

PUBLIC TRUST OFFICE AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill amends the Public Trust Office Act 1957.

Clause 1 relates to the Short Title to the Bill.

Clause 2 extends section 20 (2) of the principal Act so as to empower the Public Trustee to open accounts in any bank, whether in New Zealand or elsewhere. It is made clear that this does not affect any enactment relating to exchange control.

Clause 3 provides that all land which for the time being constitutes an investment of the Common Fund, together with the buildings and improvements thereon, may be managed, leased, let, mortgaged, exchanged, sold, or otherwise dealt with or disposed of by the Public Trustee in such manner and at such time or times and upon such terms and conditions in all respects as the Public Trustee from time to time thinks fit.

Clauses 4 and 5 increase the financial limits relating to the filing of elections to administer from \$2,000 to \$7,500 in sections 72 (1) and 73 (1) of the principal Act, and from \$3,000 to \$10,000 in sections 72 (6) and 73 (3) of that Act. It is made clear that the amounts specified relate to property to be administered and do not include an interest as joint tenant.

Clause 6: Section 105 of the principal Act makes provision for the Public Trustee to bar claims under \$400 in amount. The clause redrafts the section so as to increase the financial limit to \$1,000 and bring the wording more into line with section 75 of the Trustee Act 1956.

Clause 7: Section 110 of the principal Act provides that where under any Act the Public Trustee is directed to make any payment upon an order of a Court or Judge being made, the Public Trustee may make the payment without such an order if the amount does not exceed \$400. The clause increases the amount to \$1,000. Cf. section 65 of the Administration Act 1969.

Hon. Mr Rae

PUBLIC TRUST OFFICE AMENDMENT

ANALYSIS

Title	
1. Short Title	5. Elections in respect of unadministered balance of an estate
2. Estate accounts	6. Public Trustee may bar claims
3. Investment of the Common Fund	7. Power of Public Trustee to make small payments without order
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A BILL INTITULED

An Act to amend the Public Trust Office Act 1957

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 Public Trust Office Amendment Act 1971, and shall be read together with and deemed part of the Public Trust Office Act 1957* (hereinafter referred to as the principal Act).
- 10 **2. Estate accounts**—(1) Section 20 of the principal Act is hereby amended by omitting from subsection (2) the words “in the Post Office Savings Bank”, and substituting the words “with any bank in New Zealand or elsewhere”.
- 15 (2) Section 20 of the principal Act is hereby further amended by adding the following subsection:
“(3) Nothing in this section shall restrict any enactment relating to exchange control.”

*1957 Reprint, Vol. 12, p. 387
Amendments: 1967, No. 25; 1968, No. 43

3. Investment of the Common Fund—Section 32 of the principal Act is hereby amended by adding the following subsection:

“(4) All land which for the time being constitutes an investment of the Common Fund, together with the buildings and improvements thereon, may be managed, leased, let, mortgaged, exchanged, sold, or otherwise dealt with or disposed of by the Public Trustee in such manner and at such time or times and upon such terms and conditions in all respects as the Public Trustee from time to time thinks fit.”

4. Power of Public Trustee to elect to administer small estates without grant of administration—Section 72 of the principal Act (as amended by section 7 (1) of the Decimal Currency Act 1964) is hereby further amended:

- (a) By inserting in subsection (1), after the words “property situated in New Zealand”, the words “to be administered”:
- (b) By omitting from subsection (1) the words “two thousand dollars”, and substituting the expression “\$7,500”:
- (c) By omitting from subsection (6) the words “three thousand dollars”, and substituting the expression “\$10,000”.

5. Elections in respect of unadministered balance of an estate—Section 73 of the principal Act (as amended by section 7 (1) of the Decimal Currency Act 1964) is hereby further amended:

- (a) By omitting from subsection (1) the words “two thousand dollars”, and substituting the expression “\$7,500”:
- (b) By omitting from subsection (3) the words “three thousand dollars”, and substituting the expression “\$10,000”.

6. Public Trustee may bar claims—The principal Act is hereby amended by repealing section 105, and substituting the following section:

“105. (1) Where any person claims, or the Public Trustee has reason to believe a person may claim, to recover from the Public Trustee any money, chattels, or things under \$1,000 in value, as estimated by the Public Trustee, and the Public

Trustee rejects the claim or desires to reject the claim, the Public Trustee may serve upon the person by whom or on whose behalf the claim is made or may be made a notice calling upon him to take legal proceedings within a period
5 of 3 months to establish or enforce the claim and also to prosecute the proceedings with all due diligence.

“(2) If the proceedings are not commenced by the person within the said period, the claim shall thereupon be barred, and the money, chattels, or things shall become irrecoverable,
10 and the Public Trustee may proceed to administer and distribute the estate disregarding the claim.

“(3) This section shall apply to every claim as aforesaid, whether arising or made before or after the commencement of this section, and whether the claim is or may be made
15 by any person as creditor or next of kin or beneficiary or otherwise.

“(4) The powers given by this section shall be in addition to the powers conferred by section 75 of the Trustee Act 1956.”

**7. Power of Public Trustee to make small payments without
20 order**—Section 110 of the principal Act (as amended by section 7 (1) of the Decimal Currency Act 1964) is hereby further amended by omitting the words “four hundred dollars”, and substituting the expression “\$1,000”.