

**Reprint  
as at 1 March 2002**



**New Zealand Permanent Trustees  
Limited Act 1991**

Private Act    1991 No 2  
Date of assent    29 August 1991  
Commencement    see section 1(2)

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**Note**

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

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**An Act—**

- (a) to provide for East Coast Permanent Trustees Limited to continue in existence under the name New Zealand Permanent Trustees Limited; and**
- (b) to authorise the Company to transact business with The National Mutual Life Association of Australasia Limited and with other subsidiaries and related companies of that company; and**
- (c) to repeal the East Coast Permanent Trustees Limited Act 1962**

**Preamble**

Whereas—

- A East Coast Permanent Trustees Limited was duly incorporated under the name East Coast Perpetual Trustees Limited on 17 June 1929 as a private company under the Companies Act 1908 and on 7 November 1929 the name of the Company was changed to East Coast Permanent Trustees Limited:
- B the Company is authorised by its Memorandum of Association and by the East Coast Permanent Trustees Limited Act 1962 to act as executor and trustee and in various other fiduciary capacities and has from the date of its incorporation carried on and now carries on trustee company, trust, and agency business:
- C the Company is a trustee company under and within the meaning of the Trustee Companies Act 1967 and carries on the business of a trustee company:
- D all the shares in the Company are now held by or on behalf of Sanduka Holdings Limited, a private company incorporated under the Companies Act 1955:

- E Sanduka Holdings Limited has agreed, subject to the passing of this Act, to transfer the shares in the Company to The National Mutual Life Association of Australasia Limited, a company incorporated in Victoria, Australia, and having its principal place of business in New Zealand at Wellington (hereinafter called “NMLA”):
- F the Company wishes to change its name to New Zealand Permanent Trustees Limited:
- G The Company wishes to be able to transact with NMLA or any subsidiary or related company of NMLA, should it think fit to do so, any business in connection with any estate or trust property that the Company may from time to time administer:
- H the East Coast Permanent Trustees Limited Act 1962 contains provisions which are no longer appropriate to the business of the Company:
- I legislation is the only expedient means by which the name of the Company can be changed and the Company empowered to transact business with NMLA and subsidiaries and related companies of NMLA efficiently and economically without interference to the conduct and continuity of the Company, the trusts under its administration, the clients of the Company, and persons having business with the Company:
- J legislation is necessary to repeal The East Coast Permanent Trustees Limited Act 1962:
- K the objects of this Act cannot be attained otherwise than by legislation.

**1 Short Title and commencement**

- (1) This Act may be cited as the New Zealand Permanent Trustees Limited Act 1991.
- (2) This Act shall come into force on 1 September 1991.

**2 Interpretation**

In this Act, unless the context otherwise requires,—

**the Company** means East Coast Permanent Trustees Limited which on and after 1 September 1991 will be called New Zealand Permanent Trustees Limited

**fiduciary rights, obligations, and liabilities** includes all rights, capacities, authorities, discretions, duties, obligations, and liabilities as executor, trustee, administrator, receiver, liquidator, committee, guardian, attorney, agent, or as a fiduciary in any capacity

**liabilities** means liabilities, debts, charges, and duties of every description (whether present or future, actual or contingent, and whether payable or to be observed or performed in New Zealand or elsewhere)

**property** means property of every kind whether tangible or intangible, real or personal, or corporeal or incorporeal; and, without limiting the generality of the foregoing, includes—

- (a) choses in action and money; and
- (b) goodwill; and
- (c) rights, interests, and claims of every kind in or to property, whether arising from, accruing under, created or evidenced by, or the subject of, an instrument or otherwise, and whether liquidated or unliquidated, and whether contingent or prospective

**rights** means all rights, powers, privileges, and immunities, whether actual, contingent, or prospective

**subsidiary and related company** have the same meanings as in the Companies Act 1955

**trust property** means all property held as executor, trustee, administrator, receiver, liquidator, committee, guardian, attorney, agent, or as a fiduciary in any capacity.

### 3 Act to bind the Crown and other persons

This Act binds the Crown and every person whose rights, obligations or liabilities are affected by any provision of this Act.

### 4 Change of name

- (1) On and after 1 September 1991 the name of the Company shall be New Zealand Permanent Trustees Limited.

- (2) On or after 1 September 1991 the Registrar of Companies must enter the new name of the Company on the register in place of the former name and must issue a certificate of incorporation altered accordingly.
- (3) Nothing in this Act prevents the name of the Company being changed in accordance with the Companies Act 1955.

**5 Company to continue under this Act**

- (1) On and after 1 September 1991 the Company is and shall continue to be the same body corporate as the body corporate existing before that date and called East Coast Permanent Trustees Limited.
- (2) In particular, and without limiting the generality of subsection (1), but subject to this Act,—
  - (a) the rights, obligations, and liabilities (including fiduciary rights, obligations, and liabilities) of the Company are not affected by the enactment of this Act; and
  - (b) all property, and all trust property, belonging to or vested in the Company immediately before that date shall, on and after that date, continue to belong to or be vested in the Company; and
  - (c) all actions, arbitrations and other proceedings that are pending at that date by or against the Company may be continued in the same manner notwithstanding the enactment of this Act; and
  - (d) every reference in any Act, will, trust deed, document, sign, poster, notice or other place to East Coast Permanent Trustees Limited, whether before or after that date, is deemed to be a reference to New Zealand Permanent Trustees Limited.

**6 Company may act as executor and obtain probate**

- Where the Company is appointed as executor, whether alone or jointly, of the will of any person, the Company is entitled—
- (a) to be and act as executor of the will, whether alone or jointly; and
  - (b) to apply for and obtain probate of the will; and

- (c) to perform and discharge all the acts and duties of an executor in the same way and to the same extent as an individual appointed as an executor.

#### **7 Company's liability to be same as individual**

In acting as executor, trustee, administrator, receiver, liquidator, committee, guardian, attorney, or agent, or in any other similar capacity, the Company is, in addition to the liabilities and restrictions imposed by this Act and the Trustee Companies Act 1967, subject to the same control and liability to removal as an individual appointed to act in the same capacity.

#### **8 Court or Judge may order account**

- (1) A trustee, executor, legatee, administrator, beneficiary, next of kin, creditor or other person entitled to or interested in an estate that is in the possession or under the control of the Company who is unable, on applying to the Company, to obtain a sufficient account of the property and assets of the estate or of the disposal and expenditure of or out of the estate, may apply to the High Court or to a Judge of that court for an account.
- (2) Notice of the application must be served on the Company.
- (3) The court or Judge may, if satisfied that the Company has not provided a sufficient account to the applicant, order the Company to provide the applicant with an account in such form as the court or Judge thinks fit.
- (4) The court or Judge may make such order as to costs either against the Company or against the applicant, or as to payment of costs out of the estate, as the court or Judge thinks fit.

#### **9 Court or Judge may order examination of records**

- (1) The High Court or a Judge of that court may, on application under section 8, in addition to or in substitution for an order that an account be provided by the Company, make an order appointing a person named in the order to examine the books and accounts of the Company in relation to the estate to which the order relates.

- (2) Where the court or a Judge makes an order under subsection (1), the Company must—
  - (a) deliver to the person named in the order a list of all books kept by the Company; and
  - (b) produce to that person at all reasonable times when required those books and all accounts, vouchers, papers and other documents of the Company; and
  - (c) provide that person with all information and facilities necessary to enable that person to make the examination.
- (3) The court or Judge may make such order as to costs either against the Company or against the applicant, or as to payment of costs out of the estate, as the court or Judge thinks fit.

#### **10 Company not to wind up without approval of court**

- (1) So long as an estate in respect of which the Company is executor, administrator, or trustee remains in whole or in part unadministered, it shall not be lawful—
  - (a) to proceed to wind up the Company voluntarily; or
  - (b) for NMLA to dispose of any shares it holds in the Company that are not fully paid up,—without the approval of the High Court or of a Judge of that court.
- (2) A person interested in any such estate or who may have a claim in respect of that estate may apply to that court or to a Judge of that court for an order to restrain the winding-up voluntarily of the Company or to restrain NMLA from disposing of any such shares.
- (3) On an application under this section the court or Judge may make such order as the court or Judge thinks fit.

#### **11 Unclaimed money**

- (1) Money held by the Company as executor, trustee, administrator, receiver, liquidator, committee, guardian, attorney, or agent, or in any other capacity under this Act that remains unclaimed, and of which no lawful owner is known, for a period of 6 years after its receipt by the Company, must, at the end of the next financial year, be paid by the Company to the Com-

missioner of Inland Revenue under and in accordance with the Unclaimed Money Act 1971.

- (2) Payment of money under subsection (1), to the extent of the amount paid, discharges the Company of the trust to which the money is subject.
- (3) Nothing in subsection (1) or subsection (2) limits or affects the provisions of an instrument creating a trust to which the money is subject or that confers on the Company a power, authority, discretion, or duty in relation to the money.

## **12 Company authorised to transact business with NMLA or subsidiaries or related companies**

- (1) Notwithstanding the fiduciary rights, obligations, and liabilities of the Company whether arising under this Act or otherwise, the Company is authorised to transact with NMLA or any subsidiary or any related company of NMLA any business including but not limited to insurance business in connection with any estate or trust property that it may administer from time to time where, after considering all the circumstances of the case (including appropriate business arrangements offered by other companies), the Company is satisfied on reasonable grounds that it is in the best interests of the estate or trust property to do so.
- (2) Notwithstanding any enactment or rule of law, NMLA or a subsidiary or related company of NMLA is entitled to receive and retain all fees, premiums, commissions, and other payments properly chargeable or payable in respect of such business in the same manner as it would have been entitled to do if the Company was not a trustee of such estate or the Company was not a subsidiary of NMLA or the company with which the business was transacted was not a subsidiary or related company of NMLA, as the case may be.
- (3) Any payment to which subsection (2) applies must be clearly identified in the account rendered in respect of the estate or trust property.

**13 Jurisdiction and powers of High Court not affected**

- (1) Nothing in this Act affects the powers or jurisdiction of the High Court in respect of trustees, and such powers and jurisdiction may be exercised in relation to the Company in respect of all trusts undertaken by it.
- (2) Without limiting subsection (1), nothing in this Act affects the power of the High Court to remove the Company from any office even though it holds that office by virtue of this Act.

**14 Release of bond or securities held for purposes of Trustee Companies Act 1967**

- (1) *Amendment(s) incorporated in the Act(s).*
- (2) On request by the Company, Public Trust must release to the Company any bond given to or any securities deposited with Public Trust by the Company under and for the purposes of section 6 of the East Coast Permanent Trustees Limited Act 1962 and section 6(2) of the Trustee Companies Act 1967.
- (3) The receipt of the Secretary of the Company is a full and sufficient discharge to Public Trust for any securities released, and Public Trust is not required to see to the application of the securities released.

Section 14(2): amended, on 1 March 2002, pursuant to section 152(1) of the Public Trust Act 2001 (2001 No 100).

Section 14(3): amended, on 1 March 2002, pursuant to section 152(1) of the Public Trust Act 2001 (2001 No 100).

**15 Registers**

- (1) No Registrar of Deeds or District Land Registrar or other person charged with the keeping of any books or registers is obliged solely by reason of this Act to change the name of the Company in those books or registers or in any document.
- (2) The presentation to any such Registrar or person of any instrument, whether or not comprising an instrument of transfer by the Company,—
  - (a) executed or purporting to be executed by the Company; and
  - (b) relating to property held immediately before the commencement of this Act in the name of East Coast Permanent Trustees Limited; and

- (c) containing a recital that the name of the Company has been changed by virtue of this Act—  
is, in the absence of proof to the contrary, sufficient evidence that the property is vested in the Company as so named.
- (3) Except as provided in this section, nothing in this Act derogates from the provisions of the Land Transfer Act 1952.
- (4) The registrar of a register relating to property which is transferable only in books kept by a company or in a manner directed by or under an Act must, on written application under the seal of the Company, register it in its new name as the holder of the property that is shown in the register as being vested in or held by the Company, and note the change of name of the Company.

#### **16 Consequential amendments**

*Amendment(s) incorporated in the Act(s).*

#### **17 Repeals**

The following enactments are hereby repealed:

- (a) the East Coast Permanent Trustees Limited Act 1962:  
(b) *Amendment(s) incorporated in the Act(s):*  
(c) the East Coast Permanent Trustees Limited Amendment Act 1972:  
(d) *Amendment(s) incorporated in the Act(s).*

#### **18 Private Act**

This Act is hereby declared to be a private Act.

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## Notes

### **1** *General*

This is a reprint of the New Zealand Permanent Trustees Limited Act 1991. The reprint incorporates all the amendments to the Act as at 1 March 2002, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, see <http://www.pco.parliament.govt.nz/reprints/>.

### **2** *Status of reprints*

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

### **3** *How reprints are prepared*

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and

provisions that are repealed or revoked are omitted. For a detailed list of the editorial conventions, see <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

#### **4 Changes made under section 17C of the Acts and Regulations Publication Act 1989**

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
  - indentation
  - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
  - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
  - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

**5 *List of amendments incorporated in this reprint  
(most recent first)***

Public Trust Act 2001 (2001 No 100): section 152

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