



ANALYSIS

Title
1. Short Title

2 Power to treat share premium account
distributions as income

1983, No. 31

An Act to amend the Trustee Act 1956

[18 October 1983]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title—This Act may be cited as the Trustee Amendment Act 1983, and shall be read together with and deemed part of the Trustee Act 1956 (hereinafter referred to as the principal Act).

2. Power to treat share premium account distributions as income—The principal Act is hereby amended by inserting, after section 25, the following section:

“25A. (1) In this section the term ‘Court order’, in relation to any distribution by a company from its share premium account, means the order of the Court made under section 77 of the Companies Act 1955 (as applied by section 64 of that Act) confirming the distribution.

“(2) Notwithstanding any enactment or rule of law to the contrary, a trustee of any stocks or shares in a company may in his discretion treat the whole or any part, not exceeding the maximum permitted fraction, of the proceeds of any distribution made to the trustee by the company from its share premium account as income for the purposes of the trust.

“(3) The maximum permitted fraction, in relation to the proceeds of any such distribution made to a trustee, is—

$$\frac{y}{x}$$

where x is the total amount of the distribution paid by the company to the holders of its stocks and shares; and y is the total amount required by the Court order to be transferred by the company, by reason of the distribution, from revenue reserves or profits to a capital replacement fund (however described) that is not available to holders of stocks or shares otherwise than in pursuance of a reduction of the capital of the company duly confirmed by the Court or in paying up unissued shares of the company to be issued to members of the company as fully paid bonus shares.

“(4) For the purposes of this section, a trustee may act upon a certificate by the secretary of the company as to—

“(a) The terms of the Court order; and

“(b) The total amount distributed or to be distributed by the company pursuant to the Court order, and the total amount transferred or to be transferred to a capital replacement fund, in compliance with or in addition to the requirements of that order.”

This Act is administered in the Department of Justice.
