

TASMANIA

TRUSTEE COMPANIES AMENDMENT BILL 2009

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TRUSTEE COMPANIES AMENDMENT BILL 2009

*(Brought in by the Minister for Justice, the Honourable
Larissa Tahireh Giddings)*

A BILL FOR

An Act to amend the *Trustee Companies Act 1953*

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:

1. Short title

This Act may be cited as the *Trustee Companies Amendment Act 2009*.

2. Commencement

This Act commences on the day on which this Act receives the Royal Assent.

3. Principal Act

In this Act, the *Trustee Companies Act 1953** is referred to as the Principal Act.

*No. 72 of 1953

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4. Section 3 amended (Interpretation)

Section 3(1) of the Principal Act is amended by inserting after the definition of “trustee company” the following definition:

“trustee holding company” – see section 4A;

5. Section 4A inserted

After section 4 of the Principal Act, the following section is inserted in Part I:

4A. Trustee holding companies

- (1) For the purposes of this Act, a trustee holding company is a company that holds all of the issued shares in a trustee company.
- (2) If a company becomes a trustee holding company, the Minister, by order, may list that company in Schedule 2A.
- (3) If a company listed in Schedule 2A ceases to be a trustee holding company or is wound up or changes its name, the Minister, by order, may amend that Schedule as the case requires by omitting the company’s name or substituting the company’s new name for its former name.
- (4) An order under this section is a statutory rule for the purposes of the *Rules Publication Act 1953*.

6. Section 18F amended (Duty of trustee company not to acquire shares in itself)

Section 18F(1) of the Principal Act is amended by inserting “or in any subsidiary or trustee holding company of the trustee company” after “itself”.

7. Section 39AA amended (Provisions relating to holding, &c., of shares in trustee companies and trustee holding companies)

Section 39AA(a) of the Principal Act is amended by inserting “or trustee holding company” after “company”.

8. Schedule 2 amended (Trustee Companies)

Schedule 2 to the Principal Act is amended by omitting

Perpetual Trustees Tasmania Limited.

9. Schedule 2A inserted

After Schedule 2 to the Principal Act, the following Schedule is inserted:

SCHEDULE 2A – TRUSTEE HOLDING COMPANIES

Section 4A

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10. Schedule 5 amended (Provisions relating to holding, &c., of shares in trustee companies and trustee holding companies)

Schedule 5 to the Principal Act is amended as follows:

- (a) by omitting the heading and substituting the following heading:

**SCHEDULE 5 – PROVISIONS RELATING TO
HOLDING, &C., OF SHARES IN TRUSTEE
COMPANIES AND TRUSTEE HOLDING
COMPANIES**

- (b) by omitting subclause (1) from clause 2 and substituting the following subclauses:

- (1)** A person must not, at any time, have an interest in –

(a) more than 10% of the issued shares in a trustee company; or

(b) more than 10% of the issued shares in a trustee holding company.

- (1AA)** However, subclause (1)(a) does not apply to a person in respect of a trustee company if the person acquires and holds, with and pursuant to the Minister's written approval, all of the issued shares in the trustee company.

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(1AB) The Minister must not give a person an approval under subclause (1AA) unless satisfied that –

- (a) the person is a company;
and
 - (b) no person has an interest in more than 10% of the issued shares in that company; and
 - (c) there is no cause to believe that any person will acquire an interest in more than 10% of the issued shares in that company in the interval between the giving of the approval and its acquisition of all of the issued shares in the relevant trustee company pursuant to the approval.
- (c) by omitting from clause 2(1A) “subparagraph (1)” and substituting “subclause (1)”;
 - (d) by omitting from clause 2(1B) “subparagraph (1)” and substituting “subclause (1)”;
 - (e) by omitting from clause 2(2) “paragraph” and substituting “clause”;

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- (f) by inserting in clause 2(2) “or trustee holding company” after “company”;
- (g) by omitting from clause 2(3) “paragraph” and substituting “clause”;
- (h) by omitting from clause 2(4) “paragraph” and substituting “clause”;
- (i) by inserting in clause 2(4)(b) “or trustee holding company” after “company”;
- (j) by omitting from clause 2(5) “subparagraph (1)” and substituting “subclause (1)”;
- (k) by inserting in clause 3(1) “or a trustee holding company” after “company”;
- (l) by omitting from clause 3(1) “paragraph 2(1)” and substituting “clause 2(1)”;
- (m) by inserting in clause 3(2) “or a trustee holding company” after “trustee company”;
- (n) by omitting from clause 3(2) “paragraph 2(1)” and substituting “clause 2(1)”;
- (o) by inserting in clause 3A(1) “or trustee holding company” after “trustee company”;
- (p) by omitting from clause 3A(1) “paragraph 2” and substituting “clause 2”;

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- (q) by omitting from clause 3A(2) “subparagraph (1)” and substituting “subclause (1)”;
- (r) by inserting in clause 4(1) “or trustee holding company” after “trustee company”;
- (s) by inserting in clause 4(2) “or trustee holding company” after “trustee company”;
- (t) by omitting from clause 4(2) “subparagraph (1)” and substituting “subclause (1)”;
- (u) by inserting in clause 5(1)(a) “or trustee holding company” after “company”;
- (v) by omitting from clause 5(1)(a) “paragraph 2” and substituting “clause 2”;
- (w) by omitting from clause 5(1)(b) “paragraph 4” and substituting “clause 4”;
- (x) by omitting from clause 5(1) “paragraph” third occurring and substituting “clause”;
- (y) by inserting in clause 5(3) “or trustee holding company” after “trustee company”;
- (z) by omitting from clause 5(3)(a) “subparagraph (1)(a)” and substituting “subclause (1)(a)”;

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- (za) by omitting from clause 5(3)(a) “paragraph 2” and substituting “clause 2”;
- (zb) by omitting from clause 5(3)(b) “subparagraph (1)(b)” and substituting “subclause (1)(b)”;
- (zc) by inserting in clause 5(4) “or trustee holding company” after “company”;
- (zd) by omitting from clause 5(4) “subparagraph (1)(a), subparagraph (1)(b), or subparagraph (2).” and substituting “subclause (1)(a), subclause (1)(b) or subclause (2).”;
- (ze) by omitting from clause 5(5) “subparagraph (3)” first occurring and substituting “subclause (3)”;
- (zf) by inserting in clause 5(5) “or trustee holding company” after “trustee company”;
- (zg) by omitting from clause 5(5)(b)(i) “subparagraph (3)(a)” and substituting “subclause (3)(a)”;
- (zh) by omitting from clause 5(5)(b)(ii) “subparagraph (3)(b)” and substituting “subclause (3)(b)”;
- (zi) by omitting from clause 5(5)(b)(ii) “sold; or” and substituting “sold;”;

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- (zj) by omitting subparagraph (iii) from clause 5(5)(b);
- (zk) by omitting from clause 5(6) “subparagraph (3)” and substituting “subclause (3)”;
- (zl) by inserting in clause 5(6) “or trustee holding company” after “trustee company”;
- (zm) by omitting from clause 5(6)(b) “subparagraph (5)” and substituting “subclause (5)”;
- (zn) by omitting from clause 5(7) “subparagraph (5)(b)” and substituting “subclause (5)(b)”;
- (zo) by inserting in clause 5(7) “or trustee holding company” after “trustee company”;
- (zp) by omitting from clause 5(8) “subparagraph (7)” and substituting “subclause (7)”;
- (zq) by inserting in clause 5(8) “or trustee holding company” after “trustee company”;
- (zr) by inserting in clause 5(9) “or trustee holding company” after “company”;
- (zs) by omitting from clause 5(9) “paragraph” and substituting “clause”;

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- (zt) by inserting in clause 6(a) “or trustee holding company” after “company”.