

AN ACT RESPECTING MONTREAL TRUST COMPANY AND MONTREAL TRUST COMPANY OF CANADA

CHAPTER 31

[Assented to July 7, 1981.]

WHEREAS Montreal Trust Company, by its wholly owned subsidiary, Montrustco Corporation, has caused to be incorporated by Letters Patent dated the 19th day of July, 1978, under the *Trust Companies Act* (Canada), as a subsidiary of Montrustco Corporation, wholly owned except for directors' qualifying shares, Montreal Trust Company of Canada, for the purpose of taking over and carrying on certain of the business of Montreal Trust Company in the Province and other areas of Canada, with certain exceptions as herein described; and

WHEREAS Montreal Trust Company and Montreal Trust Company of Canada have by their petition prayed for special legislation for such purpose; and

WHEREAS it is expedient to grant the application;

THEREFORE, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

1. This Act may be cited as the *Montreal Trust Company of Canada Act*.

2. Except as provided in section 6, Montreal Trust Company of Canada is deemed to be substituted in the place and stead of Montreal Trust Company in or in respect of every trust, trust deed, agreement, instrument of creation, settlement, assignment, will, codicil or other testamentary document, and every letters probate, letters of administration, judgment, decree, order, direction, or appointment of any court, judge or other constituted authority, and every other document or trust howsoever created, including every incomplete or inchoate trust, and in every conveyance, mortgage, assignment, appointment or other writing, wherein or whereby or of which Montreal Trust Company is named as executor, administrator, trustee, bailee, committee, assignee, liquidator, receiver, guardian or curator, or is named to any other office or position whatsoever wherein any property, interest, possibility or right is vested in, administered or managed by, or put in charge of Montreal Trust Company in trust, or in the custody, care or control of Montreal Trust Company, for or for the benefit of any other person or purpose; and every such document or trust howsoever created shall be read, construed and given effect to as if Montreal Trust Company of Canada had been named therein in the place and stead of Montreal Trust Company.

3. Except as provided in section 6, all real and personal property and every interest therein that is granted to, or held by, or vested in Montreal Trust Company, whether by way of security or otherwise, in trust, or in the custody, care or control of Montreal Trust Company, for or for the benefit of any other person or purpose, pursuant to or in respect of any document or trust to which section 2 applies, and whether in the form in which it was originally acquired by Montreal Trust Company or otherwise, shall be vested in Montreal Trust Company of Canada according to the tenor of and at the time indicated or intended

by the document or trust, upon the same trusts and with the same powers, rights, immunities, and privileges, and subject to the same obligations and duties as are thereby provided, granted or imposed.

4. (1) No suit, action, appeal, application or other proceeding being carried on and no power or remedy being exercised by or against Montreal Trust Company in any court or before any tribunal or agency of the Province, pursuant to or in respect of any document or trust to which section 2 applies, shall be discontinued or abated on account of this Act, but may be continued in the name of Montreal Trust Company of Canada, which shall have the same rights, shall be subject to the same liabilities, and shall pay or receive the same costs and awards as if the suit, action, appeal, application or other proceeding had been commenced or defended in the name of Montreal Trust Company of Canada.

(2) Any suit, action, appeal, application or other proceedings, or any power, right, remedy or right of distress that might have been brought or exercised by or against Montreal Trust Company pursuant to or in respect of any document or trust to which section 2 applies, may be brought or exercised by or against Montreal Trust Company of Canada, which shall have the same rights, and shall be subject to the same liabilities in respect thereof, as those which Montreal Trust Company would have or be subject to if this Act had not been enacted.

5. Nothing in this Act affects the rights of any person having a claim against Montreal Trust Company in respect of any document or trust to which section 2 applies, or impairs, modifies or affects the liability of Montreal Trust Company to any such person; and any such rights as may be enforceable in the Province may be asserted or enforced against Montreal Trust Company of Canada, which shall be responsible for all debts, liabilities, and obligations of Montreal Trust Company in respect of such document or trust.

6. Sections 2, 3, 4 and 5 do not apply to

- (a) any real or personal property granted to, or held by or vested in Montreal Trust Company, and any power, right, immunity, privilege or right of action that may be exercised by or against Montreal Trust Company, pursuant to or in respect of
 - (i) any trust indenture or indenture wherein Montreal Trust Company is named trustee and by virtue of which any bond, debenture or other evidence of indebtedness, warrant or right is issued,
 - (ii) any document or trust described in section 2 pursuant to which Montreal Trust Company acts as trustee in respect of an employees' superannuation or pension fund or plan, which has been accepted for registration purposes pursuant to the *Income Tax Act* (Canada) and any mutual fund, pooled trust fund or unit trust the principal purpose of any of which is the investment of moneys forming part of any such employees' superannuation or pension fund or plan;
- (b) any agreement or other document whatsoever whereby Montreal Trust Company is named as registrar or transfer agent;

- (c) any real or personal property owned or held by, vested in or granted to Montreal Trust Company, and which is held by Montreal Trust Company exclusively for its own use and benefit, and not in trust for or for the benefit of any other person or purpose;
- (d) any real or personal property which is held by Montreal Trust Company under any document or trust described in section 2 which is situate outside the Province, and any power, right, immunity, privilege or right of action that may be exercised by or against Montreal Trust Company under any such document or trust with respect to that property, but
 - (i) for all property situate outside the Province for which Montreal Trust Company has been appointed, or is entitled to be appointed by a court of the Province, as personal representative of a deceased person, whether as executor, administrator or otherwise, Montreal Trust Company of Canada may, upon application to such court, be appointed personal representative in the place and stead of Montreal Trust Company with respect to that property, and
 - (ii) for all property situate outside the Province not coming within subparagraph (i), but held by Montreal Trust Company under any document or trust described in section 2, for which the Supreme Court has jurisdiction under section 31 of the *Trustee Act* to make an order for the appointment of a new trustee, Montreal Trust Company of Canada may, upon application to the Supreme Court, be appointed trustee in the place and stead of Montreal Trust Company with respect to that property, and such appointment shall have for all purposes of the laws of the Province the same effect as if made under section 31 of the *Trustee Act*,
but any appointment made pursuant to subparagraph (i) or (ii) shall not affect any rights which may continue to be exercised by or against Montreal Trust Company; or
- (c) trusts relating to moneys received for guaranteed investment and any real or personal property held in trust with respect to any such guaranteed investment.

7. (1) For every instrument executed subsequent to the commencement of this Act by Montreal Trust Company or by Montreal Trust Company of Canada dealing with any property granted to, or held by, or vested in either corporation, a declaration in such instrument that title to such property is changed by section 3, or that such property comes within any exemption provided by section 6, or that this Act does not apply to such property, shall be binding on both corporations, and shall be accepted as conclusive by every public office whatsoever within the jurisdiction of the Province.

(2) For the purposes of any enactment affecting title to property, real or personal or both, it shall be sufficient to cite this Act as affecting any grant, conveyance or transfer of title from Montreal Trust Company to, and the vesting of title in Montreal Trust Company of Canada, or any amendment, extension or change affecting such title, of any property affected by this Act, and in particular but without limitation by section 3 or of a nature described in any of clauses (a) (ii), (b), (c) and (e) of section 6, and notwithstanding any other enactment, it shall not be necessary to register or file this Act, or any further or other instrument, document or certificate showing or requiring the change of title in any public

office whatsoever within the jurisdiction of the Province, and the provisions and requirements of any enactment to enable Montreal Trust Company of Canada to deal with or take or continue any proceedings in connection with such property shall be deemed to have been complied with; except that Montreal Trust Company of Canada shall cause to be filed a copy of this Act in each Land Title Office in the Province and shall make application under section 187 of the *Land Title Act* in like manner as if this Act effected an amalgamation for the purposes of that section.

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