

*This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and,
having this day passed, is now ready for presentation to the LEGISLATIVE
COUNCIL for its concurrence.*

R. E. WARD,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 22 March, 1977.*

New South Wales



ANNO VICESIMO SEXTO

ELIZABETHÆ II REGINÆ

Act No. , 1977.

An Act to amend the Public Trustee Act, 1913, and to
validate certain matters.

BE

Public Trustee (Amendment).

BE it 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:—

1. This Act may be cited as the "Public Trustee Short title. (Amendment) Act, 1977".

2. (1) Except as provided in subsections (2) and (3), Commence-
this Act shall commence on the date of assent to this Act. ment.

10 (2) Section 5 shall be deemed to have commenced on
14th February, 1975.

(3) Schedule 1 (3) shall commence on such day as
may be appointed by the Governor in respect thereof and as
may be notified by proclamation published in the Gazette.

15 3. This Act contains the following Schedules :— Schedules.

SCHEDULE 1.—AMENDMENTS TO THE PUBLIC
TRUSTEE ACT, 1913.

20 SCHEDULE 2.—AMENDMENTS TO THE PUBLIC
TRUSTEE ACT, 1913, BY WAY OF STATUTE LAW
REVISION.

4. The Public Trustee Act, 1913, is amended in the
manner set forth in Schedules 1 and 2. Amendment
of Act No.
19, 1913.

5.

Public Trustee (Amendment).

5. The regulation purporting to have been made under the Public Trustee Act, 1913, and published in Gazette No. 35 of 14th February, 1975, is amended—

Validation—
commission
payable to
the public
trustee.

- 5 (a) by omitting from paragraph (a) (i) of that regulation the matter “\$” where firstly, secondly and thirdly occurring and by inserting instead the matter “£”; and
- 10 (b) by omitting from paragraph (a) (iv) of that regulation the matter “\$” where firstly, secondly and thirdly occurring and by inserting instead the matter “£”.

SCHEDULE 1.

Sec. 4.

AMENDMENTS TO THE PUBLIC TRUSTEE ACT, 1913.

(1) Section 7 (2)—

15 At the end of section 7, insert :—

(2) The public trustee—

- (a) may take proceedings and be proceeded against in its corporate name;
- 20 (b) may, notwithstanding any other provision of this Act, for the purposes for which it is constituted, purchase, exchange, take on lease, hold, dispose of and otherwise deal with property; and
- 25 (c) may do and suffer all other things that bodies corporate generally may, by law, do and suffer and that are necessary for or incidental to the purposes for which it is constituted.

SCHEDULE

Public Trustee (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PUBLIC TRUSTEE ACT,
1913—*continued.*

- (2) (a) Section 18A (1)—
- 5 Omit “four thousand dollars”, insert instead
 “\$15,000”.
- (b) Section 18A (1)—
- 10 Omit “and seal”, insert instead “, or the hand of
 the chief trust officer or the solicitor to the public
 trustee, and sealed with the public trustee’s seal”.
- (c) Section 18A (2)—
- Omit “four thousand dollars”, insert instead
 “\$15,000”.
- (d) Section 18A (2)—
- 15 Omit “and seal”, insert instead “, or the hand of
 the chief trust officer or the solicitor to the public
 trustee, and sealed with the public trustee’s seal”.
- (e) Section 18A (3A) (a)—
- 20 Omit “four thousand dollars”, insert instead
 “\$15,000”.
- (f) Section 18A (3A) (a)—
- Omit “and seal”, insert instead “, or the hand of
 the chief trust officer or the solicitor to the public
 trustee, and sealed with the public trustee’s seal”.
- 25 (g) Section 18A (4)—
- Omit “thirty miles”, insert instead “50
 kilometres”.
- (h) Section 18A (5)—
- 30 Omit “six thousand dollars”, insert instead
 “\$20,000”.

SCHEDULE

Public Trustee (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PUBLIC TRUSTEE ACT,
1913—*continued.*

(i) Section 18A (5)—

5 After “hand”, insert “, or the hand of the chief trust officer or the solicitor to the public trustee,”.

(j) Section 18A (5A)—

After “hand”, insert “, or the hand of the chief trust officer or the solicitor to the public trustee,”.

10 (3) Section 33—

Omit the section.

(4) Section 34 (2)—

At the end of section 34, insert :—

15 (2) A reference in subsection (1) to a minor being entitled to moneys in the hands of the public trustee includes a reference to a minor who is entitled to those moneys contingently on attaining an age specified in the instrument creating the entitlement.

(5) Section 34c—

20 After section 34B, insert :—

25 34c. (1) On the death of a person to whom a sum of money, not exceeding \$2,000, is payable by the public trustee, the public trustee may, without requiring administration to be taken out in the estate of that person, pay that sum or any part of that sum to a person who the public trustee considers is entitled to that sum or part.

Payment of money without grant of administration.

SCHEDULE

Public Trustee (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PUBLIC TRUSTEE ACT,
1913—*continued.*

5 (2) A payment made in good faith pursuant to subsection (1) shall be valid against all persons and the public trustee shall be absolutely discharged from all liability in respect of any money so paid by him.

10 (3) A person to whom money is paid pursuant to subsection (1) shall be liable to apply that money in the due course of administration and the public trustee may, if he thinks fit, without being liable to see to the application of that money, require that
15 person to give sufficient security, by bond or otherwise, that that money will be so applied.

(4) The public trustee shall notify the Commissioner of Stamp Duties of any payment made pursuant to subsection (1) within 30 days after the making of that payment.

20 (5) Nothing in this section affects any right of a person to claim or recover money paid pursuant to subsection (1) from a person other than the public trustee.

(6) Section 35 (2)—

25 Omit the subsection.

(7) Section 36G—

After section 36F, insert :—

30 36G. (1) The public trustee shall, within one day after the date of receipt by him, pay into the common fund such money as is forwarded to him for that purpose by a registrar of the Court. Investment in common fund by the Court.

SCHEDULE

Public Trustee (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PUBLIC TRUSTEE ACT,
1913—*continued.*

- 5 (2) The public trustee shall repay to a registrar of the Court, on demand by him, money paid into the common fund by that registrar under subsection (1) together with interest on that money calculated in accordance with section 36A (3) and (4).

10 (8) Sections 43A, 43B—

After section 43, insert :—

Entitlement to costs in certain cases.

- 15 43A. On an application by the public trustee, whether in common or in solemn form, for probate of any will, or for administration with a will annexed, the public trustee shall be entitled to his costs out of the estate, and shall not be liable for the costs of any other person. Application in respect of will.

- 20 43B. Where the beneficiaries entitled under any intestacy cannot agree as to the person to be appointed administrator and the public trustee, at the request of any one or more of those beneficiaries, applies for administration, he shall not be liable for the costs of any other person and shall be entitled to his costs out of the estate, whether or not he is appointed administrator. Application on intestacy.
- 25

(9) (a) Section 50 (1)—

- 30 Omit “, and sealed with his corporate seal, certifying that he”, insert instead “, or the hand of the chief trust officer, the senior trust officer, the solicitor to the public trustee, a branch

SCHEDULE

Public Trustee (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PUBLIC TRUSTEE ACT,
1913—*continued.*

5 manager or a relieving branch manager, and
sealed with the public trustee's seal, certifying
that the public trustee".

(b) Section 50 (2)—

10 Omit “, and sealed with his corporate seal,
certifying that he”, insert instead “, or the hand
of the chief trust officer, the senior trust officer,
the solicitor to the public trustee, a branch
manager or a relieving branch manager, and
sealed with the public trustee's seal, certifying
that the public trustee”.

15

SCHEDULE 2.

Sec. 4.

AMENDMENTS TO THE PUBLIC TRUSTEE ACT, 1913,
BY WAY OF STATUTE LAW REVISION.

(1) (a) Section 5 (3) (a) (iv)—

Omit the subparagraph, insert instead :—

20 (iv) becomes bankrupt, applies to take the
benefit of any law for the relief of bank-
rupt or insolvent debtors, compounds
with his creditors or makes an assignment
of his remuneration for their benefit;

SCHEDULE

Public Trustee (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PUBLIC TRUSTEE ACT, 1913,
BY WAY OF STATUTE LAW REVISION—*continued.*

(b) Section 5 (3) (a) (vi)—

5 Omit the subparagraph, insert instead :—

(vi) becomes a temporary patient, a continued
treatment patient, a protected person or
an incapable person within the meaning
10 of the Mental Health Act, 1958, or a
person under detention under Part VII
of that Act.

(c) Section 5 (4)—

Omit “1916–1935, or under any Act amending
those Acts,” insert instead “1916,”.

15 (d) Section 5 (5)—

Omit “–1935”.

(e) Section 5 (5)—

Omit “, or under any of those Acts as amended
by subsequent Acts”.

20 (2) Section 6 (1)—

Omit “as amended by subsequent Acts,”.

(3) Section 9 (3)—

Omit “Colonial”.

SCHEDULE

Public Trustee (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PUBLIC TRUSTEE ACT, 1913,
BY WAY OF STATUTE LAW REVISION—*continued.*

- (4) Section 16 (1), proviso—
- 5 Omit “the provisions of the Mining Acts, the Crown
Lands Acts, or the Real Property Act, 1900,” insert
instead “an Act by or under which provision is made
for or with respect to the transfer of an estate or
10 interest in property of the same class or description
as that trust property.”
- (5) (a) Section 17—
Omit “idiot, or lunatic,”
- (b) Section 17—
Omit “directs :”, insert instead “directs.”
- 15 (6) Section 18 (2), proviso—
Omit “the provisions of the Mining Act, the Crown
Lands Act, or the Real Property Act, 1900,” insert
instead “an Act by or under which provision is made
for or with respect to the transfer of an estate or
20 interest in property of the same class or description
as that trust property.”
- (7) Section 18A (5A)—
Omit “-1940”.
- (8) (a) Section 36 (1)—
25 Omit “-1940”.

Public Trustee (Amendment).

SCHEDULE 2—continued.

**AMENDMENTS TO THE PUBLIC TRUSTEE ACT, 1913,
BY WAY OF STATUTE LAW REVISION—continued.**

- 5 (b) Section 36 (2)—
Omit “-1940”.
- (9) (a) Section 36D (a)—
Omit “-1940”.
- (b) Section 36D (b)—
Omit “Colonial” wherever occurring.
- 10 (10) (a) Section 41—
Omit “Colonial”.
- (b) Section 41—
Omit “said”.
- 15 (11) Section 52 (1)—
Omit “Colonial”.
- (12) (a) Section 53 (1A) (a)—
Omit “Colonial”.
- (b) Section 53 (1A) (b)—
Omit “Colonial”.

SCHEDULE

Public Trustee (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PUBLIC TRUSTEE ACT, 1913,
BY WAY OF STATUTE LAW REVISION—*continued.*

5 (c) Section 53 (2)—
Omit "Colonial".

(d) Section 53 (3)—
Omit "said" wherever occurring.

(13) (a) Section 59—

Omit :—

10 All such regulations shall—

(a) be published in the Gazette;

(b) take effect from the date of publication
or from a later date to be specified in
the regulations; and

15 (c) be laid before both Houses of Parli-
ament within fourteen sitting days after
publication if Parliament is in session,
and if not, then within fourteen sitting
20 days after the commencement of the
next session.

25 But if either House of Parliament passes a
resolution of which notice has been given at any
time within fifteen sitting days after such
regulations have been laid before such House
disallowing any regulation or part thereof, such
regulation or part shall thereupon cease to have
effect.

SCHEDULE

Public Trustee (Amendment).

SCHEDULE 2—*continued.*

**AMENDMENTS TO THE PUBLIC TRUSTEE ACT, 1913,
BY WAY OF STATUTE LAW REVISION—*continued.***

(b) Section 59 (2)—

5 At the end of section 59, insert :—

 (2) Section 41 of the Interpretation Act,
 1897, applies in respect of a regulation made
 under this Act as if this Act had been passed
10 after the commencement of the Interpretation
 (Amendment) Act, 1969.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1977
[16c]

Act No. 1917

SCHEDULE 2—(continued)

AMENDMENTS TO THE PUBLIC TRUSTEE ACT, 1913
BY WAY OF STATUTE LAW REVISION—continued

(b) Section 59 (3)

10
Amendment Act 1917

Le.
No. , 1977.

A BILL

To amend the Public Trustee Act, 1913, and to
validate certain matters.

[MR F. J. WALKER—9 March, 1977.]

BE

Public Trustee (Amendment).

BE it 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:—

1. This Act may be cited as the "Public Trustee Short title. (Amendment) Act, 1977".

2. (1) Except as provided in subsections (2) and (3), Commence-
this Act shall commence on the date of assent to this Act. ment.

10 (2) Section 5 shall be deemed to have commenced on
14th February, 1975.

(3) Schedule 1 (3) shall commence on such day as
may be appointed by the Governor in respect thereof and as
may be notified by proclamation published in the Gazette.

15 3. This Act contains the following Schedules :— Schedules.

SCHEDULE 1.—AMENDMENTS TO THE PUBLIC
TRUSTEE ACT, 1913.

20 SCHEDULE 2.—AMENDMENTS TO THE PUBLIC
TRUSTEE ACT, 1913, BY WAY OF STATUTE LAW
REVISION.

4. The Public Trustee Act, 1913, is amended in the Amendment
manner set forth in Schedules 1 and 2. of Act No.
19, 1913.

Public Trustee (Amendment).

5. The regulation purporting to have been made under the Public Trustee Act, 1913, and published in Gazette No. 35 of 14th February, 1975, is amended—

Validation—
commission
payable to
the public
trustee.

- 5 (a) by omitting from paragraph (a) (i) of that regulation the matter “\$” where firstly, secondly and thirdly occurring and by inserting instead the matter “£”; and
- 10 (b) by omitting from paragraph (a) (iv) of that regulation the matter “\$” where firstly, secondly and thirdly occurring and by inserting instead the matter “£”.

SCHEDULE 1.

Sec. 4.

AMENDMENTS TO THE PUBLIC TRUSTEE ACT, 1913.

(1) Section 7 (2)—

15 At the end of section 7, insert :—

(2) The public trustee—

- (a) may take proceedings and be proceeded against in its corporate name;
- 20 (b) may, notwithstanding any other provision of this Act, for the purposes for which it is constituted, purchase, exchange, take on lease, hold, dispose of and otherwise deal with property; and
- 25 (c) may do and suffer all other things that bodies corporate generally may, by law, do and suffer and that are necessary for or incidental to the purposes for which it is constituted.

SCHEDULE

Public Trustee (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PUBLIC TRUSTEE ACT,
1913—*continued.*

(2) (a) Section 18A (1)—

5 Omit “four thousand dollars”, insert instead
 “\$15,000”.

(b) Section 18A (1)—

10 Omit “and seal”, insert instead “, or the hand of
 the chief trust officer or the solicitor to the public
 trustee, and sealed with the public trustee’s seal”.

(c) Section 18A (2)—

 Omit “four thousand dollars”, insert instead
 “\$15,000”.

(d) Section 18A (2)—

15 Omit “and seal”, insert instead “, or the hand of
 the chief trust officer or the solicitor to the public
 trustee, and sealed with the public trustee’s seal”.

(e) Section 18A (3A) (a)—

20 Omit “four thousand dollars”, insert instead
 “\$15,000”.

(f) Section 18A (3A) (a)—

 Omit “and seal”, insert instead “, or the hand of
 the chief trust officer or the solicitor to the public
 trustee, and sealed with the public trustee’s seal”.

25 (g) Section 18A (4)—

 Omit “thirty miles”, insert instead “50
 kilometres”.

(h) Section 18A (5)—

30 Omit “six thousand dollars”, insert instead
 “\$20,000”.

SCHEDULE

Public Trustee (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PUBLIC TRUSTEE ACT,
1913—*continued.*

(i) Section 18A (5)—

5 After “hand”, insert “, or the hand of the chief
trust officer or the solicitor to the public trustee,”.

(j) Section 18A (5A)—

After “hand”, insert “, or the hand of the chief
trust officer or the solicitor to the public trustee,”.

10 (3) Section 33—

Omit the section.

(4) Section 34 (2)—

At the end of section 34, insert :—

15 (2) A reference in subsection (1) to a minor being
entitled to moneys in the hands of the public trustee
includes a reference to a minor who is entitled to those
moneys contingently on attaining an age specified in
the instrument creating the entitlement.

(5) Section 34c—

20 After section 34B, insert :—

25 34c. (1) On the death of a person to whom a sum
of money, not exceeding \$2,000, is payable by the
public trustee, the public trustee may, without requir-
ing administration to be taken out in the estate of that
person, pay that sum or any part of that sum to a
person who the public trustee considers is entitled to
that sum or part.

Payment of
money
without
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tion.

SCHEDULE

Public Trustee (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PUBLIC TRUSTEE ACT,
1913—*continued.*

5 (2) A payment made in good faith pursuant to subsection (1) shall be valid against all persons and the public trustee shall be absolutely discharged from all liability in respect of any money so paid by him.

10 (3) A person to whom money is paid pursuant to subsection (1) shall be liable to apply that money in the due course of administration and the public trustee may, if he thinks fit, without being liable to see to the application of that money, require that
15 person to give sufficient security, by bond or otherwise, that that money will be so applied.

(4) The public trustee shall notify the Commissioner of Stamp Duties of any payment made pursuant to subsection (1) within 30 days after the making of that payment.

20 (5) Nothing in this section affects any right of a person to claim or recover money paid pursuant to subsection (1) from a person other than the public trustee.

(6) Section 35 (2)—
25 Omit the subsection.

(7) Section 36G—
After section 36F, insert :—

30 36G. (1) The public trustee shall, within one day after the date of receipt by him, pay into the common fund such money as is forwarded to him for that purpose by a registrar of the Court. ^{Investment in common fund by the Court.}

SCHEDULE

Public Trustee (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PUBLIC TRUSTEE ACT,
1913—*continued.*

5 (2) The public trustee shall repay to a registrar of the Court, on demand by him, money paid into the common fund by that registrar under subsection (1) together with interest on that money calculated in accordance with section 36A (3) and (4).

10 (8) Sections 43A, 43B—

After section 43, insert :—

Entitlement to costs in certain cases.

15 43A. On an application by the public trustee, whether in common or in solemn form, for probate of any will, or for administration with a will annexed, the public trustee shall be entitled to his costs out of the estate, and shall not be liable for the costs of any other person. Application in respect of will.

20 43B. Where the beneficiaries entitled under any intestacy cannot agree as to the person to be appointed administrator and the public trustee, at the request of any one or more of those beneficiaries, applies for administration, he shall not be liable for the costs of any other person and shall be entitled to his costs out of the estate, whether or not he is appointed administrator. Application on intestacy.

(9) (a) Section 50 (1)—

30 Omit “, and sealed with his corporate seal, certifying that he”, insert instead “, or the hand of the chief trust officer, the senior trust officer, the solicitor to the public trustee, a branch

SCHEDULE

Public Trustee (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PUBLIC TRUSTEE ACT,
1913—*continued.*

5 manager or a relieving branch manager, and
sealed with the public trustee's seal, certifying
that the public trustee".

(b) Section 50 (2)—

10 Omit “, and sealed with his corporate seal,
certifying that he”, insert instead “, or the hand
of the chief trust officer, the senior trust officer,
the solicitor to the public trustee, a branch
manager or a relieving branch manager, and
sealed with the public trustee's seal, certifying
that the public trustee”.

15

SCHEDULE 2.

Sec. 4.

AMENDMENTS TO THE PUBLIC TRUSTEE ACT, 1913,
BY WAY OF STATUTE LAW REVISION.

(1) (a) Section 5 (3) (a) (iv)—

Omit the subparagraph, insert instead :—

20

(iv) becomes bankrupt, applies to take the
benefit of any law for the relief of bank-
rupt or insolvent debtors, compounds
with his creditors or makes an assignment
of his remuneration for their benefit;

SCHEDULE

Public Trustee (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PUBLIC TRUSTEE ACT, 1913,
BY WAY OF STATUTE LAW REVISION—*continued.*

(b) Section 5 (3) (a) (vi)—

5 Omit the subparagraph, insert instead :—

(vi) becomes a temporary patient, a continued
treatment patient, a protected person or
an incapable person within the meaning
10 of the Mental Health Act, 1958, or a
person under detention under Part VII
of that Act.

(c) Section 5 (4)—

Omit “1916–1935, or under any Act amending
those Acts,”, insert instead “1916,”.

15 (d) Section 5 (5)—

Omit “–1935”.

(e) Section 5 (5)—

Omit “, or under any of those Acts as amended
by subsequent Acts”.

20 (2) Section 6 (1)—

Omit “as amended by subsequent Acts,”.

(3) Section 9 (3)—

Omit “Colonial”.

SCHEDULE

Public Trustee (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PUBLIC TRUSTEE ACT, 1913,
BY WAY OF STATUTE LAW REVISION—*continued.*

- (4) Section 16 (1), proviso—
- 5 Omit “the provisions of the Mining Acts, the Crown
Lands Acts, or the Real Property Act, 1900,” insert
instead “an Act by or under which provision is made
for or with respect to the transfer of an estate or
10 interest in property of the same class or description
as that trust property,”.
- (5) (a) Section 17—
- Omit “idiot, or lunatic,”.
- (b) Section 17—
- Omit “directs :”, insert instead “directs.”
- 15 (6) Section 18 (2), proviso—
- Omit “the provisions of the Mining Act, the Crown
Lands Act, or the Real Property Act, 1900,” insert
instead “an Act by or under which provision is made
20 for or with respect to the transfer of an estate or
interest in property of the same class or description
as that trust property,”.
- (7) Section 18A (5A)—
- Omit “-1940”.
- (8) (a) Section 36 (1)—
- 25 Omit “-1940”.

Public Trustee (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PUBLIC TRUSTEE ACT, 1913,
BY WAY OF STATUTE LAW REVISION—*continued.*

(b) Section 36 (2)—
5 Omit “-1940”.

(9) (a) Section 36D (a)—
Omit “-1940”.

(b) Section 36D (b)—
Omit “Colonial” wherever occurring.

10 (10) (a) Section 41—
Omit “Colonial”.

(b) Section 41—
Omit “said”.

(11) Section 52 (1)—
15 Omit “Colonial”.

(12) (a) Section 53 (1A) (a)—
Omit “Colonial”.

(b) Section 53 (1A) (b)—
Omit “Colonial”.

SCHEDULE

Public Trustee (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PUBLIC TRUSTEE ACT, 1913,
BY WAY OF STATUTE LAW REVISION—*continued.*

(c) Section 53 (2)—
5 Omit "Colonial".

(d) Section 53 (3)—
Omit "said" wherever occurring.

(13) (a) Section 59—

Omit :—

10 All such regulations shall—

(a) be published in the Gazette;

(b) take effect from the date of publication
or from a later date to be specified in
the regulations; and

15 (c) be laid before both Houses of Parlia-
ment within fourteen sitting days after
publication if Parliament is in session,
and if not, then within fourteen sitting
20 days after the commencement of the
next session.

25 But if either House of Parliament passes a
resolution of which notice has been given at any
time within fifteen sitting days after such
regulations have been laid before such House
disallowing any regulation or part thereof, such
regulation or part shall thereupon cease to have
effect.

SCHEDULE

Public Trustee (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PUBLIC TRUSTEE ACT, 1913,
BY WAY OF STATUTE LAW REVISION—*continued.*

(b) Section 59 (2)—

5 At the end of section 59, insert :—

 (2) Section 41 of the Interpretation Act,
 1897, applies in respect of a regulation made
 under this Act as if this Act had been passed
10 after the commencement of the Interpretation
 (Amendment) Act, 1969.

SCHEDULE 2—continued

AMENDMENTS TO THE FARMERS' TRUSTS ACT 1913
BY WAY OF STATUTE LAW REVISION—continued

(b) Section 2(1)

At the end of the section—

(2) Where the provisions of the Farmers' Trusts Act 1913 are in force in a particular area, the provisions of the Farmers' Trusts Act 1913 shall apply in that area as if they were contained in the Farmers' Trusts Act 1913.

PUBLIC TRUSTEE (AMENDMENT) BILL, 1977

EXPLANATORY NOTE

THE objects of this Bill are—

- (a) to further enable the public trustee to deal in property (Schedule 1 (1));
- (b) to increase the maximum value of estates in respect of which the public trustee may file an election to administer instead of obtaining a grant of probate or letters of administration (Schedule 1 (2));
- (c) to extend the class of persons who may sign an election referred to in paragraph (b) (Schedule 1 (2));
- (d) to repeal the power of the public trustee to dispose of the residue of certain intestate estates to the widow of the intestate (Schedule 1 (3));
- (e) to enable the public trustee to pay money for the maintenance, education, advancement or benefit of a minor where that minor is contingently entitled to that money on attaining an age specified in the instrument creating the entitlement (Schedule 1 (4));
- (f) to enable the public trustee to make a payment, not exceeding \$2,000, on the death of a person to whom the payment is due, without requiring administration to be taken out in the estate of that person (Schedule 1 (5));
- (g) to repeal the limitation of \$20,000 imposed in respect of the public trustee's powers to sell, exchange, partition or borrow in relation to property in the course of administration of an estate where there is no express power in the trust or will to sell, exchange, partition or borrow (Schedule 1 (6));
- (h) to enable a registrar of the Supreme Court of New South Wales to invest money in the public trustee's common fund (Schedule 1 (7));
- (i) to provide for the public trustee's entitlement to costs in certain cases (Schedule 1 (8));
- (j) to extend the class of persons who may sign certificates relating to the taking out of probate or letters of administration by the public trustee (Schedule 1 (9));
- (k) to make amendments to the Public Trustee Act, 1913, by way of statute law revision (Schedule 2);
- (l) to validate the rates of commission payable to the public trustee (clause 5); and
- (m) to make other provisions of a minor, consequential or ancillary nature.

PROOF

No. , 1977.

A BILL

To amend the Public Trustee Act, 1913, and to
validate certain matters.

[MR F. J. WALKER—9 March, 1977.]

BE

Public Trustee (Amendment).

BE it 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:—

1. This Act may be cited as the "Public Trustee Short title. (Amendment) Act, 1977".

2. (1) Except as provided in subsections (2) and (3), Commence-
this Act shall commence on the date of assent to this Act. ment.

10 (2) Section 5 shall be deemed to have commenced on
14th February, 1975.

(3) Schedule 1 (3) shall commence on such day as
may be appointed by the Governor in respect thereof and as
may be notified by proclamation published in the Gazette.

15 3. This Act contains the following Schedules :— Schedules.

SCHEDULE 1.—AMENDMENTS TO THE PUBLIC
TRUSTEE ACT, 1913.

20 SCHEDULE 2.—AMENDMENTS TO THE PUBLIC
TRUSTEE ACT, 1913, BY WAY OF STATUTE LAW
REVISION.

4. The Public Trustee Act, 1913, is amended in the Amendment
manner set forth in Schedules 1 and 2. of Act No.
19, 1913.

5.

Public Trustee (Amendment).

5. The regulation purporting to have been made under the Public Trustee Act, 1913, and published in Gazette No. 35 of 14th February, 1975, is amended—

Validation—
commission
payable to
the public
trustee.

- 5 (a) by omitting from paragraph (a) (i) of that regulation the matter “\$” where firstly, secondly and thirdly occurring and by inserting instead the matter “£”; and
- 10 (b) by omitting from paragraph (a) (iv) of that regulation the matter “\$” where firstly, secondly and thirdly occurring and by inserting instead the matter “£”.

SCHEDULE 1.

Sec. 4.

AMENDMENTS TO THE PUBLIC TRUSTEE ACT, 1913.

(1) Section 7 (2)—

15 At the end of section 7, insert :—

(2) The public trustee—

- (a) may take proceedings and be proceeded against in its corporate name;
- 20 (b) may, notwithstanding any other provision of this Act, for the purposes for which it is constituted, purchase, exchange, take on lease, hold, dispose of and otherwise deal with property; and
- 25 (c) may do and suffer all other things that bodies corporate generally may, by law, do and suffer and that are necessary for or incidental to the purposes for which it is constituted.

SCHEDULE

Public Trustee (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PUBLIC TRUSTEE ACT,
1913—*continued.*

- (2) (a) Section 18A (1)—
5 Omit “four thousand dollars”, insert instead
“\$15,000”.
- (b) Section 18A (1)—
10 Omit “and seal”, insert instead “, or the hand of
the chief trust officer or the solicitor to the public
trustee, and sealed with the public trustee’s seal”.
- (c) Section 18A (2)—
Omit “four thousand dollars”, insert instead
“\$15,000”.
- (d) Section 18A (2)—
15 Omit “and seal”, insert instead “, or the hand of
the chief trust officer or the solicitor to the public
trustee, and sealed with the public trustee’s seal”.
- (e) Section 18A (3A) (a)—
20 Omit “four thousand dollars”, insert instead
“\$15,000”.
- (f) Section 18A (3A) (a)—
Omit “and seal”, insert instead “, or the hand of
the chief trust officer or the solicitor to the public
trustee, and sealed with the public trustee’s seal”.
- (g) Section 18A (4)—
25 Omit “thirty miles”, insert instead “50
kilometres”.
- (h) Section 18A (5)—
30 Omit “six thousand dollars”, insert instead
“\$20,000”.

SCHEDULE

Public Trustee (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PUBLIC TRUSTEE ACT,
1913—*continued.*

(i) Section 18A (5)—

5 After “hand”, insert “, or the hand of the chief
trust officer or the solicitor to the public trustee,”.

(j) Section 18A (5A)—

After “hand”, insert “, or the hand of the chief
trust officer or the solicitor to the public trustee,”.

10 (3) Section 33—

Omit the section.

(4) Section 34 (2)—

At the end of section 34, insert :—

15 (2) A reference in subsection (1) to a minor being
entitled to moneys in the hands of the public trustee
includes a reference to a minor who is entitled to those
moneys contingently on attaining an age specified in
the instrument creating the entitlement.

(5) Section 34c—

20 After section 34B, insert :—

25 34c. (1) On the death of a person to whom a sum
of money, not exceeding \$2,000, is payable by the
public trustee, the public trustee may, without requir-
ing administration to be taken out in the estate of that
person, pay that sum or any part of that sum to a
person who the public trustee considers is entitled to
that sum or part.

Payment of
money
without
grant of
administra-
tion.

SCHEDULE

Public Trustee (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PUBLIC TRUSTEE ACT,
1913—*continued.*

5 (2) A payment made in good faith pursuant to subsection (1) shall be valid against all persons and the public trustee shall be absolutely discharged from all liability in respect of any money so paid by him.

10 (3) A person to whom money is paid pursuant to subsection (1) shall be liable to apply that money in the due course of administration and the public trustee may, if he thinks fit, without being liable to see to the application of that money, require that
15 that person to give sufficient security, by bond or otherwise, that that money will be so applied.

(4) The public trustee shall notify the Commissioner of Stamp Duties of any payment made pursuant to subsection (1) within 30 days after the making of that payment.

20 (5) Nothing in this section affects any right of a person to claim or recover money paid pursuant to subsection (1) from a person other than the public trustee.

(6) Section 35 (2)—
25 Omit the subsection.

(7) Section 36G—

After section 36F, insert :—

30 36G. (1) The public trustee shall, within one day after the date of receipt by him, pay into the common fund such money as is forwarded to him for that purpose by a registrar of the Court. Investment in common fund by the Court.

SCHEDULE

Public Trustee (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PUBLIC TRUSTEE ACT,
1913—*continued.*

5 (2) The public trustee shall repay to a registrar of the Court, on demand by him, money paid into the common fund by that registrar under subsection (1) together with interest on that money calculated in accordance with section 36A (3) and (4).

10 (8) Sections 43A, 43B—

After section 43, insert :—

Entitlement to costs in certain cases.

15 43A. On an application by the public trustee, whether in common or in solemn form, for probate of any will, or for administration with a will annexed, the public trustee shall be entitled to his costs out of the estate, and shall not be liable for the costs of any other person. Application in respect of will.

20 43B. Where the beneficiaries entitled under any intestacy cannot agree as to the person to be appointed administrator and the public trustee, at the request of any one or more of those beneficiaries, applies for administration, he shall not be liable for the costs of any other person and shall be entitled to his costs out of the estate, whether or not he is appointed administrator. Application on intestacy.

(9) (a) Section 50 (1)—

30 Omit “, and sealed with his corporate seal, certifying that he”, insert instead “, or the hand of the chief trust officer, the senior trust officer, the solicitor to the public trustee, a branch

SCHEDULE

Public Trustee (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PUBLIC TRUSTEE ACT,
1913—*continued.*

5

manager or a relieving branch manager, and sealed with the public trustee's seal, certifying that the public trustee".

(b) Section 50 (2)—

10

Omit “, and sealed with his corporate seal, certifying that he”, insert instead “, or the hand of the chief trust officer, the senior trust officer, the solicitor to the public trustee, a branch manager or a relieving branch manager, and sealed with the public trustee's seal, certifying that the public trustee”.

15

SCHEDULE 2.

Sec. 4.

AMENDMENTS TO THE PUBLIC TRUSTEE ACT, 1913,
BY WAY OF STATUTE LAW REVISION.

(1) (a) Section 5 (3) (a) (iv)—

Omit the subparagraph, insert instead :—

20

(iv) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;

SCHEDULE

Public Trustee (Amendment).

SCHEDULE 2—continued.

AMENDMENTS TO THE PUBLIC TRUSTEE ACT, 1913,
BY WAY OF STATUTE LAW REVISION—continued.

(b) Section 5 (3) (a) (vi)—

5 Omit the subparagraph, insert instead :—

10 (vi) becomes a temporary patient, a continued
treatment patient, a protected person or
an incapable person within the meaning
of the Mental Health Act, 1958, or a
person under detention under Part VII
of that Act.

(c) Section 5 (4)—

Omit “1916–1935, or under any Act amending
those Acts,” insert instead “1916,”.

15 (d) Section 5 (5)—

Omit “–1935”.

(e) Section 5 (5)—

Omit “, or under any of those Acts as amended
by subsequent Acts”.

20 (2) Section 6 (1)—

Omit “as amended by subsequent Acts,”.

(3) Section 9 (3)—

Omit “Colonial”.

Public Trustee (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PUBLIC TRUSTEE ACT, 1913,
BY WAY OF STATUTE LAW REVISION—*continued.*

- (4) Section 16 (1), proviso—
- 5 Omit “the provisions of the Mining Acts, the Crown
 Lands Acts, or the Real Property Act, 1900,” insert
 instead “an Act by or under which provision is made
10 for or with respect to the transfer of an estate or
 interest in property of the same class or description
 as that trust property.”
- (5) (a) Section 17—
- Omit “idiot, or lunatic,”
- (b) Section 17—
- Omit “directs :”, insert instead “directs.”
- 15 (6) Section 18 (2), proviso—
- Omit “the provisions of the Mining Act, the Crown
 Lands Act, or the Real Property Act, 1900,” insert
 instead “an Act by or under which provision is made
20 for or with respect to the transfer of an estate or
 interest in property of the same class or description
 as that trust property.”
- (7) Section 18A (5A)—
- Omit “-1940”.
- (8) (a) Section 36 (1)—
- 25 Omit “-1940”.

Public Trustee (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PUBLIC TRUSTEE ACT, 1913,
BY WAY OF STATUTE LAW REVISION—*continued.*

5 (b) Section 36 (2)—
Omit “-1940”.

(9) (a) Section 36D (a)—
Omit “-1940”.

(b) Section 36D (b)—
Omit “Colonial” wherever occurring.

10 (10) (a) Section 41—
Omit “Colonial”.

(b) Section 41—
Omit “said”.

15 (11) Section 52 (1)—
Omit “Colonial”.

(12) (a) Section 53 (1A) (a)—
Omit “Colonial”.

(b) Section 53 (1A) (b)—
Omit “Colonial”.

SCHEDULE

Public Trustee (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PUBLIC TRUSTEE ACT, 1913,
BY WAY OF STATUTE LAW REVISION—*continued.*

(c) Section 53 (2)—

5 Omit "Colonial".

(d) Section 53 (3)—

Omit "said" wherever occurring.

(13) (a) Section 59—

Omit :—

10 All such regulations shall—

(a) be published in the Gazette;

(b) take effect from the date of publication
or from a later date to be specified in
the regulations; and

15 (c) be laid before both Houses of Parlia-
ment within fourteen sitting days after
publication if Parliament is in session,
and if not, then within fourteen sitting
20 days after the commencement of the
next session.

25 But if either House of Parliament passes a
resolution of which notice has been given at any
time within fifteen sitting days after such
regulations have been laid before such House
disallowing any regulation or part thereof, such
regulation or part shall thereupon cease to have
effect.

Public Trustee (Amendment).

SCHEDULE 2—continued.

**AMENDMENTS TO THE PUBLIC TRUSTEE ACT, 1913,
BY WAY OF STATUTE LAW REVISION—continued.**

(b) Section 59 (2)—

5 At the end of section 59, insert :—

10 (2) Section 41 of the Interpretation Act,
1897, applies in respect of a regulation made
under this Act as if this Act had been passed
after the commencement of the Interpretation
(Amendment) Act, 1969.

SCHEDULE 2—continued

Amendments to the Public Finance Act, 1973
by way of Statute Law Revision—continued

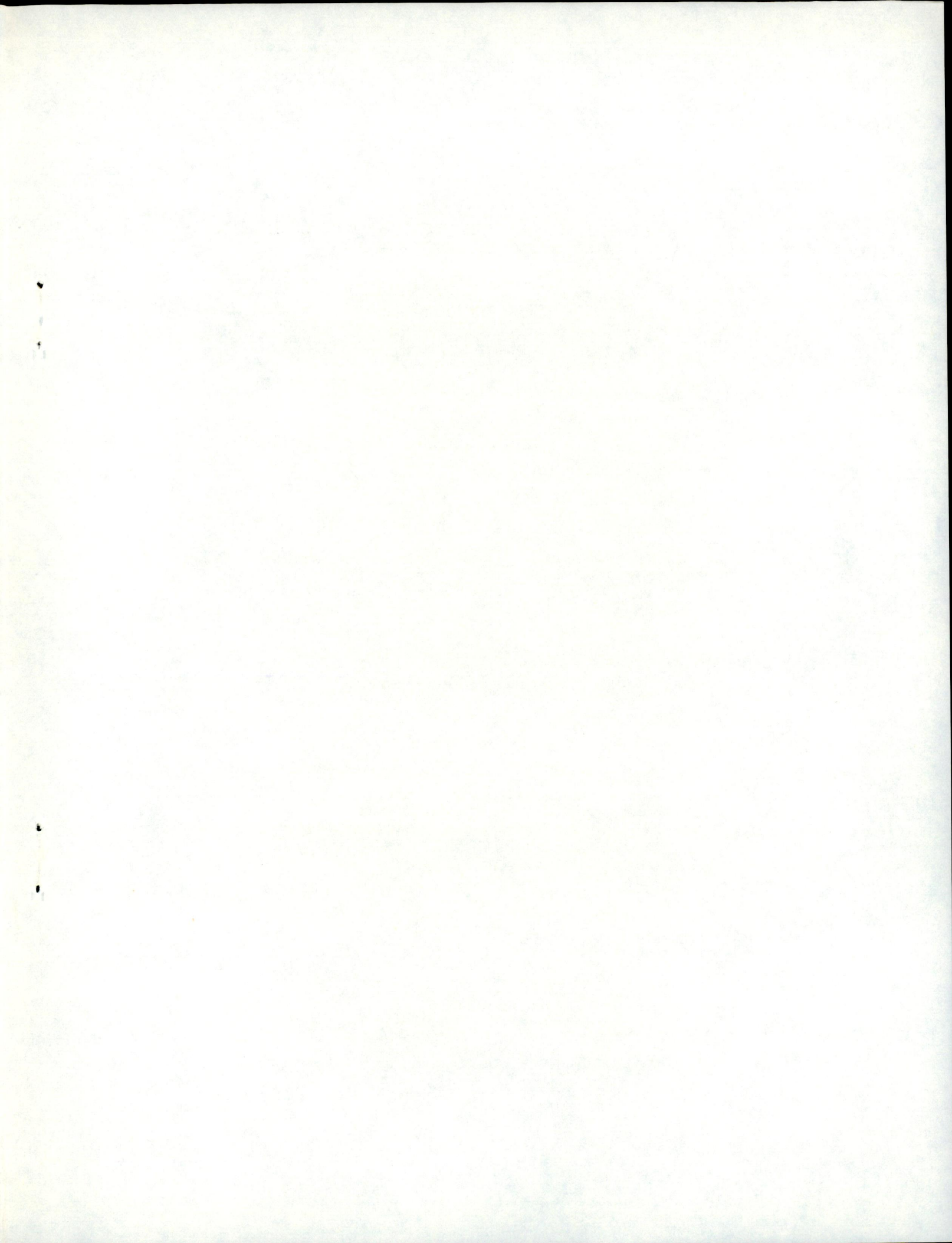
(b) Section 29 (2)

at the end of section 29 (2) insert:

(3) Section 29 (2) of the Public Finance Act, 1973, shall be amended by substituting the words "under the provisions of the Public Finance Act, 1973" for the words "under the provisions of the Public Finance Act, 1973" in the proviso.

2

10



New South Wales



ANNO VICESIMO SEXTO

ELIZABETHÆ II REGINÆ

Act No. 41, 1977.

An Act to amend the Public Trustee Act, 1913, and to
validate certain matters. [Assented to, 15th April, 1977.]

BE

Public Trustee (Amendment).

BE it 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 "Public Trustee (Amendment) Act, 1977".

**Commence-
ment.** 2. (1) Except as provided in subsections (2) and (3), this Act shall commence on the date of assent to this Act.

(2) Section 5 shall be deemed to have commenced on 14th February, 1975.

(3) Schedule 1 (3) shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Schedules. 3. This Act contains the following Schedules:—

SCHEDULE 1.—AMENDMENTS TO THE PUBLIC TRUSTEE ACT, 1913.

38 SCHEDULE 2.—AMENDMENTS TO THE PUBLIC TRUSTEE ACT, 1913, BY WAY OF STATUTE LAW REVISION.

**Amendment
of Act No.
19, 1913.** 4. The Public Trustee Act, 1913, is amended in the manner set forth in Schedules 1 and 2.

Public Trustee (Amendment).

5. The regulation purporting to have been made under the Public Trustee Act, 1913, and published in Gazette No. 35 of 14th February, 1975, is amended—

Validation—
commission—
payable to
the public
trustee.

- (a) by omitting from paragraph (a) (i) of that regulation the matter “\$” where firstly, secondly and thirdly occurring and by inserting instead the matter “f”; and
- (b) by omitting from paragraph (a) (iv) of that regulation the matter “\$” where firstly, secondly and thirdly occurring and by inserting instead the matter “f”.

SCHEDULE 1.

Sec. 4.

AMENDMENTS TO THE PUBLIC TRUSTEE ACT, 1913.

(1) Section 7 (2)—

At the end of section 7, insert :—

(2) The public trustee—

- (a) may take proceedings and be proceeded against in its corporate name;
- (b) may, notwithstanding any other provision of this Act, for the purposes for which it is constituted, purchase, exchange, take on lease, hold, dispose of and otherwise deal with property; and
- (c) may do and suffer all other things that bodies corporate generally may, by law, do and suffer and that are necessary for or incidental to the purposes for which it is constituted.

SCHEDULE

SCHEDULE

Public Trustee (Amendment).

SCHEDULE 1—continued.**AMENDMENTS TO THE PUBLIC TRUSTEE ACT,
1913—continued.****(2) (a) Section 18A (1)—**

Omit “four thousand dollars”, insert instead
“\$15,000”.

(b) Section 18A (1)—

Omit “and seal”, insert instead “, or the hand of
the chief trust officer or the solicitor to the public
trustee, and sealed with the public trustee’s seal”.

(c) Section 18A (2)—

Omit “four thousand dollars”, insert instead
“\$15,000”.

(d) Section 18A (2)—

Omit “and seal”, insert instead “, or the hand of
the chief trust officer or the solicitor to the public
trustee, and sealed with the public trustee’s seal”.

(e) Section 18A (3A) (a)—

Omit “four thousand dollars”, insert instead
“\$15,000”.

(f) Section 18A (3A) (a)—

Omit “and seal”, insert instead “, or the hand of
the chief trust officer or the solicitor to the public
trustee, and sealed with the public trustee’s seal”.

(g) Section 18A (4)—

Omit “thirty miles”, insert instead “50
kilometres”.

(h) Section 18A (5)—

Omit “six thousand dollars”, insert instead
“\$20,000”.

SCHEDULE

Public Trustee (Amendment).

SCHEDULE 1—continued.

**AMENDMENTS TO THE PUBLIC TRUSTEE ACT,
1913—continued.**

(i) Section 18A (5)—

After “hand”, insert “, or the hand of the chief trust officer or the solicitor to the public trustee,”.

(j) Section 18A (5A)—

After “hand”, insert “, or the hand of the chief trust officer or the solicitor to the public trustee,”.

(3) Section 33—

Omit the section.

(4) Section 34 (2)—

At the end of section 34, insert :—

(2) A reference in subsection (1) to a minor being entitled to moneys in the hands of the public trustee includes a reference to a minor who is entitled to those moneys contingently on attaining an age specified in the instrument creating the entitlement.

(5) Section 34C—

After section 34B, insert :—

34C. (1) On the death of a person to whom a sum of money, not exceeding \$2,000, is payable by the public trustee, the public trustee may, without requiring administration to be taken out in the estate of that person, pay that sum or any part of that sum to a person who the public trustee considers is entitled to that sum or part.

Payment of money without grant of administration.

SCHEDULE

Public Trustee (Amendment).

SCHEDULE 1—continued.**AMENDMENTS TO THE PUBLIC TRUSTEE ACT,
1913—continued.**

(2) A payment made in good faith pursuant to subsection (1) shall be valid against all persons and the public trustee shall be absolutely discharged from all liability in respect of any money so paid by him.

(3) A person to whom money is paid pursuant to subsection (1) shall be liable to apply that money in the due course of administration and the public trustee may, if he thinks fit, without being liable to see to the application of that money, require that person to give sufficient security, by bond or otherwise, that that money will be so applied.

(4) The public trustee shall notify the Commissioner of Stamp Duties of any payment made pursuant to subsection (1) within 30 days after the making of that payment.

(5) Nothing in this section affects any right of a person to claim or recover money paid pursuant to subsection (1) from a person other than the public trustee.

(6) Section 35 (2)—

Omit the subsection.

(7) Section 36G—

After section 36F, insert :—

Investment
in common
fund by
the Court.

36G. (1) The public trustee shall, within one day after the date of receipt by him, pay into the common fund such money as is forwarded to him for that purpose by a registrar of the Court.

SCHEDULE

Public Trustee (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PUBLIC TRUSTEE ACT,
1913—*continued.*

(2) The public trustee shall repay to a registrar of the Court, on demand by him, money paid into the common fund by that registrar under subsection (1) together with interest on that money calculated in accordance with section 36A (3) and (4).

(8) Sections 43A, 43B—

After section 43, insert :—

Entitlement to costs in certain cases.

43A. On an application by the public trustee, whether in common or in solemn form, for probate of any will, or for administration with a will annexed, the public trustee shall be entitled to his costs out of the estate, and shall not be liable for the costs of any other person. **Application in respect of will.**

43B. Where the beneficiaries entitled under any intestacy cannot agree as to the person to be appointed administrator and the public trustee, at the request of any one or more of those beneficiaries, applies for administration, he shall not be liable for the costs of any other person and shall be entitled to his costs out of the estate, whether or not he is appointed administrator. **Application on intestacy.**

(9) (a) Section 50 (1)—

Omit “, and sealed with his corporate seal, certifying that he”, insert instead “, or the hand of the chief trust officer, the senior trust officer, the solicitor to the public trustee, a branch

SCHEDULE

Public Trustee (Amendment).

SCHEDULE 1—continued.

**AMENDMENTS TO THE PUBLIC TRUSTEE ACT,
1913—continued.**

manager or a relieving branch manager, and sealed with the public trustee's seal, certifying that the public trustee".

(b) Section 50 (2)—

Omit "and sealed with his corporate seal, certifying that he", insert instead "or the hand of the chief trust officer, the senior trust officer, the solicitor to the public trustee, a branch manager or a relieving branch manager, and sealed with the public trustee's seal, certifying that the public trustee".

Sec. 4.

SCHEDULE 2.

**AMENDMENTS TO THE PUBLIC TRUSTEE ACT, 1913,
BY WAY OF STATUTE LAW REVISION.**

(1) (a) Section 5 (3) (a) (iv)—

Omit the subparagraph, insert instead :—

- (iv) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;

SCHEDULE

Public Trustee (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PUBLIC TRUSTEE ACT, 1913,
BY WAY OF STATUTE LAW REVISION—*continued.*

(b) Section 5 (3) (a) (vi)—

Omit the subparagraph, insert instead :—

(vi) becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act.

(c) Section 5 (4)—

Omit “1916–1935, or under any Act amending those Acts,” insert instead “1916,”.

(d) Section 5 (5)—

Omit “–1935”.

(e) Section 5 (5)—

Omit “, or under any of those Acts as amended by subsequent Acts”.

(2) Section 6 (1)—

Omit “as amended by subsequent Acts,”.

(3) Section 9 (3)—

Omit “Colonial”.

SCHEDULE

Public Trustee (Amendment).

SCHEDULE 2—continued.**AMENDMENTS TO THE PUBLIC TRUSTEE ACT, 1913,
BY WAY OF STATUTE LAW REVISION—continued.****(4) Section 16 (1), proviso—**

Omit “the provisions of the Mining Acts, the Crown Lands Acts, or the Real Property Act, 1900,”, insert instead “an Act by or under which provision is made for or with respect to the transfer of an estate or interest in property of the same class or description as that trust property,”.

(5) (a) Section 17—

Omit “idiot, or lunatic,”.

(b) Section 17—

Omit “directs :”, insert instead “directs.”

(6) Section 18 (2), proviso—

Omit “the provisions of the Mining Act, the Crown Lands Act, or the Real Property Act, 1900,”, insert instead “an Act by or under which provision is made for or with respect to the transfer of an estate or interest in property of the same class or description as that trust property,”.

(7) Section 18A (5A)—

Omit “-1940”.

(8) (a) Section 36 (1)—

Omit “-1940”.

Public Trustee (Amendment).

SCHEDULE 2—*continued.*

**AMENDMENTS TO THE PUBLIC TRUSTEE ACT, 1913,
BY WAY OF STATUTE LAW REVISION—*continued.***

(b) Section 36 (2)—

Omit “-1940”.

(9) (a) Section 36D (a)—

Omit “-1940”.

(b) Section 36D (b)—

Omit “Colonial” wherever occurring.

(10) (a) Section 41—

Omit “Colonial”.

(b) Section 41—

Omit “said”.

(11) Section 52 (1)—

Omit “Colonial”.

(12) (a) Section 53 (1A) (a)—

Omit “Colonial”.

(b) Section 53 (1A) (b)—

Omit “Colonial”.

SCHEDULE

Public Trustee (Amendment).

SCHEDULE 2—continued.**AMENDMENTS TO THE PUBLIC TRUSTEE ACT, 1913,
BY WAY OF STATUTE LAW REVISION—continued.**

(c) Section 53 (2)—

Omit “Colonial”.

(d) Section 53 (3)—

Omit “said” wherever occurring.

(13) (a) Section 59—

Omit :—

All such regulations shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date to be specified in the regulations; and
- (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

But if either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

Public Trustee (Amendment).

SCHEDULE 2—*continued.*

**AMENDMENTS TO THE PUBLIC TRUSTEE ACT, 1913,
BY WAY OF STATUTE LAW REVISION—*continued.***

(b) Section 59 (2)—

At the end of section 59, insert :—

(2) Section 41 of the Interpretation Act, 1897, applies in respect of a regulation made under this Act as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1977

THE UNIVERSITY OF CHICAGO

SCHEDULE 1--continued.

ANNUAL REPORTS TO THE PUBLIC: THE UNIVERSITY OF CHICAGO
BY MAYOR ST. JOHN LAW, KENNEDY UNIVERSITY

1977-78

1977-78

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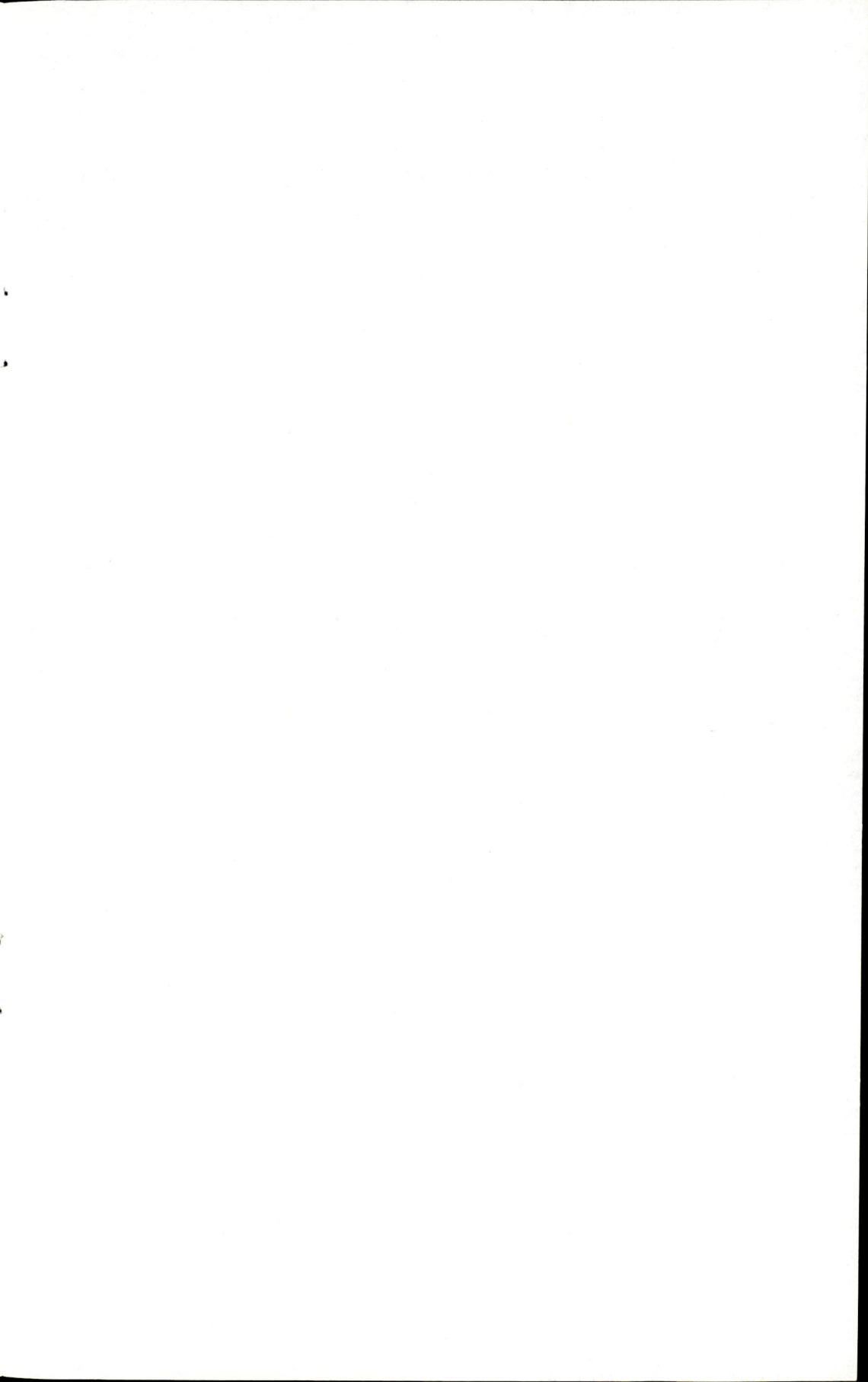
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I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

R. E. WARD,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 30 March, 1977.*

New South Wales



ANNO VICESIMO SEXTO

ELIZABETHÆ II REGINÆ

Act No. 41, 1977.

An Act to amend the Public Trustee Act, 1913, and to
validate certain matters. [Assented to, 15th April, 1977.]

BE

*I have examined this Bill, and find it to correspond in all respects
with the Bill as finally passed by both Houses.*

T. J. CAHILL,
Chairman of Committees of the Legislative Assembly.

Public Trustee (Amendment).

BE it 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 "Public Trustee (Amendment) Act, 1977".

Commence- 2. (1) Except as provided in subsections (2) and (3),
ment. this Act shall commence on the date of assent to this Act.

(2) Section 5 shall be deemed to have commenced on 14th February, 1975.

(3) Schedule 1 (3) shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Schedules. 3. This Act contains the following Schedules :—

SCHEDULE 1.—AMENDMENTS TO THE PUBLIC TRUSTEE ACT, 1913.

SCHEDULE 2.—AMENDMENTS TO THE PUBLIC TRUSTEE ACT, 1913, BY WAY OF STATUTE LAW REVISION.

Amendment 4. The Public Trustee Act, 1913, is amended in the
of Act No. manner set forth in Schedules 1 and 2.
19, 1913.

Public Trustee (Amendment).

5. The regulation purporting to have been made under the Public Trustee Act, 1913, and published in Gazette No. 35 of 14th February, 1975, is amended—

Validation—
commission
payable to
the public
trustee.

- (a) by omitting from paragraph (a) (i) of that regulation the matter “\$” where firstly, secondly and thirdly occurring and by inserting instead the matter “£”; and
- (b) by omitting from paragraph (a) (iv) of that regulation the matter “\$” where firstly, secondly and thirdly occurring and by inserting instead the matter “£”.

SCHEDULE 1.

Sec. 4.

AMENDMENTS TO THE PUBLIC TRUSTEE ACT, 1913.

(1) Section 7 (2)—

At the end of section 7, insert :—

(2) The public trustee—

- (a) may take proceedings and be proceeded against in its corporate name;
- (b) may, notwithstanding any other provision of this Act, for the purposes for which it is constituted, purchase, exchange, take on lease, hold, dispose of and otherwise deal with property; and
- (c) may do and suffer all other things that bodies corporate generally may, by law, do and suffer and that are necessary for or incidental to the purposes for which it is constituted.

SCHEDULE

Public Trustee (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PUBLIC TRUSTEE ACT,
1913—*continued.*

(2) (a) Section 18A (1)—

Omit “four thousand dollars”, insert instead
“\$15,000”.

(b) Section 18A (1)—

Omit “and seal”, insert instead “, or the hand of
the chief trust officer or the solicitor to the public
trustee, and sealed with the public trustee’s seal”.

(c) Section 18A (2)—

Omit “four thousand dollars”, insert instead
“\$15,000”.

(d) Section 18A (2)—

Omit “and seal”, insert instead “, or the hand of
the chief trust officer or the solicitor to the public
trustee, and sealed with the public trustee’s seal”.

(e) Section 18A (3A) (a)—

Omit “four thousand dollars”, insert instead
“\$15,000”.

(f) Section 18A (3A) (a)—

Omit “and seal”, insert instead “, or the hand of
the chief trust officer or the solicitor to the public
trustee, and sealed with the public trustee’s seal”.

(g) Section 18A (4)—

Omit “thirty miles”, insert instead “50
kilometres”.

(h) Section 18A (5)—

Omit “six thousand dollars”, insert instead
“\$20,000”.

SCHEDULE

Public Trustee (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PUBLIC TRUSTEE ACT,
1913—*continued.*

(i) Section 18A (5)—

After “hand”, insert “, or the hand of the chief trust officer or the solicitor to the public trustee,”.

(j) Section 18A (5A)—

After “hand”, insert “, or the hand of the chief trust officer or the solicitor to the public trustee,”.

(3) Section 33—

Omit the section.

(4) Section 34 (2)—

At the end of section 34, insert :—

(2) A reference in subsection (1) to a minor being entitled to moneys in the hands of the public trustee includes a reference to a minor who is entitled to those moneys contingently on attaining an age specified in the instrument creating the entitlement.

(5) Section 34c—

After section 34B, insert :—

34c. (1) On the death of a person to whom a sum of money, not exceeding \$2,000, is payable by the public trustee, the public trustee may, without requiring administration to be taken out in the estate of that person, pay that sum or any part of that sum to a person who the public trustee considers is entitled to that sum or part.

Payment of money without grant of administration.

SCHEDULE

Public Trustee (Amendment).

 SCHEDULE 1—*continued.*

 AMENDMENTS TO THE PUBLIC TRUSTEE ACT,
 1913—*continued.*

(2) A payment made in good faith pursuant to subsection (1) shall be valid against all persons and the public trustee shall be absolutely discharged from all liability in respect of any money so paid by him.

(3) A person to whom money is paid pursuant to subsection (1) shall be liable to apply that money in the due course of administration and the public trustee may, if he thinks fit, without being liable to see to the application of that money, require that person to give sufficient security, by bond or otherwise, that that money will be so applied.

(4) The public trustee shall notify the Commissioner of Stamp Duties of any payment made pursuant to subsection (1) within 30 days after the making of that payment.

(5) Nothing in this section affects any right of a person to claim or recover money paid pursuant to subsection (1) from a person other than the public trustee.

(6) Section 35 (2)—

Omit the subsection.

(7) Section 36G—

After section 36F, insert :—

Investment
in common
fund by
the Court.

36G. (1) The public trustee shall, within one day after the date of receipt by him, pay into the common fund such money as is forwarded to him for that purpose by a registrar of the Court.

SCHEDULE

Public Trustee (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PUBLIC TRUSTEE ACT,
1913—*continued.*

(2) The public trustee shall repay to a registrar of the Court, on demand by him, money paid into the common fund by that registrar under subsection (1) together with interest on that money calculated in accordance with section 36A (3) and (4).

(8) Sections 43A, 43B—

After section 43, insert :—

Entitlement to costs in certain cases.

43A. On an application by the public trustee, whether in common or in solemn form, for probate of any will, or for administration with a will annexed, the public trustee shall be entitled to his costs out of the estate, and shall not be liable for the costs of any other person. Application in respect of will.

43B. Where the beneficiaries entitled under any intestacy cannot agree as to the person to be appointed administrator and the public trustee, at the request of any one or more of those beneficiaries, applies for administration, he shall not be liable for the costs of any other person and shall be entitled to his costs out of the estate, whether or not he is appointed administrator. Application on intestacy.

(9) (a) Section 50 (1)—

Omit “, and sealed with his corporate seal, certifying that he”, insert instead “, or the hand of the chief trust officer, the senior trust officer, the solicitor to the public trustee, a branch

SCHEDULE

Public Trustee (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PUBLIC TRUSTEE ACT,
1913—*continued.*

manager or a relieving branch manager, and sealed with the public trustee's seal, certifying that the public trustee".

(b) Section 50 (2)—

Omit “, and sealed with his corporate seal, certifying that he”, insert instead “, or the hand of the chief trust officer, the senior trust officer, the solicitor to the public trustee, a branch manager or a relieving branch manager, and sealed with the public trustee's seal, certifying that the public trustee”.

Sec. 4.

SCHEDULE 2.

AMENDMENTS TO THE PUBLIC TRUSTEE ACT, 1913,
BY WAY OF STATUTE LAW REVISION.

(1) (a) Section 5 (3) (a) (iv)—

Omit the subparagraph, insert instead :—

- (iv) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;

SCHEDULE

Public Trustee (Amendment).

SCHEDULE 2—*continued.*

**AMENDMENTS TO THE PUBLIC TRUSTEE ACT, 1913,
BY WAY OF STATUTE LAW REVISION—*continued.***

(b) Section 5 (3) (a) (vi)—

Omit the subparagraph, insert instead :—

- (vi) becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act.

(c) Section 5 (4)—

Omit “1916–1935, or under any Act amending those Acts,”, insert instead “1916,”.

(d) Section 5 (5)—

Omit “–1935”.

(e) Section 5 (5)—

Omit “, or under any of those Acts as amended by subsequent Acts”.

(2) Section 6 (1)—

Omit “as amended by subsequent Acts,”.

(3) Section 9 (3)—

Omit “Colonial”.

SCHEDULE

Public Trustee (Amendment).

SCHEDULE 2—continued.**AMENDMENTS TO THE PUBLIC TRUSTEE ACT, 1913,
BY WAY OF STATUTE LAW REVISION—continued.****(4) Section 16 (1), proviso—**

Omit “the provisions of the Mining Acts, the Crown Lands Acts, or the Real Property Act, 1900,” insert instead “an Act by or under which provision is made for or with respect to the transfer of an estate or interest in property of the same class or description as that trust property,”.

(5) (a) Section 17—

Omit “idiot, or lunatic,”.

(b) Section 17—

Omit “directs :”, insert instead “directs.”

(6) Section 18 (2), proviso—

Omit “the provisions of the Mining Act, the Crown Lands Act, or the Real Property Act, 1900,” insert instead “an Act by or under which provision is made for or with respect to the transfer of an estate or interest in property of the same class or description as that trust property,”.

(7) Section 18A (5A)—

Omit “-1940”.

(8) (a) Section 36 (1)—

Omit “-1940”.

SCHEDULE

Public Trustee (Amendment).

SCHEDULE 2—continued.

**AMENDMENTS TO THE PUBLIC TRUSTEE ACT, 1913,
BY WAY OF STATUTE LAW REVISION—continued.**

(b) Section 36 (2)—

Omit “-1940”.

(9) (a) Section 36D (a)—

Omit “-1940”.

(b) Section 36D (b)—

Omit “Colonial” wherever occurring.

(10) (a) Section 41—

Omit “Colonial”.

(b) Section 41—

Omit “said”.

(11) Section 52 (1)—

Omit “Colonial”.

(12) (a) Section 53 (1A) (a)—

Omit “Colonial”.

(b) Section 53 (1A) (b)—

Omit “Colonial”.

SCHEDULE

Public Trustee (Amendment).

SCHEDULE 2—continued.**AMENDMENTS TO THE PUBLIC TRUSTEE ACT, 1913,
BY WAY OF STATUTE LAW REVISION—continued.**

(c) Section 53 (2)—

Omit "Colonial".

(d) Section 53 (3)—

Omit "said" wherever occurring.

(13) (a) Section 59—

Omit :—

All such regulations shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date to be specified in the regulations; and
- (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

But if either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

SCHEDULE

Public Trustee (Amendment).

SCHEDULE 2—*continued.*

**AMENDMENTS TO THE PUBLIC TRUSTEE ACT, 1913,
BY WAY OF STATUTE LAW REVISION—*continued.***

(b) Section 59 (2)—

At the end of section 59, insert :—

(2) Section 41 of the Interpretation Act, 1897, applies in respect of a regulation made under this Act as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969.

In the name and on behalf of Her Majesty I assent to this Act.

A. R. CUTLER,
Governor.

*Government House,
Sydney, 15th April, 1977.*

Act No. 11, 1937

Public Law 11, 1937

SCHEDULE 2—continued

AMENDMENTS TO THE PUBLIC TRUST ACT, 1913,
BY WAY OF STATUTE LAW REVISION—continued.

(b) Section 10 (2) —

At the end of section 10 insert—

(2) Section 11 of the Public Trust Act,
1913, shall be amended in respect of the
words "the Act of 1913" by substituting
the words "the Act of 1913 and the
Amendment Act, 1937."

in the words "the Act of 1913" by substituting the words "the Act of 1913 and the Amendment Act, 1937."

A. R. CUTLER

(Secretary)

Government House,

Sydney (25th April 1937)

