

**J. F. WILSON WILL TRUSTS VARIATION ACT.**

**New South Wales**



**ANNO VICESIMO**

**ELIZABETHÆ II REGINÆ**

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An Act to enable the Trustees of the Will of James Francis Wilson deceased to pay and transfer to beneficiaries under the said Will the capital of the shares of the residuary estate of the said deceased the income whereof is bequeathed to them respectively to be applied for the respective charitable purposes mentioned in the said Will; to vary the trusts of the said Will accordingly; and for purposes connected therewith. [Assented to, 14th May, 1971.]

**WHEREAS**

**Elizabeth II WHEREAS :**

**Preamble.**

- (1) On the twenty-seventh day of February one thousand nine hundred and sixty-six James Francis Wilson (hereinafter referred to as "the deceased") late of Wollstonecraft in the State of New South Wales, Company Director, died having first duly made and published his last Will and Testament Probate whereof was on the twenty-second day of August one thousand nine hundred and sixty-six duly granted by the Supreme Court of New South Wales in its Probate jurisdiction to Colin Robert Milne and Peter Lancing Crosthwaite both of Sydney Solicitor and Chartered Accountant respectively (hereinafter referred to as "the Trustees") the Executors and Trustees named in the said Will :
- (2) The trusts of the said Will in respect of the residuary estate of the deceased provide for payment thereout of debts, duties and expenses and for division of the ultimate residue thereof into four equal parts :
- (3) One of such parts was devised and bequeathed upon trusts providing for the payment and transfer of the income and capital thereof to the Trustees of the Roman Catholic Archdiocese of Sydney to be applied in and towards the education in New South Wales of children of the Roman Catholic faith :
- (4) The trusts of the said Will in respect of the remaining three parts of the ultimate residue of the said residuary estate are in the following terms that is to say :
 

"And to hold the remaining three of such equal parts which together with any bequest to be added thereto which may be made by my sister the said Rose Wilson shall be called 'The William Wilson Fund' UPON TRUST to pay the net

annual

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annual income arising therefrom in perpetuity Elizabeth II  
 equally to THE TRUSTEES OF THE SUPER-  
 IOR COUNCIL OF AUSTRALIA OF THE  
 SOCIETY OF ST. VINCENT DE PAUL to be  
 applied by the Trustees at their discretion within  
 the State of New South Wales for the relief of  
 poverty and education THE MOTHER SUPER-  
 IOR for the time being of THE DAUGHTERS  
 OF CHARITY OF ST. VINCENT DE PAUL  
 and THE TRUSTEES OF OUR LADY'S  
 NURSES OF THE POOR to be applied in New  
 South Wales for the purposes of the Order or the  
 survivors or survivor of them PROVIDED  
 ALWAYS that if my said sister shall predecease  
 me and shall have created in her own Will a fund  
 to be called 'The William Wilson Fund' to be  
 held and applied upon like trusts as hereinbefore  
 mentioned THEN I GIVE DEVISE AND  
 BEQUEATH the said remaining three of such  
 equal parts to the Trustees of 'The William  
 Wilson Fund' so created to be added thereto and  
 held and applied upon the trusts thereof" :

- (5) The residuary estate of the deceased after payment thereout of debts duties and expenses comprises assets of substantial value :
- (6) The sister hereinbefore referred to of the deceased survived him and is not desirous that any fund to be called "The William Wilson Fund" be established or maintained as provided by the hereinbefore recited trusts of the said Will of the deceased :
- (7) The said hereinbefore recited trusts constitute valid trusts for charitable purposes but as to the said three parts create only endowments of income in perpetuity for such charitable purposes and do not constitute gifts of the capital thereof :

(8)

**Elizabeth II**

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- (8) The beneficiaries referred to in the hereinbefore recited trusts of the income of the said three parts are desirous that the capital of the residuary estate of the deceased the net annual income whereof is bequeathed equally between them upon the trusts hereinbefore recited be paid or paid and transferred as the case may be to them in equal shares to be applied by them respectively for the same respective purposes as are specified in the hereinbefore recited trusts of the respective shares in the said net annual income :
- (9) The Trustees are precluded from paying or paying and transferring as the case may be the said capital to the said beneficiaries as so desired by them by reason of the absence of any power or authority for that purpose vested in them by the said Will or by law and by reason of the absence of any inherent or statutory jurisdiction in any Court or other person or body to grant such power or authority to the Trustees :
- (10) It is expedient to empower and authorize the Trustees to pay or to pay and transfer as the case may be to the said respective beneficiaries in equal shares the capital of the residuary estate of the deceased the net annual income whereof is bequeathed equally between them by the hereinbefore recited trusts of the said Will to be applied by them respectively for the same respective purposes as are specified in the hereinbefore recited trusts of the respective shares in the said net annual income thereof and to vary the trusts of the said Will of the deceased accordingly :

BE it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :

**Short title.**

1. This Act may be cited as the "J. F. Wilson Will Trusts Variation Act, 1971".

**2.**

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**2.** Colin Robert Milne and Peter Lancing Crosthwaite Elizabeth II  
 as Trustees of the Will of the deceased or other the Trustee  
 or Trustees for the time being of the said Will are hereby  
 authorized and empowered in their absolute discretion to pay Authority  
 to pay  
 or to pay  
 and transfer  
 capital  
 assets.  
 and transfer to The Trustees of the Superior Council of  
 Australia of the Society of St Vincent de Paul being a body  
 corporate, and to the Mother Superior for the time being of  
 the Daughters of Charity of St Vincent de Paul and to the  
 Trustees of Our Lady's Nurses of the Poor being a body  
 corporate, a one-third part respectively of the assets and  
 moneys comprising the capital of the shares of the residuary  
 estate of the deceased the net annual income whereof is  
 bequeathed to them in equal shares by the trusts of the said  
 Will and to execute all instruments required to effect such  
 payment and transfer and the trusts of the said Will are  
 hereby varied accordingly.

**3.** Nothing in this Act shall be deemed to exclude or Preserva-  
 tion of  
 power of  
 sale and  
 authority to  
 pay  
 proceeds  
 thereof.  
 affect the power to sell the whole or any portion of the estate  
 of the deceased given to the Trustees of the said Will by the  
 said Will and if they should exercise the said power the said  
 Trustees are also authorized in their absolute discretion to pay  
 the net proceeds of such sale comprised in the said shares of  
 the said residuary estate to the respective beneficiaries above-  
 named in the shares abovementioned.

**4.** The capital of each said respective share of the said Applica-  
 tion of  
 assets or  
 moneys.  
 residuary estate whether then consisting wholly of money or  
 partly of money and partly of other assets shall upon payment  
 or payment and transfer thereof as the case may be to the  
 respective beneficiary abovenamed be held and applied by  
 that beneficiary for the same purposes as are provided in  
 respect of the net annual income thereof by the trusts of the  
 said Will.

**Elizabeth II**  
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Discharge  
of  
Trustees.

5. The receipt of the Secretary Treasurer or other proper Officer of The Trustees of the Superior Council of Australia of the Society of St Vincent de Paul and of the Trustees of Our Lady's Nurses of the Poor and of the person at the time of payment or payment and transfer as the case may be appearing to the Trustees of the said Will to be the Mother Superior of the Daughters of Charity of St Vincent de Paul shall in each instance respectively be a full and sufficient discharge to the Trustees of the said Will for the payment or payment and transfer as the case may be of capital assets authorized to be made by this Act and the Trustees of the said Will shall not be bound to see to the application thereafter of such capital assets.

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