

TASMANIA

**TSUNEICHI FUJII FELLOWSHIP TRUST
(WINDING-UP) BILL 2007**

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**TSUNEICHI FUJII FELLOWSHIP TRUST
(WINDING-UP) BILL 2007**

*(Brought in by the Premier, the Honourable Paul Anthony
Lennon)*

A BILL FOR

**An Act to wind up the Tsuneichi Fujii Fellowship Trust
and to consequentially amend and repeal the *Tsuneichi
Fujii Fellowship Trust Act 1985***

Be it enacted by His Excellency the Governor of Tasmania, by
and with the advice and consent of the Legislative Council and
House of Assembly, in Parliament assembled, as follows:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Tsuneichi Fujii
Fellowship Trust (Winding-up) Act 2007*.

2. Commencement

- (1) Except as provided in this section, this Act commences on the day on which this Act receives the Royal Assent.
- (2) Section 10 and Schedule 2 commence on the dissolution day.

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Part 1 – Preliminary

3. Interpretation

In this Act –

“dissolution day” means the day on which a notice is published in the *Gazette* under section 4(4);

“Trust” means the Tsuneichi Fujii Fellowship Trust established by section 3 of the Trust Act;

“Trust Act” means the *Tsuneichi Fujii Fellowship Trust Act 1985*.

PART 2 – WINDING-UP OF TRUST

4. Dissolution of Trust

- (1) After applying all of the funds of the Trust in accordance with section 10 of the Trust Act, the Trust is to notify the Minister in writing of the application of the funds.
- (2) After applying all of the funds of the Trust in accordance with section 10 of the Trust Act but before notifying the Minister under subsection (1) of the application of the funds, the Trust must –
 - (a) ensure that it has complied with sections 17 and 18 of the Trust Act with respect to the preceding financial year; and
 - (b) prepare, and provide to the Auditor-General, financial statements exhibiting a true and correct record of the financial position of the Trust with respect to the current financial year up until the day on which the financial statements are prepared.
- (3) A notice given to the Minister under subsection (1) in a financial year is to be accompanied by –
 - (a) a report of the affairs and activities of the Trust with respect to the financial year up until the day on which the notice is given to the Minister; and

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Part 2 – Winding-up of Trust

- (b) a copy of the financial statements prepared under subsection (2)(b); and
 - (c) a copy of the Auditor-General's report with respect to those statements.
- (4) As soon as practicable after receiving a notice under subsection (1) and the accompanying documents referred to in subsection (3), the Minister, by notice in the *Gazette*, is to declare that the Trust is dissolved.
- (5) The Trust is dissolved on the dissolution day.
- (6) A notice under subsection (4) is not a statutory rule for the purposes of the *Rules Publication Act 1953*.

PART 3 – TRANSITIONAL PROVISIONS

5. Transfer of assets and liabilities

(1) In this section –

“**State tax**” means any of the following imposed by any Act or law of Tasmania:

- (a) a fee;
- (b) a tax or duty;
- (c) a charge.

(2) On the dissolution day –

- (a) the assets of the Trust vest in the Crown;
and
- (b) the liabilities of the Trust become the liabilities of the Crown.

(3) State tax is not payable in respect of any document prepared, or transfer or transaction done, to give effect to subsection (2).

6. Construction of documents

(1) In this section –

“**document**” means a document, or part of a document –

- (a) that was in force immediately before the dissolution day; and

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- (b) in which there is a reference to the Trust; and
 - (c) that relates to an asset or liability of the Trust.
- (2) Unless the context or subject matter of a document otherwise requires, on and after the dissolution day a reference in the document to the Trust is taken, where appropriate, to be or to include a reference to the Crown.

7. Legal proceedings and related matters

On and after the dissolution day –

- (a) any legal or other proceeding instituted by or against the Trust before, and pending on, the dissolution day may be continued by or against the Crown; and
- (b) any legal or other proceeding that could have been instituted by or against the Trust to enforce an obligation that was required to be performed, or a right that had accrued, before the dissolution day may be instituted by or against the Crown; and
- (c) any judgment or order of a court obtained before the dissolution day by or against the Trust and not executed or satisfied before the dissolution day may be enforced by or against the Crown; and

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- (d) a document relating to any legal or other proceeding that has been served on or by the Trust is taken, where appropriate, to have been served on or by the Crown.

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Part 4 – Miscellaneous

PART 4 – MISCELLANEOUS

8. Administration of Act

Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

- (a) the administration of this Act is assigned to the Premier; and
- (b) the department responsible to the Premier in relation to the administration of this Act is the Department of Premier and Cabinet.

9. *Tsuneichi Fujii Fellowship Trust Act 1985* amended

The legislation specified in Schedule 1 is amended as specified in that Schedule.

10. Legislation repealed

The legislation specified in Schedule 2 is repealed.

**SCHEDULE 1 – TSUNEICHI FUJII FELLOWSHIP
TRUST ACT 1985 AMENDED**

Section 9

Tsuneichi Fujii Fellowship Trust Act 1985

1. Section 2 is amended by inserting after the definition of “functions” the following definition:

“funds of the Trust” means the capital of the Trust or any income derived from that capital;

2. Section 9 is amended by omitting “shall” and substituting “may”.
3. Section 10 is repealed and the following section is substituted:

10. Funds of Trust

In pursuance of the objects of the Trust, the Trust is to apply all or any part of the funds of the Trust –

- (a) for the purpose of making a grant to a person or organisation; or
- (b) in accordance with an agreement, other than a loan agreement, entered into with a person or organisation.

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4. Section 11 is amended as follows:

- (a) by inserting “not” after “may”;
- (b) by omitting “that may be used to further the objects of the Trust”.

5. Section 12 is amended by omitting “income or”.

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SCHEDULE 2 – LEGISLATION REPEALED

Section 10

Tsuneichi Fujii Fellowship Trust Act 1985 (No. 135 of 1985)