



PUBLIC TRUST OFFICE AMENDMENT ACT 1987

No. 3 of 1987

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AN ACT to amend the Public Trust Office Act 1930.

[Royal Assent 15 April 1987]

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—This Act may be cited as the *Public Trust Office Amendment Act 1987*. Short title.

Commencement.

2—This Act shall commence on the day on which it receives the Royal assent.

Principal Act.

3—In this Act, the *Public Trust Office Act 1930** is referred to as the Principal Act.

Amendment of section 3 of Principal Act (Interpretation).

4—Section 3 of the Principal Act is amended by inserting after the definition of “ executor ” and “ administrator ” the following definition:—

“ group investment fund ” means a group investment fund established under section 50A;

Amendment of section 12 of Principal Act (Power of persons to appoint the Public Trustee to act as trustee, executor, &c.).

5—Section 12 of the Principal Act is amended by omitting from subsection (3) “ as agent shall include power to act as agent for the investment of money in the Common Fund ” and substituting “ as agent or attorney includes the power so to act for the investment of money in the common fund or a group investment fund ”.

Amendment of section 39 of Principal Act (Special investments outside common fund).

6—Section 39 of the Principal Act is amended by omitting subparagraphs (i) and (ii) of paragraph (c) of subsection (2) and substituting the following subparagraphs:—

- (i) in a group investment fund;
- (ii) in any manner in which trustees are authorized to invest trust funds under the *Trustee Act 1898*; or
- (iii) in contributory first mortgages of real estate in Tasmania,

Insertion in Principal Act of new Part VIA.

7—After Part VI of the Principal Act, the following Part is inserted:—

PART VIA

GROUP INVESTMENT FUNDS

Establishment, &c., of group investment funds.

50A—(1) The Public Trustee may from time to time establish and keep, in addition to and separately from the common fund, one or more funds, each of which shall be called a group investment fund, and, where more than one group investment fund is so established, each such fund shall be given an appropriate distinguishing name or number.

* 21 Geo. V No. 61. For this Act, as amended to 1959, see the Reprint of Statutes (1826-1959), Vol. 4, p. 1009. Subsequently amended by No. 63 of 1963, No. 55 of 1965, No. 51 of 1967, No. 8 of 1972, Nos. 75 and 113 of 1973, Nos. 14 and 44 of 1977, No. 103 of 1982, No. 29 of 1984, and Nos. 51 and 76 of 1985.

(2) All money forming part of a group investment fund shall, subject to section 37 (2), be invested in such investments as the Public Trustee determines, being—

- (a) investments authorized by section 5 of the *Trustee Act 1898*; or
- (b) contributory first mortgages of real estate in Tasmania.

(3) Investments made from money forming part of a group investment fund shall not be made on account of, or belong to, any particular estate or principal, but the Public Trustee shall cause to be kept an account showing at all times the entitlement of each estate and principal in that fund.

(4) Where any money, being—

- (a) money in an estate that is vested in the Public Trustee or of which the Public Trustee is committed under the *Mental Health Act 1963*; or
- (b) money in relation to which the Public Trustee has the power to act as agent or attorney under section 12,

is lawfully invested in an investment in which a group investment fund may be invested, the Public Trustee may transfer that investment to that fund and give credit in that fund to the relevant estate or principal (as the case requires) for the fair market value of the investment at the time of the transfer, and, upon being so transferred, that investment shall cease to belong to that estate or principal.

(5) For the purposes of subsection (4), the fair market value at the time of its transfer to a group investment fund of an investment of a kind usually traded on a stock exchange shall be taken to be the value so certified by a member for the time being of the Hobart Stock Exchange Limited, and such a certificate, if given and acted upon in good faith, shall be conclusive.

(6) The Public Trustee may, in his discretion, withdraw any amount for the time being to the credit of an estate or principal in a group investment fund—

- (a) for the purpose of investing that amount on the separate account of that estate or principal, in another group investment fund, or in the common fund; or

(b) for any other purpose relating to the exercise and discharge of his duties, powers, authorities, and functions.

(7) Where amounts are withdrawn from a group investment fund in pursuance of subsection (6)—

(a) they may, in the discretion of the Public Trustee, be paid or provided in cash or rateably in investments or partly in cash and partly rateably in investments; and

(b) no person shall, as from the date of their withdrawal, have any claim on that fund in respect of those amounts for interest or otherwise.

(8) Any profit or loss upon the realization of any investment in a group investment fund shall be credited or debited (as the case requires) to that fund.

Income and
capital of
group
investment
funds.

50B—(1) The Public Trustee shall, in respect of each group investment fund—

(a) pay or allocate the income of that fund proportionately to or among the estates and principals entitled to the amounts invested in the fund according to the amounts of their several interests in the fund and the period for which they remain invested in the fund; and

(b) hold the capital of the fund proportionately for the estates and principals entitled to the amounts invested in the fund according to the amounts of their several interests in the fund,

in accordance with such provision (if any) as is made in that regard by regulations under this Act.

(2) Regulations made for the purposes of subsection (1) may make provision, in relation to the purchase of investments for a group investment fund, with respect to—

(a) the deduction from the income of that fund of the amounts of premiums paid; and

(b) the addition to the income of that fund of the amounts of discounts received.

50c—Subject to this Part, the Public Trustee may exercise, in respect of the investments and money forming part of a group investment fund—

Powers of Public Trustee in respect of group investment funds.

- (a) all the powers which he could exercise if the investments and money were not part of a group investment fund; and
- (b) such further powers as may be conferred on the Public Trustee by the Court, being powers which could be conferred on the Public Trustee by the Court if the investments and money were not part of a group investment fund.

50d—Except as otherwise expressly provided in this Part, nothing in this Part shall affect the rights, powers, and duties of the Public Trustee.

Other duties, &c., of Public Trustee not affected.

50e—An investment made by the Public Trustee in a group investment fund, including, in particular—

Investment in group investment fund deemed to be authorized trustee investment.

- (a) the investment of money in that fund in exercise of the power conferred by section 12 (3) or 39 (2); and
- (b) the giving to an estate of credit in that fund for the fair market value of an investment transferred to that fund from that estate under section 50A (4) or from another group investment fund under section 50A (6),

shall be taken, for the purposes of any law or of any order of a court, to be an investment authorized by section 5 of the *Trustee Act 1898*.

