes of this Act, includes any other employee of the Company for the time being designated as such by the board of directors of the Company:

"Registrar" means the Registrar of Probates and includes an acting or deputy Registrar of Probates:

"the Company" means Bagot's Executor and Trustee Company Limited:

“the Court” means the Supreme Court of South Australia or a judge:

“the manager” means the manager or acting manager for the time being of the Company and, where there is no manager or acting manager, includes an officer for the time being of the Company:

“will” includes codicil.

(2) The powers conferred on the Company by this Act are in addition to and not in derogation of any powers conferred on the Company or on executors, administrators, trustees, receivers, committees, managers, guardians, guarantors or sureties or attorneys by any other Act.

Amendment of principal Act, s. 5—
Persons entitled to probate or letters of administration may authorize Company to obtain administration.

5. Section 5 of the principal Act is amended by striking out the word “twenty-one” and inserting in lieu thereof the word “eighteen”.

Repeal of s. 7 of principal Act and enactment of section in its place.

6. Section 7 of the principal Act is repealed and the following section is enacted and inserted in its place:—

Court may receive and act upon affidavit of officer of the Company.

7. In any case in which the Company has power under this Act to apply for probate or for letters of administration, the Court or the Registrar may receive and act upon an affidavit made by an officer of the Company in place of any affidavit required by the Court or under any law to be made by persons making application for probate or for letters of administration.

Amendment of principal Act, s. 12—
Executor may appoint Company to act in his stead.

7. Section 12 of the principal Act is amended by striking out the passage “the said Company” wherever it occurs and inserting in lieu thereof in each case the passage “the Company”.

Amendment of principal Act, s. 15—

Where personal attendance and duties of executor required Company to be entitled to make such attendance and perform such duties through officer.

8. Section 15 of the principal Act is amended—

- (a) by striking out the passage “the manager” firstly occurring and inserting in lieu thereof the passage “an officer”;
- (b) by striking out the passage “the manager” secondly occurring and inserting in lieu thereof the passage “an officer of the Company”;

and

- (c) by striking out the passage “the manager” thirdly occurring and inserting in lieu thereof the passage “an officer”.

9. Section 16 of the principal Act is repealed and the following sections are enacted and inserted in its place:—

Repeal of s. 16 of principal Act and enactment of sections in its place.

Commission chargeable by the Company.

16. (1) Subject to this Act, in respect of every estate which is or has been committed to the administration or management of the Company, whether as executor, administrator, trustee, receiver, committee, manager, guardian, or in any other capacity, the Company shall be entitled to receive, in addition to all moneys properly expended by the Company and chargeable against the estate, a commission at a rate to be fixed from time to time by the board of directors of the Company but not in any case exceeding—

(a) five dollars for every one hundred dollars of the capital value of the estate;

and

(b) five dollars for every one hundred dollars of the income received by the Company on account of the estate.

(2) Except as otherwise provided by this Act—

(a) the commission shall be accepted by the Company in full satisfaction of any claim to remuneration for acting as such executor, administrator, trustee, receiver, committee, manager, guardian, or in such other capacity, as the case may be;

and

(b) no other charges beyond such commission and moneys so expended by the Company shall be made or allowed.

(3) Where the Court is of opinion that the rate or amount of commission charged in respect of any estate is excessive, the Court may, on the application of any person interested in the estate, review the rate or amount of commission and may, on such review, reduce the rate or amount of commission.

(4) The rate of the commission charged by the Company against any estate shall not exceed that set out in the published scale of charges of the Company at the time when the commission became payable.

(5) In the case of income received in respect of any perpetual trust committed to the Company (whether before or after the commencement of the Statutes Amendment (Executor Companies) Act, 1971-1972) the scale of charges published from time to time by the Company as being applicable to income of trust estates is applicable to the income received in respect of the trust while that published scale of charges is current.

(6) Nothing in this section shall prevent—

(a) the payment with the approval of the Court of any commission which a testator in his will or a settlor has directed to be paid;

or

(b) the payment with the approval of the Court of any commission or fee which has been agreed upon between the Company and the parties interested therein,

either in addition to or in lieu of any other commission provided for by this section.

(7) In this section, the expression “capital value” means the gross amount realized for the assets real and personal of the estate in question, without deduction in respect of debts or liabilities secured or unsecured and for this purpose—

(a) the gross amount realized for assets—

(i) specifically devised or bequeathed without any intervening life interest or other intervening interest or condition that would have the effect of postponing the distribution thereof for a period of over twenty-four months after the vesting thereof in possession in the beneficiary;

or

(ii) distributed, transferred or appropriated to beneficiaries *in specie* whether by or as a result of agreement between beneficiaries or otherwise, where such distribution, transfer or appropriation occurs within twenty-four months after the vesting thereof in possession in the beneficiary,

is the amount at which the same are valued and accepted for purposes of succession duty or any other duty (in substitution therefor) levied under any Act or, where such duty is not applicable, shall be the value as at the date of distribution, transfer or appropriation, as the case may be, put upon such assets for the purposes of such distribution, transfer or appropriation or, in so far as no such value has been put upon the same for such purpose, the value of such assets at that date as fixed by the valuation of a valuer appointed for that purpose by the Company;

and

(b) the gross amount realized for assets—

(i) specifically devised or bequeathed subject to an intervening life interest or other intervening interest or condition that would have the effect of postponing the distribution thereof for a period of over twenty-four months after the vesting thereof in possession in the beneficiary;

or

(ii) distributed, transferred or appropriated to beneficiaries *in specie*, whether by or as a result of agreement between beneficiaries or otherwise, where such distribution, transfer or appropriation occurs after a period of twenty-four months after the vesting thereof in possession in the beneficiary,

is the value as at the date of the distribution, transfer or appropriation, as the case may be, put upon such assets for the purposes of such distribution, transfer or appropriation or, in so far as no such value has been put upon the same for such purpose, the value of such assets at that date as fixed by the valuation of a valuer appointed for that purpose by the Company.

(8) The commission which the Company is entitled to receive under this section shall not in any way be affected or diminished by the fact that any other person may, or may not, be entitled to, or be allowed, commission or other remuneration in respect of the same estate or any part thereof.

16a. (1) Subject to subsection (2) of this section, any commission which the Company is entitled to receive in respect of the capital value of an estate, the administration or management of which is committed to it on or after the date of the commencement of the Statutes Amendment (Executor Companies) Act, 1971-1972, may be paid out of or deducted from the estate at any time after the administration or management of the estate has been committed to the Company.

When commission payable.

(2) In respect of any portion of the estate that has not been realized the Company shall not be entitled to retain or be paid commission over and above the amount of commission calculated on the value of that portion at the time the administration or management of the estate was committed to the Company

and the amount of commission so retained or paid shall be adjusted when that portion of the estate has been realized or distributed, transferred or appropriated *in specie* to beneficiaries.

(3) The commission shall be calculated at the rate chargeable at the time when the commission becomes payable.

Additional fee
for carrying on
business.

16b. Where in the administration or management of any estate granted or committed to the Company after the commencement of this Act, the Company is authorized to carry on any business or undertaking which belongs wholly to the estate, or in which the estate has an interest as partner, the Company whether acting solely or jointly with any person, may (in lieu of the commission on income received as hereinbefore mentioned) in respect of each year of the carrying on of such business or undertaking either alone or in partnership (a "year" for this purpose being the period of twelve calendar months adopted as the annual accounting period of the estate concerned) charge and be paid such salary or remuneration as the Court (on the application of the Company) thinks fit for its pains and trouble in carrying on or joining in carrying on that business or undertaking or partnership.

Amendment of
principal Act,
s. 17.—
Company to be
subject to same
control and
liable to
removal as
private
individual
acting as
executor.

10. Section 17 of the principal Act is amended by striking out the passage "the said Company" and inserting in lieu thereof the passage "the Company".

Amendment of
principal Act,
s. 18.—
Trustee,
cestui que trust
entitled to
apply to
Supreme Court
upon motion
for order of
account.

11. Section 18 of the principal Act is amended by striking out the passage "the said Company" wherever occurring therein and inserting in lieu thereof in each case the passage "the Company".

Amendment of
principal Act,
s. 20.—
While estates
unadministered
Company not
to be wound up
voluntarily
unless with
consent of
Court.

12. Section 20 of the principal Act is amended by striking out the passage "the said Company" and inserting in lieu thereof the passage "the Company".

Amendment of
principal Act,
s. 21.—
Solicitor may
conduct legal
business of
estate where
directed by
testator.

13. Section 21 of the principal Act is amended by striking out the passage "the said Company" and inserting in lieu thereof the passage "the Company".

14. The following sections are enacted and inserted in the principal Act immediately after section 22 thereof:—

Enactment of
ss. 22a and 22b
of principal
Act.

22a. (1) Without limiting the generality or effect of section 22 of this Act, the Company may establish and keep in its books one or more funds each to be called a common fund and, if more than one, with an appropriate distinguishing number.

Common funds.

(2) A common fund established or kept in the books of the Company shall be invested in such class or classes of investments as is determined by the Company prior to the establishment of the fund and a separate class or separate classes of investments may be adopted for separate common funds.

(3) The Company may in its discretion invest any moneys in its hands either—

(a) on the separate account of the estate, trust, property or person to which or to whom the moneys belong;

or

(b) if the moneys are not directed to be invested in some other specified manner and investment in a common fund is not inconsistent with the terms of the trust instrument (if any) governing the moneys, as part of a common fund established and kept in the books of the Company the investment of which is limited to such class or classes of investments as the moneys might lawfully be invested in on the separate account of the estate, trust, property or person to which or to whom the moneys belong.

(4) Moneys in the hands of the Company (whether forming part of a common fund or not) may be invested—

(a) in any manner in which trust moneys may be invested by a trustee under any Act;

or

(b) on interest bearing deposit with the Savings Bank of South Australia or any bank or savings bank duly authorized under a law of the Commonwealth relating to banking to carry on business in South Australia.

(5) Investments made from moneys forming part of a common fund shall not be made in the name or on account of, nor shall they belong to, any particular estate, trust, property or person, but the Company shall keep an account in its books showing at

all times the current amount for the time being at credit in the common fund on account of each estate, trust, property or person.

(6) The Company may sell investments belonging to a common fund and may withdraw any of the moneys belonging to a common fund for any purpose of or relating to the exercise and discharge of its powers, authorities, duties and functions.

(7) The Company may at any time withdraw from a common fund any amount at credit in the common fund on account of any estate, trust, property or person and invest such amount on the separate account of that estate, trust, property or person.

(8) Amounts withdrawn under subsection (7) of this section from a common fund shall, as from the date of the withdrawal, cease to have any claim for income or otherwise from the common fund.

(9) Any profits or losses upon realization of any investment in a common fund shall be credited or debited (as the case may require) to the common fund and be received or borne proportionately by the several amounts invested in the common fund at the time of the realization.

(10) As on the first day of every month the Company shall determine the value of the investments in each common fund on that day.

(11) For the purposes of a valuation under subsection (10) of this section, in respect of investments listed on a Stock Exchange the quotations published by that Stock Exchange on the first day of the month in question are conclusive evidence of value and if there are no such quotations on that day, the valuation of a member of The Stock Exchange of Adelaide Limited is conclusive evidence of value but where at any time any of the investments is listed on more than one Stock Exchange the Company shall from time to time nominate the Stock Exchange the quotations of which shall be used in relation to the investment for the purposes of this subsection.

(12) Investments in and withdrawals from a common fund shall, during any month, be effected on the basis of the valuation made pursuant to subsection (10) of this section as on the first day of that month.

(13) The Company shall pay or allocate the income arising from a common fund proportionately to or among the estates, trusts, properties or persons entitled to the income arising from the capital sums invested in the common fund according to the several sums so invested and the periods for which they remain so invested.

(14) Where the Company is appointed and acts jointly with any other person as executor or administrator or as the holder of any of the offices mentioned in section 9 of this Act—

(a) the Company may, with the consent in writing of such other person, exercise and discharge, in relation to any of the property jointly held or controlled all or any of the powers, authorities, duties and functions conferred or imposed by this section which the Company, if acting alone, would have had or might have exercised or discharged;

(b) all moneys under the control of the Company and such other person jointly may, with the consent in writing of such other person, be dealt with by the Company alone in the same manner as moneys under the control of the Company alone;

and

(c) the person acting jointly with the Company shall be exonerated from any liability which, but for this paragraph, might have arisen in consequence of the exercise of the powers conferred by this subsection.

22b. Division V of Part IV of the Companies Act, 1962, as amended, does not apply and shall be deemed never to have applied to any fund established in the books of the Company before the commencement of the Statutes Amendment (Executor Companies) Act, 1971-1972, or to any common fund established or kept in the books of the Company, whether before or after such commencement, or to any interest in such fund.

Division V of Part IV of the Companies Act not to apply to certain funds kept in books of Company.

15. Section 23 of the principal Act is amended—

(a) by striking out the passage “or other authorized officer”;

and

(b) by striking out the passage “One shilling” and inserting in lieu thereof the passage “ten cents”.

Amendment of principal Act, s. 23—
Declaration by manager.

PART II

Amendment of principal Act, s. 25—
On winding-up of estate Company to advertise notice that estate has been closed.

16. Section 25 of the principal Act is amended by striking out the word “Sixpence” and inserting in lieu thereof the passage “five cents”.

Amendment of principal Act, s. 26—
Company may act alone or jointly in fiduciary capacity.

17. Section 26 of the principal Act is amended by inserting after the word “property” lastly occurring the passage “or interest in property”.

Amendment of principal Act, s. 27—
Company may act solely through instrument creating the office may provide for more than one person.

18. Section 27 of the principal Act is amended by striking out the word “twenty-one” and inserting in lieu thereof the word “eighteen”.

Enactment of ss. 27a to 27c of principal Act.

19. The following sections are enacted and inserted in the principal Act immediately after section 27 thereof:—

Power of the Company acting in representative capacity to hold its own shares, etc.

27a. (1) The Company acting in any representative capacity may, unless expressly prohibited by or under the terms of the instrument (if any) creating the trust or constituting such capacity, and notwithstanding any other Act or law, hold in its own name alone or jointly with any other person any stock, shares, debentures, notes or other securities of or issued by the Company where any such securities form part of any estate committed to the administration or management of the Company.

(2) The power conferred by this section is in addition to and not in restriction of any other powers conferred on the Company by this Act or by the instrument (if any) creating the trust or conferred on any trustee by any Act or otherwise howsoever.

Certificate by the Company as to its legal status in any matter.

27b. (1) Where the Company is executor or administrator of or is by law authorized to administer the estate of any deceased person, a certificate by the Company under the seal of the Company certifying the name, residence and occupation of the deceased person at the time of his death, and the date of his death, and certifying that the Company has obtained a grant of probate or letters of administration or is otherwise authorized to administer the estate and stating the date when the probate or letters of administration was granted and the reference number thereof or the manner in which and the time at which the Company became authorized to administer, which certificate is accompanied by a photographic copy of the probate, letters of administration with or without the will annexed or other

order or document of appointment, may, notwithstanding any Act or law to the contrary, and without any other proof, be accepted by all courts, officers and persons, whether acting under any Act or not, as sufficient evidence of the respective matters so certified or stated.

(2) Where the Company is acting as executor, administrator, trustee, receiver, committee, manager, guardian, or in any other capacity, a certificate by the Company under the seal of the Company certifying that the Company is authorized to act as such executor, administrator, trustee, receiver, committee, manager, guardian, or in such other capacity, and stating the manner in which and the time at which it became so authorized to act, which certificate is accompanied by a photographic copy of the trust instrument or other order or document of appointment, may, notwithstanding any Act or law to the contrary, and without any other proof, be accepted by all courts, officers and persons, whether acting under any Act or not, as sufficient evidence of the respective matters so certified or stated.

(3) Such certificate together with the production of the relevant photographic copy shall be sufficient for the purpose of The Real Property Act, 1886, as amended, or of registering the Company as proprietor of any shares, stock, or property in any company, corporation, body or association.

(4) Such certificate together with the production of the relevant photographic copy shall be equivalent for registration purposes to the probate, letters of administration with or without the will annexed, trust instrument or other order or document of appointment, as the case may be.

27c. (1) The powers conferred upon the Company by virtue of the provisions of the Statutes Amendment (Executor Companies) Act, 1971-1972, may be exercised in relation to an estate, trust or property whether or not the estate, trust or property was constituted or created or was committed to the administration or management of the Company before or after the commencement of that Act and whether or not the instrument (if any) governing the estate, trust or property was made before or after the commencement of that Act.

Exercise of powers conferred by Statutes Amendment (Executor Companies) Act, 1971-1972.

(2) The powers referred to in subsection (1) of this section may also be exercised by the Company and any person holding office in any representative capacity jointly with the Company.

20. The first schedule and the second schedule to the principal Act are repealed and the following schedules are enacted and inserted in their places respectively:—

Repeal of first and second schedules of principal Act and enactment of new schedules in their place.

FIRST SCHEDULE

.....LIMITED

I, _____, Manager (or as the case may be), of _____ do solemnly and sincerely declare—

- 1. That the liability of the members is limited.
- 2. That the capital of the company is _____ divided into _____ shares of _____ each.
- 3. That the number of shares issued is _____
- 4. That calls to the amount of _____ per share have been made, under which the sum of _____ has been received.
- 5. That the liabilities of the company on the 1st day of April (or October) last were: Debts owing by the company to sundry persons, viz:

A. On judgment,	\$
B. On specialty,	\$
C. On notes or bills,	\$
D. On simple contracts,	\$
E. On estimated liabilities,	\$
Total liabilities	\$ _____

6. That the assets of the company on that day were:—

A. Government Securities,	\$
B. Loans on Mortgage,	\$
C. Bills of Exchange and Promissory Notes,	\$
D. Cash at Bankers,	\$
E. Other Property,	\$
Total assets	\$ _____

And I make this solemn declaration, conscientiously believing the same to be true and by virtue of the provisions of the Oaths Act, 1936.

DECLARED before me at }
this }
day of _____ 19 _____ }

PART III

PART III

AMENDMENT OF ELDER'S EXECUTOR COMPANY'S
ACT, 1910, AS AMENDEDDefinition of
"principal
Act".

21. In this Part, the Elder's Executor Company's Act, 1910, as amended by the Elder's Executor Company's Amendment Act, 1915, is referred to as "the principal Act".

Citation.

22. The Elder's Executor Company's Act, 1910, as amended by the Elder's Executor Company's Amendment Act, 1915, and by this Act, may be cited as the "Elder's Executor Company's Act, 1910-1972".

Repeal of s. 2
of principal
Act and
enactment of
section in its
place.

23. Section 2 of the principal Act is repealed and the following section is enacted and inserted in its place:—

Interpretation.

2. (1) In this Act, unless the contrary intention appears—
- "administrator" means administrator to whom letters of administration have been granted:
- "estate" includes all real and personal property of whatever nature or kind committed to the administration or management of the Company:
- "letters of administration" means letters of administration with or without the will annexed:
- "officer", in relation to the Company, means the manager or the managing director, general manager, acting or assistant general manager, State manager, assistant manager or secretary of the Company and, for the purposes of this Act, includes any other employee of the Company for the time being designated as such by the board of directors of the Company:
- "Registrar" means the Registrar of Probates and includes an acting or deputy Registrar of Probates:
- "the Company" means Elder's Trustee and Executor Company, Limited:
- "the Court" means the Supreme Court of South Australia or a judge:
- "the manager" means the manager or acting manager for the time being of the Company and, where there is no manager or acting manager, includes an officer for the time being of the Company:
- "will" includes codicil.

(2) The powers conferred on the Company by this Act are in addition to and not in derogation of any powers conferred on the Company or on executors, administrators, trustees, receivers, committees, managers, guardians, guarantors or sureties or attorneys by any other Act.

24. Section 6 of the principal Act is amended by striking out the word "twenty-one" and inserting in lieu thereof the word "eighteen".

Amendment of principal Act, s. 6—

Persons entitled to probate or letters of administration may authorize Company to obtain administration.

25. Section 10 of the principal Act is amended by inserting after the word "property" lastly occurring the passage "or interest in property".

Amendment of principal Act, s. 10—

Company may act jointly.

26. Section 11 of the principal Act is amended by striking out the word "twenty-one" and inserting in lieu thereof the word "eighteen".

Amendment of principal Act, s. 11—

Company may be appointed to act solely in the place of retiring trustees.

27. Section 14 of the principal Act is repealed and the following section is enacted and inserted in its place:—

Repeal of s. 14 of principal Act and enactment of section in its place.

14. In any case in which the Company has power under this Act to apply for probate or for letters of administration, the Court or the Registrar may receive and act upon an affidavit made by an officer of the Company in place of any affidavit required by the Court or under any law to be made by persons making application for probate or for letters of administration.

Court may receive and act upon affidavit of officer of the Company.

28. Section 15 of the principal Act is amended—

Amendment of principal Act, s. 15—

(a) by striking out the passage "the manager" firstly occurring and inserting in lieu thereof the passage "an officer";

Directors and manager responsible to Court.

(b) by striking out the passage "the manager" secondly occurring and inserting in lieu thereof the passage "an officer of the Company";

and

(c) by striking out the passage "the manager" thirdly occurring and inserting in lieu thereof the passage "an officer".

Repeal of s. 20
of principal
Act and
enactment of
sections in its
place.

Commission
chargeable by
the Company.

29. Section 20 of the principal Act is repealed and the following sections are enacted and inserted in its place:—

20. (1) Subject to this Act, in respect of every estate which is or has been committed to the administration or management of the Company, whether as executor, administrator, trustee, receiver, committee, manager, guardian, or in any other capacity, the Company shall be entitled to receive, in addition to all moneys properly expended by the Company and chargeable against the estate, a commission at a rate to be fixed from time to time by the board of directors of the Company but not in any case exceeding—

(a) five dollars for every one hundred dollars of the capital value of the estate;

and

(b) five dollars for every one hundred dollars of the income received by the Company on account of the estate.

(2) Except as otherwise provided by this Act—

(a) the commission shall be accepted by the Company in full satisfaction of any claim to remuneration for acting as such executor, administrator, trustee, receiver, committee, manager, guardian, or in such other capacity, as the case may be;

and

(b) no other charges beyond such commission and moneys so expended by the Company shall be made or allowed.

(3) Where the Court is of opinion that the rate or amount of commission charged in respect of any estate is excessive, the Court may, on the application of any person interested in the estate, review the rate or amount of commission and may, on such review, reduce the rate or amount of commission.

(4) The rate of the commission charged by the Company against any estate shall not exceed that set out in the published scale of charges of the Company at the time when the commission became payable.

(5) In the case of income received in respect of any perpetual trust committed to the Company (whether before or after the commencement of the Statutes Amendment (Executor

Companies) Act, 1971-1972, the scale of charges published from time to time by the Company as being applicable to income of trust estates is applicable to the income received in respect of the trust while that published scale of charges is current.

(6) Nothing in this section shall prevent—

(a) the payment with the approval of the Court of any commission which a testator in his will or a settlor has directed to be paid;

or

(b) the payment with the approval of the Court of any commission or fee which has been agreed upon between the Company and the parties interested therein,

either in addition to or in lieu of any other commission provided for by this section.

(7) In this section, the expression “capital value” means the gross amount realized for the assets real and personal of the estate in question, without deduction in respect of debts or liabilities secured or unsecured and for this purpose—

(a) the gross amount realized for assets—

(i) specifically devised or bequeathed without any intervening life interest or other intervening interest or condition that would have the effect of postponing the distribution thereof for a period of over twenty-four months after the vesting thereof in possession in the beneficiary;

or

(ii) distributed, transferred or appropriated to beneficiaries *in specie*, whether by or as a result of agreement between beneficiaries or otherwise, where such distribution, transfer or appropriation occurs within twenty-four months after the vesting thereof in possession in the beneficiary,

is the amount at which the same are valued and accepted for purposes of succession duty or any other duty (in substitution therefor) levied under any Act or, where such duty is not applicable, shall be the value as at the date of distribution, transfer or appropriation, as the case may be, put upon such assets for the purposes of such distribution, transfer or appropriation or, in so far as no such value has

been put upon the same for such purpose, the value of such assets at that date as fixed by the valuation of a valuer appointed for that purpose by the Company;

and

(b) the gross amount realized for assets—

(i) specifically devised or bequeathed subject to an intervening life interest or other intervening interest or condition that would have the effect of postponing the distribution thereof for a period of over twenty-four months after the vesting thereof in possession in the beneficiary;

or

(ii) distributed, transferred or appropriated to beneficiaries *in specie*, whether by or as a result of agreement between beneficiaries or otherwise, where such distribution, transfer or appropriation occurs after a period of twenty-four months after the vesting thereof in possession in the beneficiary,

is the value as at the date of the distribution, transfer or appropriation, as the case may be, put upon such assets for the purposes of such distribution, transfer or appropriation or, in so far as no such value has been put upon the same for such purpose, the value of such assets at that date as fixed by the valuation of a valuer appointed for that purpose by the Company.

(8) The commission which the Company is entitled to receive under this section shall not in any way be affected or diminished by the fact that any other person may, or may not, be entitled to, or be allowed, commission or other remuneration in respect of the same estate or any part thereof.

When
commission
payable.

20a. (1) Subject to subsection (2) of this section, any commission which the Company is entitled to receive in respect of the capital value of an estate, the administration or management of which is committed to it on or after the date of the commencement of the Statutes Amendment (Executor Companies) Act, 1971-1972, may be paid out of or deducted from the estate at any time after the administration or management of the estate has been committed to the Company.

(2) In respect of any portion of the estate that has not been realized the Company shall not be entitled to retain or be paid commission over and above the amount of commission calculated

on the value of that portion at the time the administration or management of the estate was committed to the Company and the amount of commission so retained or paid shall be adjusted when that portion of the estate has been realized or distributed, transferred or appropriated *in specie* to beneficiaries.

(3) The commission shall be calculated at the rate chargeable at the time when the commission becomes payable.

20b. Where in the administration or management of any estate granted or committed to the Company after the commencement of this Act, the Company is authorized to carry on any business or undertaking which belongs wholly to the estate, or in which the estate has an interest as partner, the Company whether acting solely or jointly with any person, may (in lieu of the commission on income received as hereinbefore mentioned) in respect of each year of the carrying on of such business or undertaking either alone or in partnership (a "year" for this purpose being the period of twelve calendar months adopted as the annual accounting period of the estate concerned) charge and be paid such salary or remuneration as the Court (on the application of the Company) thinks fit for its pains and trouble in carrying on or joining in carrying on that business or undertaking or partnership.

30. The following sections are enacted and inserted in the principal Act immediately after section 25 thereof:—

Enactment of
ss 25a and 25b
of principal
Act.

25a. (1) Without limiting the generality or effect of section 25 of this Act, the Company may establish and keep in its books one or more funds each to be called a common fund and, if more than one, with an appropriate distinguishing number.

Common funds.

(2) A common fund established or kept in the books of the Company shall be invested in such class or classes of investments as is determined by the Company prior to the establishment of the fund and a separate class or separate classes of investments may be adopted for separate common funds.

(3) The Company may in its discretion invest any moneys in its hands either—

(a) on the separate account of the estate, trust, property or person to which or to whom the moneys belong;

or

(b) if the moneys are not directed to be invested in some other specified manner and investment in a common fund is not inconsistent with the terms of the trust instrument (if any) governing the moneys, as part

of a common fund established and kept in the books of the Company the investment of which is limited to such class or classes of investments as the moneys might lawfully be invested in on the separate account of the estate, trust, property or person to which or to whom the moneys belong.

(4) Moneys in the hands of the Company (whether forming part of a common fund or not) may be invested—

(a) in any manner in which trust moneys may be invested by a trustee under any Act;

or

(b) on interest bearing deposit with the Savings Bank of South Australia or any bank or savings bank duly authorized under a law of the Commonwealth relating to banking to carry on business in South Australia.

(5) Investments made from moneys forming part of a common fund shall not be made in the name or on account of, nor shall they belong to, any particular estate, trust, property or person, but the Company shall keep an account in its books showing at all times the current amount for the time being at credit in the common fund on account of each estate, trust, property or person.

(6) The Company may sell investments belonging to a common fund and may withdraw any of the moneys belonging to a common fund for any purpose of or relating to the exercise and discharge of its powers, authorities, duties and functions.

(7) The Company may at any time withdraw from a common fund any amount at credit in the common fund on account of any estate, trust, property or person and invest such amount on the separate account of that estate, trust, property or person.

(8) Amounts withdrawn under subsection (7) of this section from a common fund shall, as from the date of the withdrawal, cease to have any claim for income or otherwise from the common fund.

(9) Any profits or losses upon realization of any investment in a common fund shall be credited or debited (as the case may require) to the common fund and be received or borne proportionately by the several amounts invested in the common fund at the time of the realization.

(10) As on the first day of every month the Company shall determine the value of the investments in each common fund on that day.

(11) For the purposes of a valuation under subsection (10) of this section, in respect of investments listed on a Stock Exchange the quotations published by that Stock Exchange on the first day of the month in question are conclusive evidence of value and if there are no such quotations on that day, the valuation of a member of The Stock Exchange of Adelaide Limited is conclusive evidence of value but where at any time any of the investments is listed on more than one Stock Exchange the Company shall from time to time nominate the Stock Exchange the quotations of which shall be used in relation to the investment for the purposes of this subsection.

(12) Investments in and withdrawals from a common fund shall, during any month, be effected on the basis of the valuation made pursuant to subsection (10) of this section as on the first day of that month.

(13) The Company shall pay or allocate the income arising from a common fund proportionately to or among the estates, trusts, properties or persons entitled to the income arising from the capital sums invested in the common fund according to the several sums so invested and the periods for which they remain so invested.

(14) Where the Company is appointed and acts jointly with any other person as executor or administrator or as the holder of any of the offices mentioned in section 5 of this Act—

(a) the Company may, with the consent in writing of such other person, exercise and discharge, in relation to any of the property jointly held or controlled all or any of the powers, authorities, duties and functions conferred or imposed by this section which the Company, if acting alone, would have had or might have exercised or discharged;

(b) all moneys under the control of the Company and such other person jointly may, with the consent in writing of such other person, be dealt with by the Company alone in the same manner as moneys under the control of the Company alone;

and

(c) the person acting jointly with the Company shall be exonerated from any liability which, but for this paragraph, might have arisen in consequence of the exercise of the powers conferred by this subsection.

PART III

Division V of Part IV of Companies Act not to apply to certain funds kept in books of Company.

25b. Division V of Part IV of the Companies Act, 1962, as amended, does not apply and shall be deemed never to have applied to any fund established in the books of the Company before the commencement of the Statutes Amendment (Executor Companies) Act, 1971-1972, or to any common fund established or kept in the books of the Company, whether before or after such commencement, or to any interest in such fund.

Amendment of principal Act, s. 26—
Declaration by manager.

31. Section 26 of the principal Act is amended—

- (a) by striking out the passage “or other authorized officer”; and
(b) by striking out the passage “One shilling” and inserting in lieu thereof the passage “ten cents”.

Amendment of principal Act, s. 28—
Notice of winding-up estate.

32. Section 28 of the principal Act is amended by striking out the passage “Six Pence” and inserting in lieu thereof the passage “five cents”.

Amendment of principal Act, s. 31—
Yearly dividends and bonuses not to exceed ten per centum per annum on paid up capital unless reserve fund amounts to \$100,000.

33. Section 31 of the principal Act is amended by striking out the passage “Fifty Thousand Pounds sterling” wherever it occurs and inserting in lieu thereof in each case the passage “\$100,000”.

Enactment of ss. 33 to 35 of principal Act.

34. The following sections are enacted and inserted in the principal Act immediately after section 32 thereof:—

Power of the Company acting in representative capacity to hold its own shares, etc.

33. (1) The Company acting in any representative capacity may, unless expressly prohibited by or under the terms of the instrument (if any) creating the trust or constituting such capacity, and notwithstanding any other Act or law, hold in its own name alone or jointly with any other person any stock, shares, debentures, notes or other securities of or issued by the Company where any such securities form part of any estate committed to the administration or management of the Company.

(2) The power conferred by this section is in addition to and not in restriction of any other powers conferred on the Company by this Act or by the instrument (if any) creating the trust or conferred on any trustee by any Act or otherwise howsoever.

Certificate by the Company as to its legal status in any matter.

34. (1) Where the Company is executor or administrator of or is by law authorized to administer the estate of any deceased person, a certificate by the Company under the seal of the Company certifying the name, residence and occupation of the deceased person at the time of his death, and the date of

his death, and certifying that the Company has obtained a grant of probate or letters of administration or is otherwise authorized to administer the estate and stating the date when the probate or letters of administration was granted and the reference number thereof or the manner in which and the time at which the Company became authorized to administer, which certificate is accompanied by a photographic copy of the probate, letters of administration with or without the will annexed or other order or document of appointment, may, notwithstanding any Act or law to the contrary, and without any other proof, be accepted by all courts, officers and persons, whether acting under any Act or not, as sufficient evidence of the respective matters so certified or stated.

(2) Where the Company is acting as executor, administrator, trustee, receiver, committee, manager, guardian, or in any other capacity, a certificate by the Company under the seal of the Company certifying that the Company is authorized to act as such executor, administrator, trustee, receiver, committee, manager, guardian, or in such other capacity, and stating the manner in which and the time at which it became so authorized to act, which certificate is accompanied by a photographic copy of the trust instrument or other order or document of appointment, may, notwithstanding any Act or law to the contrary, and without any other proof, be accepted by all courts, officers and persons, whether acting under any Act or not, as sufficient evidence of the respective matters so certified or stated.

(3) Such certificate together with the production of the relevant photographic copy shall be sufficient for the purpose of The Real Property Act, 1886, as amended, or of registering the Company as proprietor of any shares, stock, or property in any company, corporation, body or association.

(4) Such certificate together with the production of the relevant photographic copy shall be equivalent for registration purposes to the probate, letters of administration with or without the will annexed, trust instrument or other order or document of appointment, as the case may be.

35. (1) The powers conferred upon the Company by virtue of the provisions of the Statutes Amendment (Executor Companies) Act, 1971-1972, may be exercised in relation to an estate, trust or property whether or not the estate, trust or property was constituted or created or was committed to the administration or management of the Company before or after the commencement of that Act and whether or not the instrument (if any) governing the estate, trust or property was made before or after the commencement of that Act.

Exercise of powers conferred by Statutes Amendment (Executor Companies) Act, 1971-1972.

(2) The powers referred to in subsection (1) of this section may also be exercised by the Company and any person holding office in any representative capacity jointly with the Company.

Repeal of first and second schedules of principal Act and enactment of new schedules in their place.

35. The first schedule and the second schedule to the principal Act are repealed and the following schedules are enacted and inserted in their places respectively:—

FIRST SCHEDULE

.....LIMITED

I, _____, Manager (or as the case may be),
of _____
do solemnly and sincerely declare—

1. That the liability of the members is limited.

2. That the capital of the company is _____ divided
into _____ shares of _____ each.

3. That the number of shares issued is _____

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

5. That the liabilities of the company on the 1st day of April (or October)
last were: Debts owing by the company to sundry persons, viz:

- A. On judgment, \$ _____
- B. On specialty, \$ _____
- C. On notes or bills, \$ _____
- D. On simple contracts, \$ _____
- E. On estimated liabilities, \$ _____

Total liabilities \$ _____

6. That the assets of the company on that day were:—

- A. Government Securities, \$ _____
- B. Loans on Mortgage, \$ _____
- C. Bills of Exchange and Promissory Notes, \$ _____
- D. Cash at Bankers, \$ _____
- E. Other Property, \$ _____

Total assets \$ _____

And I make this solemn declaration, conscientiously believing the same to be true and by virtue of the provisions of the Oaths Act, 1936.

DECLARED before me at }
this }
day of 19 }

SECOND SCHEDULE

AUDITORS REPORT

We have examined the annexed (or above) balance-sheet, made up to the
day of 19 , and report as
follows:—

1. That as regards the accounts of the Company we have separately reported
thereon in the manner prescribed by the Companies Act, 1962, as
amended;

and

2. That we have made inquiries as to the internal control in relation to
Trust Accounts of estates committed to the administration or
management of the Company and in our opinion the internal control
of the Company is adequate and effective.

Adelaide this day of , 19 .

Auditors.

PART IV

PART IV

AMENDMENT OF EXECUTORS COMPANY'S ACT, 1885,
AND EXECUTORS COMPANY'S AMENDMENT ACT, 1900,
AS AMENDEDDefinition of
"principal
Act".

36. In this Part the Executors Company's Act, 1885, as amended by section 5 of the Executors Company's Amendment Act, 1900, and by the Executors Company's Amendment Act, 1915, is referred to as "the principal Act".

Citation.

37. The Executors Company's Act, 1885, as amended—

(a) by section 5 of the Executors Company's Amendment Act, 1900;

(b) by the Executors Company's Amendment Act, 1915;
and

(c) by this Act,

and the Executors Company's Amendment Act, 1900, may together be cited as the "Executors Company's Act, 1885-1972".

Enactment of
s. 1a of
principal Act.

38. The following section is enacted and inserted in the principal Act immediately after section 1 thereof:—

Interpretation.

1a. (1) In this Act, unless the contrary intention appears—

"administrator" means administrator to whom letters of administration have been granted:

"estate" includes all real and personal property of whatever nature or kind committed to the administration or management of the Company:

"letters of administration" means letters of administration with or without the will annexed:

"officer", in relation to the Company, means the manager or the managing director, general manager, acting or assistant general manager, State manager, assistant manager or secretary of the Company and, for the purposes of this Act, includes any other employee of the Company for the time being designated as such by the board of directors of the Company:

"Registrar" means the Registrar of Probates and includes an acting or deputy Registrar of Probates:

"the Company" means Executor, Trustee, and Agency Company of South Australia, Limited:

“the Court” means the Supreme Court of South Australia or a judge:

“the manager” means the manager or acting manager for the time being of the Company and, where there is no manager or acting manager, includes an officer for the time being of the Company:

“will” includes codicil.

(2) The powers conferred on the Company by this Act are in addition to and not in derogation of any powers conferred on the Company or on executors, administrators, trustees, receivers, committees, managers, guardians, guarantors or sureties or attorneys by any other Act.

39. Section 3 of the principal Act is amended by inserting after the word “with” the passage “or without”.

Amendment of principal Act, s. 3—
Company may obtain letters of administration and act as administrators.

40. Section 4 of the principal Act is repealed and the following section is enacted and inserted in its place:—

Repeal of s. 4 of principal Act and enactment of section in its place.

4. In any case in which the Company has power under this Act to apply for probate or for letters of administration, the Court or the Registrar may receive and act upon an affidavit made by an officer of the Company in place of any affidavit required by the Court or under any law to be made by persons making application for probate or for letters of administration.

Court may receive and act upon affidavit of officer of the Company.

41. Section 9 of the principal Act is amended—

Amendment of principal Act, s. 9—

(a) by striking out the passage “the manager” firstly occurring and inserting in lieu thereof the passage “an officer”;

Officer may attend on behalf of Company and directors, and manager shall be personally responsible to Court.

(b) by striking out the passage “the manager” secondly occurring and inserting in lieu thereof the passage “an officer of the Company”;

and

(c) by striking out the passage “the manager” thirdly occurring and inserting in lieu thereof the passage “an officer”.

42. Section 10 of the principal Act is repealed and the following sections are enacted and inserted in its place:—

Repeal of s. 10 of principal Act and enactment of sections in its place.

10. (1) Subject to this Act, in respect of every estate which is or has been committed to the administration or management of the Company, whether as executor, administrator, trustee,

Commission chargeable by the Company.

receiver, committee, manager, guardian, or in any other capacity, the Company shall be entitled to receive, in addition to all moneys properly expended by the Company and chargeable against the estate, a commission at a rate to be fixed from time to time by the board of directors of the Company but not in any case exceeding—

(a) five dollars for every one hundred dollars of the capital value of the estate;

and

(b) five dollars for every one hundred dollars of the income received by the Company on account of the estate.

(2) Except as otherwise provided by this Act—

(a) the commission shall be accepted by the Company in full satisfaction of any claim to remuneration for acting as such executor, administrator, trustee, receiver, committee, manager, guardian, or in such other capacity, as the case may be;

and

(b) no other charges beyond such commission and moneys so expended by the Company shall be made or allowed.

(3) Where the Court is of opinion that the rate or amount of commission charged in respect of any estate is excessive, the Court may, on the application of any person interested in the estate, review the rate or amount of commission and may, on such review, reduce the rate or amount of commission.

(4) The rate of the commission charged by the Company against any estate shall not exceed that set out in the published scale of charges of the Company at the time when the commission became payable.

(5) In the case of income received in respect of any perpetual trust committed to the Company (whether before or after the commencement of the Statutes Amendment (Executor Companies) Act, 1971-1972 the scale of charges published from time to time by the Company as being applicable to income of trust estates is applicable to the income received in respect of the trust while that published scale of charges is current.

(6) Nothing in this section shall prevent—

(a) the payment with the approval of the Court of any commission which a testator in his will or a settlor has directed to be paid;

or

(b) the payment with the approval of the Court of any commission or fee which has been agreed upon between the Company and the parties interested therein,

either in addition to or in lieu of any other commission provided for by this section.

(7) In this section, the expression “capital value” means the gross amount realized for the assets real and personal of the estate in question, without deduction in respect of debts or liabilities secured or unsecured and for this purpose—

(a) the gross amount realized for assets—

(i) specifically devised or bequeathed without any intervening life interest or other intervening interest or condition that would have the effect of postponing the distribution thereof for a period of over twenty-four months after the vesting thereof in possession in the beneficiary;

or

(ii) distributed, transferred or appropriated to beneficiaries *in specie*, whether by or as a result of agreement between beneficiaries or otherwise, where such distribution, transfer or appropriation occurs within twenty-four months after the vesting thereof in possession in the beneficiary,

is the amount at which the same are valued and accepted for purposes of succession duty or any other duty (in substitution therefor) levied under any Act or, where such duty is not applicable, shall be the value as at the date of distribution, transfer or appropriation, as the case may be, put upon such assets for the purposes of such distribution, transfer or appropriation or, in so far as no such value has been put upon the same for such purpose, the value of such assets at that date as fixed by the valuation of a valuer appointed for that purpose by the Company;

and

(b) the gross amount realized for assets—

(i) specifically devised or bequeathed subject to an intervening life interest or other intervening interest or condition that would have the effect of postponing the distribution thereof for a period of over twenty-four months after the vesting thereof in possession in the beneficiary;

or

(ii) distributed, transferred or appropriated to beneficiaries *in specie*, whether by or as a result of agreement between beneficiaries or otherwise, where such distribution, transfer or appropriation occurs after a period of twenty-four months after the vesting thereof in possession in the beneficiary,

is the value as at the date of the distribution, transfer or appropriation, as the case may be, put upon such assets for the purposes of such distribution, transfer or appropriation or, in so far as no such value has been put upon the same for such purpose, the value of such assets at that date as fixed by the valuation of a valuer appointed for that purpose by the Company.

(8) The commission which the Company is entitled to receive under this section shall not in any way be affected or diminished by the fact that any other person may, or may not, be entitled to, or be allowed, commission or other remuneration in respect of the same estate or any part thereof.

When
commission
payable.

10a. (1) Subject to subsection (2) of this section, any commission which the Company is entitled to receive in respect of the capital value of an estate, the administration or management of which is committed to it on or after the date of the commencement of the Statutes Amendment (Executor Companies) Act, 1971-1972, may be paid out of or deducted from the estate at any time after the administration or management of the estate has been committed to the Company.

(2) In respect of any portion of the estate that has not been realized the Company shall not be entitled to retain or be paid commission over and above the amount of commission

calculated on the value of that portion at the time the administration or management of the estate was committed to the Company and the amount of commission so retained or paid shall be adjusted when that portion of the estate has been realized or distributed, transferred or appropriated *in specie* to beneficiaries.

(3) The commission shall be calculated at the rate chargeable at the time when the commission becomes payable.

10b. Where in the administration or management of any estate granted or committed to the Company after the commencement of this Act, the Company is authorized to carry on any business or undertaking which belongs wholly to the estate, or in which the estate has an interest as partner, the Company whether acting solely or jointly with any person, may (in lieu of the commission on income received as hereinbefore mentioned) in respect of each year of the carrying on of such business or undertaking either alone or in partnership (a "year" for this purpose being the period of twelve calendar months adopted as the annual accounting period of the estate concerned) charge and be paid such salary or remuneration as the Court (on the application of the Company) thinks fit for its pains and trouble in carrying on or joining in carrying on that business or undertaking or partnership.

Additional fee
for carrying on
business.

43. The following sections are enacted and inserted in the principal Act immediately after section 16 thereof:—

Enactment of
ss. 16a and
16b of principal
Act.

16a. (1) Without limiting the generality or effect of section 16 of this Act, the Company may establish and keep in its books one or more funds each to be called a common fund and, if more than one, with an appropriate distinguishing number.

Common funds.

(2) A common fund established or kept in the books of the Company shall be invested in such class or classes of investments as is determined by the Company prior to the establishment of the fund and a separate class or separate classes of investments may be adopted for separate common funds.

(3) The Company may in its discretion invest any moneys in its hands either—

- (a) on the separate account of the estate, trust, property or person to which or to whom the moneys belong;
- or
- (b) if the moneys are not directed to be invested in some other specified manner and investment in a common fund is not inconsistent with the terms of the trust

instrument (if any) governing the moneys, as part of a common fund established and kept in the books of the Company the investment of which is limited to such class or classes of investments as the moneys might lawfully be invested in on the separate account of the estate, trust, property or person to which or to whom the moneys belong.

(4) Moneys in the hands of the Company (whether forming part of a common fund or not) may be invested—

(a) in any manner in which trust moneys may be invested by a trustee under any Act;

or

(b) on interest bearing deposit with the Savings Bank of South Australia or any bank or savings bank duly authorized under a law of the Commonwealth relating to banking to carry on business in South Australia.

(5) Investments made from moneys forming part of a common fund shall not be made in the name or on account of, nor shall they belong to, any particular estate, trust, property or person, but the Company shall keep an account in its books showing at all times the current amount for the time being at credit in the common fund on account of each estate, trust, property or person.

(6) The Company may sell investments belonging to a common fund and may withdraw any of the moneys belonging to a common fund for any purpose of or relating to the exercise and discharge of its powers, authorities, duties and functions.

(7) The Company may at any time withdraw from a common fund any amount at credit in the common fund on account of any estate, trust, property or person and invest such amount on the separate account of that estate, trust, property or person.

(8) Amounts withdrawn under subsection (7) of this section from a common fund shall, as from the date of the withdrawal, cease to have any claim for income or otherwise from the common fund.

(9) Any profits or losses upon realization of any investment in a common fund shall be credited or debited (as the case may require) to the common fund and be received or borne proportionately by the several amounts invested in the common fund at the time of the realization.

(10) As on the first day of every month the Company shall determine the value of the investments in each common fund on that day.

(11) For the purposes of a valuation under subsection (10) of this section, in respect of investments listed on a Stock Exchange the quotations published by that Stock Exchange on the first day of the month in question are conclusive evidence of value and if there are no such quotations on that day, the valuation of a member of The Stock Exchange of Adelaide Limited is conclusive evidence of value but where at any time any of the investments is listed on more than one Stock Exchange the Company shall from time to time nominate the Stock Exchange the quotations of which shall be used in relation to the investment for the purposes of this subsection.

(12) Investments in and withdrawals from a common fund shall, during any month, be effected on the basis of the valuation made pursuant to subsection (10) of this section as on the first day of that month.

(13) The Company shall pay or allocate the income arising from a common fund proportionately to or among the estates, trusts, properties or persons entitled to the income arising from the capital sums invested in the common fund according to the several sums so invested and the periods for which they remain so invested.

(14) Where the Company is appointed and acts jointly with any other person as executor or administrator or as the holder of any of the offices mentioned in section 6 of this Act—

(a) the Company may, with the consent in writing of such other person, exercise and discharge, in relation to any of the property jointly held or controlled all or any of the powers, authorities, duties and functions conferred or imposed by this section which the Company, if acting alone, would have had or might have exercised or discharged;

(b) all moneys under the control of the Company and such other person jointly may, with the consent in writing of such other person, be dealt with by the Company alone in the same manner as moneys under the control of the Company alone;

and

PART IV

(c) the person acting jointly with the Company shall be exonerated from any liability which, but for this paragraph, might have arisen in consequence of the exercise of the powers conferred by this subsection.

Division V of Part IV of Companies Act not to apply to certain funds kept in books of Company.

16b. Division V of Part IV of the Companies Act, 1962, as amended, does not apply and shall be deemed never to have applied to any fund established in the books of the Company before the commencement of the Statutes Amendment (Executor Companies) Act, 1971-1972, or to any common fund established or kept in the books of the Company, whether before or after such commencement, or to any interest in such fund.

Amendment of principal Act, s. 17—
Declaration by manager.

44. Section 17 of the principal Act is amended—

- (a) by striking out the passage “or other authorized officer”;
and
(b) by striking out the passage “One Shilling” and inserting in lieu thereof the passage “ten cents”.

Amendment of principal Act, s. 19—
Notice of winding-up estate.

45. Section 19 of the principal Act is amended by striking out the word “Sixpence” and inserting in lieu thereof the passage “five cents”.

Enactment of ss. 19a to 19c of principal Act.

46. The following sections are enacted and inserted in the principal Act immediately after section 19 thereof:—

Power of the Company acting in representative capacity to hold its own shares, etc.

19a. (1) The Company acting in any representative capacity may, unless expressly prohibited by or under the terms of the instrument (if any) creating the trust or constituting such capacity, and notwithstanding any other Act or law, hold in its own name alone or jointly with any other person any stock, shares, debentures, notes or other securities of or issued by the Company where any such securities form part of any estate committed to the administration or management of the Company.

(2) The power conferred by this section is in addition to and not in restriction of any other powers conferred on the Company by this Act or by the instrument (if any) creating the trust or conferred on any trustee by any Act or otherwise howsoever.

Certificate by the Company as to its legal status in any matter.

19b. (1) Where the Company is executor or administrator of or is by law authorized to administer the estate of any deceased person, a certificate by the Company under the seal of the Company certifying the name, residence and occupation of the deceased person at the time of his death, and the date

of his death, and certifying that the Company has obtained a grant of probate or letters of administration or is otherwise authorized to administer the estate and stating the date when the probate or letters of administration was granted and the reference number thereof or the manner in which and the time at which the Company became authorized to administer, which certificate is accompanied by a photographic copy of the probate, letters of administration with or without the will annexed or other order or document of appointment, may, notwithstanding any Act or law to the contrary, and without any other proof, be accepted by all courts, officers and persons, whether acting under any Act or not, as sufficient evidence of the respective matters so certified or stated.

(2) Where the Company is acting as executor, administrator, trustee, receiver, committee, manager, guardian, or in any other capacity, a certificate by the Company under the seal of the Company certifying that the Company is authorized to act as such executor, administrator, trustee, receiver, committee, manager, guardian, or in such other capacity, and stating the manner in which and the time at which it became so authorized to act, which certificate is accompanied by a photographic copy of the trust instrument or other order or document of appointment, may, notwithstanding any Act or law to the contrary, and without any other proof, be accepted by all courts, officers and persons, whether acting under any Act or not, as sufficient evidence of the respective matters so certified or stated.

(3) Such certificate together with the production of the relevant photographic copy shall be sufficient for the purpose of The Real Property Act, 1886, as amended, or of registering the Company as proprietor of any shares, stock, or property in any company, corporation, body or association.

(4) Such certificate together with the production of the relevant photographic copy shall be equivalent for registration purposes to the probate, letters of administration with or without the will annexed, trust instrument or other order or document of appointment, as the case may be.

19c. (1) The powers conferred upon the Company by virtue of the provisions of the Statutes Amendment (Executor Companies) Act, 1971-1972, may be exercised in relation to an estate, trust or property whether or not the estate, trust or property was constituted or created or was committed to the administration or management of the Company before or after the commencement of that Act and whether or not the instrument (if any) governing the estate, trust or property was made before or after the commencement of that Act.

Exercise of
powers conferred by
Statutes
Amendment
(Executor
Companies)
Act 1971-1972.

(2) The powers referred to in subsection (1) of this section may also be exercised by the Company and any person holding office in any representative capacity jointly with the Company.

Repeal of first and second schedules of principal Act and enactment of new schedules in their place.

47. The first schedule and the second schedule to the principal Act are repealed and the following schedules are enacted and inserted in their places respectively:

FIRST SCHEDULE

.....LIMITED

I, _____, Manager (or as the case may be), of _____ do solemnly and sincerely declare—

- 1. That the liability of the members is limited.
2. That the capital of the company is _____ divided into _____ shares of _____ each.
3. That the number of shares issued is _____
4. That calls to the amount of _____ per share have been made, under which the sum of _____ has been received.

5. That the liabilities of the company on the 1st day of April (or October) last were: Debts owing by the company to sundry persons, viz:

Table with 2 columns: Description (A-E) and Amount (\$). Includes Total liabilities at the bottom.

6. That the assets of the company on that day were:—

Table with 2 columns: Description (A-E) and Amount (\$). Includes Total assets at the bottom.

And I make this solemn declaration, conscientiously believing the same to be true and by virtue of the provisions of the Oaths Act, 1936.

DECLARED before me at }
this }
day of 19 }

SECOND SCHEDULE

AUDITORS REPORT

We have examined the annexed (or above) balance-sheet, made up to the day of 19 , and report as follows:—

1. That as regards the accounts of the Company we have separately reported thereon in the manner prescribed by the Companies Act, 1962, as amended;

and

2. That we have made inquiries as to the internal control in relation to Trust Accounts of estates committed to the administration or management of the Company and in our opinion the internal control of the Company is adequate and effective.

Adelaide this day of , 19

Auditors.

48. Section 3 of the Executors Company's Amendment Act, 1900, is amended by striking out the word "twenty-one" and inserting in lieu thereof the word "eighteen".

Amendment of s. 3 of Executors Company's Amendment Act, 1900—

Persons entitled to probate or letters of administration may authorize Company to obtain administration

49. Section 9 of the Executors Company's Amendment Act, 1900, as amended by the Executors Company's Amendment Act, 1915, is further amended by inserting after the word "property" lastly occurring the passage "or interest in property".

Amendment of s. 9 of Executors Company's Amendment Act, 1900—

Company may act jointly.

50. Section 10 of the Executors Company's Amendment Act, 1900, is amended by striking out the word "twenty-one" and inserting in lieu thereof the word "eighteen".

Amendment of s. 10 of Executors Company's Amendment Act, 1900—

Company may be appointed to act solely in the place of retiring trustees

51. Section 11 of the Executors Company's Amendment Act, 1900, is amended by striking out the passage "Fifty Thousand Pounds sterling" wherever it occurs and inserting in lieu thereof the passage "\$100,000".

Amendment of s. 11 of Executors Company's Amendment Act, 1900—

Yearly dividends etc., not to exceed 10 per cent per annum on paid up capital unless reserve fund amounts to \$100,000.

PART V

PART V

AMENDMENT OF FARMERS' CO-OPERATIVE EXECUTORS
ACT, 1919Definition of
"principal Act."

52. In this Part the Farmers' Co-operative Executors Act, 1919, is referred to as "the principal Act".

Citation.

53. The Farmers' Co-operative Executors Act, 1919, as amended by this Act, may be cited as the "Farmers' Co-operative Executors Act, 1919-1972".

Repeal of s. 2
of principal
Act and
enactment of
section in its
place.

54. Section 2 of the principal Act is repealed and the following section is enacted and inserted in its place:—

Interpretation.

2. (1) In this Act, unless the contrary intention appears—

"administrator" means administrator to whom letters of administration have been granted:

"estate" includes all real and personal property of whatever nature or kind committed to the administration or management of the Company:

"letters of administration" means letters of administration with or without the will annexed:

"officer", in relation to the Company, means the manager or the managing director, general manager, acting or assistant general manager, State manager, assistant manager or secretary of the Company and, for the purposes of this Act, includes any other employee of the Company for the time being designated as such by the board of directors of the Company:

"Registrar" means the Registrar of Probates and includes an acting or deputy Registrar of Probates:

"the Company" means Farmers' Co-operative Executors and Trustees, Limited:

"the Court" means the Supreme Court of South Australia or a judge:

"the manager" means the manager or acting manager for the time being of the Company and, where there is no manager or acting manager, includes an officer for the time being of the Company:

"will" includes codicil.

(2) The powers conferred on the Company by this Act are in addition to and not in derogation of any powers conferred on the Company or on executors, administrators, trustees, receivers, committees, managers, guardians, guarantors or sureties or attorneys by any other Act.

55. Section 6 of the principal Act is amended by striking out the word "twenty-one" and inserting in lieu thereof the word "eighteen".

Amendment of principal Act, s. 6—

Persons entitled to probate or letters of administration may authorize Company to obtain administration.

56. Section 10 of the principal Act is amended by inserting after the word "property" lastly occurring the passage "or interest in property".

Amendment of principal Act, s. 10—

Company may act jointly.

57. Section 11 of the principal Act is amended by striking out the word "twenty-one" and inserting in lieu thereof the word "eighteen".

Amendment of principal Act, s. 11—

Company may be appointed to act solely in the place of retiring trustees.

58. Section 14 of the principal Act is repealed and the following section is enacted and inserted in its place:—

Repeal of s. 14 of principal Act and enactment of section in its place.

14. In any case in which the Company has power under this Act to apply for probate or for letters of administration, the Court or the Registrar may receive and act upon an affidavit made by an officer of the Company in place of any affidavit required by the Court or under any law to be made by persons making application for probate or for letters of administration.

Court to act upon affidavit of officer of the Company in application for probate or administration.

59. Section 15 of the principal Act is amended—

Amendment of principal Act, s. 15—

(a) by striking out the passage "the manager" firstly occurring and inserting in lieu thereof the passage "an officer";

Directors and manager responsible to Court.

(b) by striking out the passage "the manager" secondly occurring and inserting in lieu thereof the passage "an officer of the Company";

and

(c) by striking out the passage "the manager" thirdly occurring and inserting in lieu thereof the passage "an officer".

Repeal of
s. 20 of
principal Act
and enactment
of sections in
its place.

Commission
chargeable by
the Company.

60. Section 20 of the principal Act is repealed and the following sections are enacted and inserted in its place:—

20. (1) Subject to this Act, in respect of every estate which is or has been committed to the administration or management of the Company, whether as executor, administrator, trustee, receiver, committee, manager, guardian, or in any other capacity, the Company shall be entitled to receive, in addition to all moneys properly expended by the Company and chargeable against the estate, a commission at a rate to be fixed from time to time by the board of directors of the Company but not in any case exceeding—

(a) five dollars for every one hundred dollars of the capital value of the estate;

and

(b) five dollars for every one hundred dollars of the income received by the Company on account of the estate.

(2) Except as otherwise provided by this Act—

(a) the commission shall be accepted by the Company in full satisfaction of any claim to remuneration for acting as such executor, administrator, trustee, receiver, committee, manager, guardian, or in such other capacity, as the case may be;

and

(b) no other charges beyond such commission and moneys so expended by the Company shall be made or allowed.

(3) Where the Court is of opinion that the rate or amount of commission charged in respect of any estate is excessive, the Court may, on the application of any person interested in the estate, review the rate or amount of commission and may, on such review, reduce the rate or amount of commission.

(4) The rate of the commission charged by the Company against any estate shall not exceed that set out in the published scale of charges of the Company at the time when the commission became payable.

(5) In the case of income received in respect of any perpetual trust committed to the Company (whether before or after the commencement of the Statutes Amendment (Executor Companies Act, 1971-1972) the scale of charges published from time

to time by the Company as being applicable to income of trust estates is applicable to the income received in respect of the trust while that published scale of charges is current.

(6) Nothing in this section shall prevent—

(a) the payment with the approval of the Court of any commission which a testator in his will or a settlor has directed to be paid;

or

(b) the payment with the approval of the Court of any commission or fee which has been agreed upon between the Company and the parties interested therein,

either in addition to or in lieu of any other commission provided for by this section.

(7) In this section, the expression “capital value” means the gross amount realized for the assets real and personal of the estate in question, without deduction in respect of debts or liabilities secured or unsecured and for this purpose—

(a) the gross amount realized for assets—

(i) specifically devised or bequeathed without any intervening life interest or other intervening interest or condition that would have the effect of postponing the distribution thereof for a period of over twenty-four months;

or

(ii) distributed, transferred or appropriated to beneficiaries *in specie*, whether by or as a result of agreement between beneficiaries or otherwise, where such distribution, transfer or appropriation occurs within twenty-four months after the vesting thereof in possession in the beneficiary,

is the amount at which the same are valued and accepted for purposes of succession duty or any other duty (in substitution therefor) levied under any Act or, where such duty is not applicable, shall be the value as at the date of distribution, transfer or appropriation, as the case may be, put upon such assets for the purposes of such distribution, transfer or appropriation or, in so far as no such value has been put upon the same for such purpose, the

value of such assets at that date as fixed by the valuation of a valuer appointed for that purpose by the Company;

and

(b) the gross amount realized for assets—

(i) specifically devised or bequeathed subject to an intervening life interest or other intervening interest or condition that would have the effect of postponing the distribution thereof for a period of over twenty-four months;

or

(ii) distributed, transferred or appropriated to beneficiaries *in specie*, whether by or as a result of agreement between beneficiaries or otherwise, where such distribution, transfer or appropriation occurs after a period of twenty-four months after the vesting thereof in possession in the beneficiary,

is the value as at the date of the distribution, transfer or appropriation, as the case may be, put upon such assets for the purposes of such distribution, transfer or appropriation or, in so far as no such value has been put upon the same for such purpose, the value of such assets at that date as fixed by the valuation of a valuer appointed for that purpose by the Company.

(8) The commission which the Company is entitled to receive under this section shall not in any way be affected or diminished by the fact that any other person may, or may not, be entitled to, or be allowed, commission or other remuneration in respect of the same estate or any part thereof.

when
commission
payable.

20a. (1) Subject to subsection (2) of this section, any commission which the Company is entitled to receive in respect of the capital value of an estate, the administration or management of which is committed to it on or after the date of the commencement of the Statutes Amendment (Executor Companies) Act, 1971-1972, may be paid out of or deducted from the estate at any time after the administration or management of the estate has been committed to the Company.

(2) In respect of any portion of the estate that has not been realized the Company shall not be entitled to retain or be paid commission over and above the amount of commission

calculated on the value of that portion at the time the administration or management of the estate was committed to the Company and the amount of commission so retained or paid shall be adjusted when that portion of the estate has been realized or distributed, transferred or appropriated *in specie* to beneficiaries.

(3) The commission shall be calculated at the rate chargeable at the time when the commission becomes payable.

20b. Where in the administration or management of any estate granted or committed to the Company after the commencement of this Act, the Company is authorized to carry on any business or undertaking which belongs wholly to the estate, or in which the estate has an interest as partner, the Company whether acting solely or jointly with any person, may (in lieu of the commission on income received as herein-before mentioned) in respect of each year of the carrying on of such business or undertaking either alone or in partnership (a "year" for this purpose being the period of twelve calendar months adopted as the annual accounting period of the estate concerned) charge and be paid such salary or remuneration as the Court (on the application of the Company) thinks fit for its pains and trouble in carrying on or joining in carrying on that business or undertaking or partnership.

Additional fee
for carrying on
business.

61. The following sections are enacted and inserted in the principal Act immediately after section 25 thereof:—

Enactment of
ss. 25a and 25b
of principal
Act.

25a. (1) Without limiting the generality or effect of section 25 of this Act, the Company may establish and keep in its books one or more funds each to be called a common fund and, if more than one, with an appropriate distinguishing number.

Common funds.

(2) A common fund established or kept in the books of the Company shall be invested in such class or classes of investments as is determined by the Company prior to the establishment of the fund and a separate class or separate classes of investments may be adopted for separate common funds.

(3) The Company may in its discretion invest any moneys in its hands either—

(a) on the separate account of the estate, trust, property or person to which or to whom the moneys belong;

or

(b) if the moneys are not directed to be invested in some other specified manner and investment in a common fund is not inconsistent with the terms of the trust

instrument (if any) governing the moneys, as part of a common fund established and kept in the books of the Company the investment of which is limited to such class or classes of investments as the moneys might lawfully be invested in on the separate account of the estate, trust, property or person to which or to whom the moneys belong.

(4) Moneys in the hands of the Company (whether forming part of a common fund or not) may be invested—

(a) in any manner in which trust moneys may be invested by a trustee under any Act;

or

(b) on interest bearing deposit with the Savings Bank of South Australia or any bank or savings bank duly authorized under a law of the Commonwealth relating to banking to carry on business in South Australia.

(5) Investments made from moneys forming part of a common fund shall not be made in the name or on account of, nor shall they belong to, any particular estate, trust, property or person, but the Company shall keep an account in its books showing at all times the current amount for the time being at credit in the common fund on account of each estate, trust, property or person.

(6) The Company may sell investments belonging to a common fund and may withdraw any of the moneys belonging to a common fund for any purpose of or relating to the exercise and discharge of its powers, authorities, duties and functions.

(7) The Company may at any time withdraw from a common fund any amount at credit in the common fund on account of any estate, trust, property or person and invest such amount on the separate account of that estate, trust, property or person.

(8) Amounts withdrawn under subsection (7) of this section from a common fund shall, as from the date of the withdrawal, cease to have any claim for income or otherwise from the common fund.

(9) Any profits or losses upon realization of any investment in a common fund shall be credited or debited (as the case may require) to the common fund and be received or borne proportionately by the several amounts invested in the common fund at the time of the realization.

(10) As on the first day of every month the Company shall determine the value of the investments in each common fund on that day.

(11) For the purposes of a valuation under subsection (10) of this section, in respect of investments listed on a Stock Exchange the quotations published by that Stock Exchange on the first day of the month in question are conclusive evidence of value and if there are no such quotations on that day, the valuation of a member of The Stock Exchange of Adelaide Limited is conclusive evidence of value but where at any time any of the investments is listed on more than one Stock Exchange the Company shall from time to time nominate the Stock Exchange the quotations of which shall be used in relation to the investment for the purposes of this subsection.

(12) Investments in and withdrawals from a common fund shall, during any month, be effected on the basis of the valuation made pursuant to subsection (10) of this section as on the first day of that month.

(13) The Company shall pay or allocate the income arising from a common fund proportionately to or among the estates, trusts, properties or persons entitled to the income arising from the capital sums invested in the common fund according to the several sums so invested and the periods for which they remain so invested.

(14) Where the Company is appointed and acts jointly with any other person as executor or administrator or as the holder of any of the offices mentioned in section 5 of this Act—

(a) the Company may, with the consent in writing of such other person, exercise and discharge, in relation to any of the property jointly held or controlled all or any of the powers, authorities, duties and functions conferred or imposed by this section which the Company, if acting alone, would have had or might have exercised or discharged;

(b) all moneys under the control of the Company and such other person jointly may, with the consent in writing of such other person, be dealt with by the Company alone in the same manner as moneys under the control of the Company alone;

and

(c) the person acting jointly with the Company shall be exonerated from any liability which, but for this paragraph, might have arisen in consequence of the exercise of the powers conferred by this subsection.

Division V of Part IV of Companies Act not to apply to certain funds kept in books of Company.

25b. Division V of Part IV of the Companies Act, 1962, as amended, does not apply and shall be deemed never to have applied to any fund established in the books of the Company before the commencement of the Statutes Amendment (Executor Companies) Act, 1971-1972, or to any common fund established or kept in the books of the Company, whether before or after such commencement, or to any interest in such fund.

Amendment of principal Act, s. 26—
Declaration by manager.

62. Section 26 of the principal Act is amended—

- (a) by striking out the passage “or other authorized officer”;
and
(b) by striking out the passage “One Shilling” and inserting in lieu thereof the passage “ten cents”.

Amendment of principal Act s. 28—
Notice of winding-up estate.

63. Section 28 of the principal Act is amended by striking out the passage “Six Pence” and inserting in lieu thereof the passage “five cents”.

Enactment of ss. 28a and 28 of principal Act.

64. The following sections are enacted and inserted in the principal Act immediately after section 28 thereof:—

Power of the Company acting in representative capacity to hold its own shares, etc.

28a. (1) The Company acting in any representative capacity may, unless expressly prohibited by or under the terms of the instrument (if any) creating the trust or constituting such capacity, and notwithstanding any other Act or law, hold in its own name alone or jointly with any other person any stock, shares, debentures, notes or other securities of or issued by the Company where any such securities form part of any estate committed to the administration or management of the Company.

(2) The power conferred by this section is in addition to and not in restriction of any other powers conferred on the Company by this Act or by the instrument (if any) creating the trust or conferred on any trustee by any Act or otherwise howsoever.

Certificate by the Company as to its legal status in any matter.

28b. (1) Where the Company is executor or administrator of or is by law authorized to administer the estate of any deceased person, a certificate by the Company under the seal of the Company certifying the name, residence and occupation of the deceased person at the time of his death, and the date of his

death, and certifying that the Company has obtained a grant of probate or letters of administration or is otherwise authorized to administer the estate and stating the date when the probate or letters of administration was granted and the reference number thereof or the manner in which and the time at which the Company became authorized to administer, which certificate is accompanied by a photographic copy of the probate, letters of administration with or without the will annexed or other order or document of appointment, may, notwithstanding any Act or law to the contrary, and without any other proof, be accepted by all courts, officers and persons, whether acting under any Act or not, as sufficient evidence of the respective matters so certified or stated.

(2) Where the Company is acting as executor, administrator, trustee, receiver, committee, manager, guardian, or in any other capacity, a certificate by the Company under the seal of the Company certifying that the Company is authorized to act as such executor, administrator, trustee, receiver, committee, manager, guardian, or in such other capacity, and stating the manner in which and the time at which it became so authorized to act, which certificate is accompanied by a photographic copy of the trust instrument or other order or document of appointment, may, notwithstanding any Act or law to the contrary, and without any other proof, be accepted by all courts, officers and persons, whether acting under any Act or not, as sufficient evidence of the respective matters so certified or stated.

(3) Such certificate together with the production of the relevant photographic copy shall be sufficient for the purpose of The Real Property Act, 1886, as amended, or of registering the Company as proprietor of any shares, stock, or property in any company, corporation, body or association.

(4) Such certificate together with the production of the relevant photographic copy shall be equivalent for registration purposes to the probate, letters of administration with or without the will annexed, trust instrument or other order or document of appointment, as the case may be.

65. The following section is enacted and inserted in the principal Act immediately after section 31 thereof:—

Enactment of
s. 32 of
principal Act.

32. (1) The powers conferred upon the Company by virtue of the provisions of the Statutes Amendment (Executor Companies) Act, 1971-1972, may be exercised in relation to an estate, trust or property whether or not the estate, trust or property

Exercise of
powers
conferred by
Statutes
Amendment
(Executor
Companies)
Act, 1971-1972.

was constituted or created or was committed to the administration or management of the Company before or after the commencement of that Act and whether or not the instrument (if any) governing the estate, trust or property was made before or after the commencement of that Act.

(2) The powers referred to in subsection (1) of this section may also be exercised by the Company and any person holding office in any representative capacity jointly with the Company.

Repeal of first
and second
schedules of
principal Act
and enactment
of new
schedules in
their place.

66. The first schedule and the second schedule to the principal Act are repealed and the following schedules are enacted and inserted in their places respectively:—

FIRST SCHEDULE

.....LIMITED

I, _____, Manager (or as the case may be),
of _____

do solemnly and sincerely declare—

1. That the liability of the members is limited.

2. That the capital of the company is _____ divided
into _____ shares of _____ each.

3. That the number of shares issued is _____

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

5. That the liabilities of the company on the 1st day of April (or October)
last were: Debts owing by the company to sundry persons, viz:

A. On judgment,	\$ _____
B. On specialty,	\$ _____
C. On notes or bills,	\$ _____
D. On simple contracts,	\$ _____
E. On estimated liabilities,	\$ _____
Total liabilities	\$ _____

6. That the assets of the company on that day were:—

A. Government Securities,	\$ _____
B. Loans on Mortgage,	\$ _____
C. Bills of Exchange and Promissory Notes,	\$ _____
D. Cash at Bankers,	\$ _____
E. Other Property,	\$ _____
Total assets	\$ _____

And I make this solemn declaration, conscientiously believing the same to be true and by virtue of the provisions of the Oaths Act, 1936.

DECLARED before me at }
 this }
day of 19 }

SECOND SCHEDULE

AUDITORS REPORT

We have examined the annexed (or above) balance-sheet, made up to the day of 19 , and report as follows:—

1. That as regards the accounts of the Company we have separately reported thereon in the manner prescribed by the Companies Act, 1962, as amended;

and

2. That we have made inquiries as to the internal control in relation to Trust Accounts of estates committed to the administration or management of the Company and in our opinion the internal control of the Company is adequate and effective.

Adelaide this day of , 19 .

Auditors.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

M. L. OLIPHANT, Governor