

1958/66



## THE PUBLIC TRUST OFFICE REGULATIONS 1958

COBHAM, Governor-General

ORDER IN COUNCIL

At the Government Buildings at Wellington this 13th day of May 1958

Present:

THE RIGHT HON. W. NASH PRESIDING IN COUNCIL

PURSUANT to the Public Trust Office Act 1957, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

### REGULATIONS

#### PART I—PRELIMINARY

1. (1) These regulations may be cited as the Public Trust Office Regulations 1958.

(2) These regulations are arranged as follows:

- Part I—Preliminary. (Regulations 1 and 2.)
- Part II—General matters. (Regulations 3 to 8.)
- Part III—Common Fund interest. (Regulations 9 to 11.)
- Part IV—Finance and accounts. (Regulations 12 to 16.)
- Part V—Commission and fees. (Regulations 17 to 37.)
- Part VI—Destruction of records. (Regulation 38.)
- Part VII—Revocations and savings. (Regulation 39.)

2. In these regulations, unless the context otherwise requires,—

“The Act” means the Public Trust Office Act 1957:

“Audit Office” means the Controller and Auditor-General; and includes any person for the time being authorised to exercise or perform any of the powers, duties, or functions of the Controller and Auditor-General:

“The bank” means the Reserve Bank of New Zealand; and includes any bank for the time being acting as agent of that bank pursuant to the provisions of subsection (3) of section 21 of the Reserve Bank of New Zealand Act 1933, as amended by subsection (2) of section 9 of the Finance Act (No. 2) 1935:

“District Manager office” means a branch office placed in the charge of a District Manager in accordance with subsection (3) of section 10 of the Act:

“District office” means a district office which is in the control of a District Public Trustee in accordance with subsection (2) of section 10 of the Act:

“Government fund” means any sinking fund, insurance fund, or other fund established by a Department of the Government of New Zealand and of which the Public Trustee is appointed as the commissioner, trustee, or other custodian:

“High Commissioner” means the High Commissioner for New Zealand in the United Kingdom:

“Institution” means any association, society, corporation, bank, savings bank, local authority, or Department of the Government of New Zealand:

“Investment agency funds” means money invested in the Common Fund pursuant to section 37 of the Act:

“Local authority” means any authority or body which is for the time being a local authority for the purposes of the Local Authorities Loans Act 1956 or for the purposes of Part I or Part II or Part III of that Act:

“Local authority fund” means any sinking fund, depreciation fund, capital expenditure fund, reserve fund, renewal fund, replacement fund, or other fund established by any local authority and of which the Public Trustee is appointed as the commissioner, trustee, or other custodian:

Expressions used in these regulations shall have the same meaning as they have in the Act.

## PART II—GENERAL MATTERS

3. The head office of the Public Trust Office shall be situate in the City of Wellington.

4. The declaration of fidelity and secrecy to be made in accordance with paragraph (b) of subsection (1) of section 17 of the Act may be in the form set out in the First Schedule hereto.

5. (1) The seal of the Public Trustee shall be in such form as the Public Trustee from time to time determines.

(2) The seal of each District Public Trustee shall include the words “District Public Trustee for .....” but otherwise shall be in such form as the Public Trustee from time to time determines.

(3) The Public Trustee’s seal shall be kept under lock at the head office of the Public Trust Office in the custody of the Public Trustee or one of the Assistant Public Trustees.

(4) The seal of each District Public Trustee shall be kept under lock in his office in his custody or the custody of his deputy.

6. (1) Where the Public Trustee or an Assistant Public Trustee or the deputy of either of them executes any document under seal, his signature and official designation shall appear thereon and it shall be

sealed with the Public Trustee's seal; but, except as expressly required by any Act or rule of law, it shall not be necessary for the execution to be witnessed by anyone or for the document to include any attestation clause.

(2) Where any District Public Trustee or the deputy of a District Public Trustee executes pursuant to any of the provisions of Part IV of the Act, any election in writing under seal or any memorandum under seal or certificate under seal, or executes any certificate under section 103 or section 107 of the Mental Health Act 1911, his signature and official designation shall appear thereon and it shall be sealed with the District Public Trustee's seal but it shall not be necessary for the execution to be witnessed by anyone or for the document to include any attestation clause.

(3) Any document to which subclause (1) or subclause (2) of this regulation applies may be witnessed and may include an attestation clause if the nature of the document makes that necessary or if, in the opinion of the person who executes it, attestation is desirable, whether by reason of the document being required for use abroad or for any other reason which he considers to be sufficient.

(4) Except as provided by any other subclause of this regulation, any document under seal executed on behalf of the Public Trustee by a District Public Trustee shall be signed by the District Public Trustee and sealed with his seal and witnessed by some other person, and shall include an attestation clause in the following words or to the like effect:

“Signed on behalf of the Public Trustee by the District Public Trustee for ..... and sealed with the latter's seal in the presence of:”

(5) Except as provided in any other subclause of this regulation, any document under seal executed on behalf of the Public Trustee by the deputy of a District Public Trustee shall be signed by that deputy and shall be sealed with the District Public Trustee's seal and shall be witnessed by some other person and shall include an attestation clause in the following words or to the like effect:

“Signed on behalf of the Public Trustee by the deputy of the District Public Trustee for ..... and sealed with the latter's seal in the presence of:”

(6) Where a document is to be executed under seal by a District Public Trustee or the deputy of a District Public Trustee on behalf of a person of whose estate the Public Trustee is the statutory administrator or committee or manager, or whom the Public Trustee is authorised to represent, whether as agent or attorney or otherwise, then the foregoing provisions of this regulation shall apply except that the attestation clause may be in such form as is appropriate in the circumstances.

7. The Public Trustee may fix by scale or otherwise the professional fees and charges payable in respect of professional services rendered by the Office Solicitor acting as barrister or solicitor:

Provided that where the charge for any service, if rendered by a solicitor (not being a member of the staff of the Public Trust Office) to his client, would be determined in accordance with a scale for the time being approved by the New Zealand Law Society, the charge

made for that service when rendered by the Office Solicitor shall not exceed the amount payable for that service in accordance with the provisions of the said scale:

Provided also that the Public Trustee may reduce or waive any such fee or charge to meet the special circumstances of any case.

8. The fee payable to the Registrar of the Supreme Court for the filing of any election under Part IV of the Act shall be as follows:

	£	s.	d.
(a) Where the gross value (as estimated by the Public Trustee) of the property in New Zealand to which the election relates does not exceed £500 .....	0	10	0
(b) Where the gross value (as estimated by the Public Trustee) of the property in New Zealand to which the election relates exceeds £500 .....	1	0	0

### PART III—COMMON FUND INTEREST

9. (1) For the purposes of section 30 of the Act, the interest payable on capital money belonging to an estate and forming part of the Common Fund shall (except as otherwise hereafter provided in these regulations) be computed at the following yearly rates:

- |   |  |
|---|--|
| (a) While held on trust for persons not of full age or capacity or for beneficiaries not entitled to payment at call or while held otherwise than at call in a Government fund or a local authority fund or other trust account | 4 per cent.  |
| (b) While held as attorney or agent (excluding investment agency funds, the rate of interest on which is fixed by the Minister of Finance)  | Such rate as is agreed on, not exceeding the rate as specified in paragraph (a) of this subclause; and in the absence of an agreement, no interest shall be payable. |
| (c) While otherwise held in the ordinary course of administration for distribution or at call   | 1 per cent.  |

(2) Subject to regulations 10 and 11 hereof, the Public Trustee shall fix the date (if any) on which any sum commences and ceases to bear interest under any paragraph of subclause (1) of this regulation.

10. (1) In calculating the interest to be allowed on money in the Common Fund in accordance with regulation 9 hereof, the following provisions shall be observed as to the date from which the interest shall accrue:

- (a) In the cases of trust estates taken over from private trustees, workers' compensation money, money received under section 66 of the Act, money received under the Deaths by Accidents Compensation Act 1952, investment agency funds, local authority funds, and Government funds, interest shall run from the date of the receipt of the capital funds by the Public Trustee or his authorised agent:

- (b) On any credit balance consisting of interest-bearing funds to which paragraph (c) of subclause (1) of regulation 9 hereof applies, interest shall run from the first day of the fourth month following the date of the receipt of the first capital funds by the Public Trustee or his authorised agent:
- (c) In all cases not otherwise provided for, interest shall run from the first day of the month following the date of the receipt of the first capital funds by the Public Trustee or his authorised agent.

(2) Where there are special circumstances, the Public Trustee may authorise the crediting of interest from an earlier date than that from which it would otherwise be payable under paragraph (b) or paragraph (c) of subclause (1) of this regulation.

11. The foregoing regulations with respect to the crediting of interest shall be applied subject to the following special provisions:

- (a) Income received by the Public Trustee (not being interest on capital money forming part of the Common Fund), if and in so far as it is to be accumulated, shall be capitalised half-yearly on the 1st day of April and the 1st day of October in each year and until so capitalised shall not bear interest:
- (b) Interest on capital money forming part of the Common Fund, if and in so far as the interest is to be accumulated, shall be capitalised annually on the 1st day of April in each year and until so capitalised shall not bear interest:
- (c) Where any outgoings, maintenance allowance, or other payments properly chargeable against income are made in an estate having income to part of which paragraph (a) of this regulation would be applicable and to another part of which paragraph (b) of this regulation would be applicable, then, for the purposes of these regulations, the payments shall be deemed to have been made primarily from the part of the income to which paragraph (a) of this regulation is applicable:
- (d) Interest shall generally be computed on the daily balance of capital standing to the credit of any estate:

Provided that the Public Trustee may direct either generally or in any particular case that if the balance of capital standing to the credit of any estate is reduced during any month the interest for that month may be computed on the basis of either the balance of capital at the end of the month or the minimum balance of capital held at any time in the month:

Provided further that until the first statement of account is rendered by the Public Trustee, interest may, if he so directs, either generally or in any particular case, be computed as if all money in the account was capital even though that money includes income:

- (e) If the Public Trustee receives money for the credit of any Government fund or a local authority fund and the money is to be disbursed by him within one month from the date of the receipt thereof, no interest shall be credited thereon:

(f) No interest shall be credited to any estate which is insolvent:

Provided that where in any such estate there is life insurance or other money protected from the claims of creditors, interest at the appropriate rate shall be credited on that money:

(g) Before any unclaimed money is paid to the Public Account for the credit of the Consolidated Fund (whether pursuant to section 91 of the Act or pursuant to section 74 of the Public Revenues Act 1953 or pursuant to any other authority) all accumulations of interest (if any) credited thereto by the Public Trustee shall be deducted.

#### PART IV—FINANCE AND ACCOUNTS

12. Each cheque drawn on the Public Trustee's Account at Wellington shall be signed by the Public Trustee or an Assistant Public Trustee or some other officer authorised by the Public Trustee to sign the same without it being necessary to have the cheque countersigned:

Provided that the Public Trustee may from time to time require that all or any such cheques shall be countersigned; and if countersigning is required, the cheques shall be countersigned by the Chief Accountant or some other officer authorised by the Public Trustee to countersign the same.

13. (1) Each cheque drawn on a branch account of the Public Trustee's Account kept in a town where there is a district office shall be signed by the District Public Trustee in control of that office, or by some other officer authorised by the District Public Trustee to sign the same without it being necessary to have the cheque countersigned:

Provided that the Public Trustee may from time to time require that at any such office all or any such cheques shall be countersigned; and if countersigning is required, the cheques shall be countersigned by some officer authorised by the District Public Trustee to do so.

(2) Each cheque drawn on a branch account of the Public Trustee's Account kept in a town where there is a District Manager office shall be signed by the District Manager in charge of that office or by some other officer authorised to do so by the District Public Trustee under whose supervision that office has been placed, without it being necessary to have the cheques countersigned:

Provided that the Public Trustee may from time to time require that at any such office all or any such cheques shall be countersigned; and if countersigning is required, the cheques shall be countersigned by some officer authorised to do so by the District Public Trustee under whose supervision that office has been placed.

(3) An officer may be authorised to act as both a signing and a countersigning officer for the purposes of this regulation, but no such officer shall both sign and countersign the same cheque.

(4) The powers conferred by this regulation upon District Public Trustees shall be subject to the control and direction of the Public Trustee, and the Public Trustee may exercise any power conferred by this regulation on a District Public Trustee instead of the District Public Trustee doing so.

14. (1) Each cheque drawn on the New Zealand Public Trust Office Account at the Bank of New Zealand, London, shall be signed by the High Commissioner or some officer authorised by him to sign the same and shall be countersigned by an officer selected from time to time by the Audit Office.

(2) The High Commissioner shall twice in each month, or at such other intervals as shall be agreed upon by him and the Public Trustee, send to the Public Trustee a full and detailed statement of all the receipts, payments, and transfers by, to, and from the New Zealand Public Trust Office Account which have not been included in any former such statement, accompanied by all such vouchers and other documents as the Public Trustee requires in support thereof.

(3) The Bank of New Zealand at London shall twice in every month, or at such other intervals as shall be agreed upon between it and the Public Trustee, transmit to the Public Trustee and to the Audit Office a statement showing the entries in the New Zealand Public Trust Office Account for the period to which the statement relates.

15. (1) The Public Trustee may require that any claim made against him, or against any estate in the Public Trust Office, shall be certified to be correct before being paid or allowed by him, or may require the claim to be proved to his satisfaction or the satisfaction of the paying agent.

(2) Before paying any amount to the claimant or the claimant's duly authorised agent, the Public Trustee may require that the identity of any person attending to receive payment be established to his satisfaction or the satisfaction of the paying agent, and may require the payee to sign a receipt for the amount.

16. It shall not be necessary for the authority or approval of the Audit Office to be obtained before the payment of the amount of any claim which in the opinion of the Public Trustee is correct and payable out of the Public Trustee's Account.

#### PART V—COMMISSION AND FEES

17. (1) The commission to be charged by the Public Trustee upon the gross capital of any testate or intestate estate realised by him, or upon the gross capital of any estate administered and realised under the Mental Health Act 1911, or the Aged and Infirm Persons Protection Act 1912, or the Destitute Persons Act 1910, or any other estate with respect to which specific provision for the Public Trustee's charges on realisation is not made shall be as follows—

	Per Cent
On the first £10,000 .....	3 $\frac{3}{4}$
On the next £10,000 .....	3
On the next £10,000 .....	2 $\frac{1}{2}$
On all in excess of £30,000 .....	2

Provided that in any such estate the rate of commission on book debts collected by the Public Trustee shall be 5 per cent unless some other person has been employed by the Public Trustee for the purpose of the collection and paid a commission for his services in which case the Public Trustee's commission shall be reduced to 2 $\frac{1}{2}$  per cent.

(2) Commission under this regulation in respect of any asset shall be payable upon realisation thereof.

(3) In computing the charge on capital realised, cash collected or received shall be included.

(4) In computing the charge on capital realised from the sale of property, no deduction shall be made in respect of legal or equitable charges thereon or of the expenses of realisation thereof:

Provided that as regards any life policy on the security of which the insurance office has made an advance to the deceased person in his lifetime this provision shall not apply and commission shall be charged only on the net amount received as the proceeds of the policy.

18. (1) Commission shall be charged by the Public Trustee at the rate of 1 per cent upon:

- (a) Such of the capital or income of any estate as, having been realised by a former trustee or other person acting in a fiduciary capacity, becomes vested in the Public Trustee on the original trusts, either in the form of investments or of cash:
- (b) All sums, whether capital or income, received by the Public Trustee under section 65 of the Act:
- (c) All sums, whether capital or income, transferred from one account in the Public Trust Office to another such account by reason of the Public Trustee having been statutory administrator of the estate of a mentally defective person immediately before his death and becoming the administrator of that person's estate after his death, or by reason of the Public Trustee administering an estate in two capacities in any other circumstances or by reason of an asset of one estate consisting of a beneficial interest in another estate:
- (d) The gross value (as fixed by the Public Trustee) of any un-realised asset devised or bequeathed to the Public Trustee upon perpetual trust:
- (e) All sums which, pursuant to any Act or rule of law, are deposited with the Public Trustee or lodged in the Public Trust Office, where no other rate of commission in respect thereof is prescribed by these regulations.

(2) Commission under this regulation in respect of cash shall be payable upon receipt thereof by the Public Trustee.

(3) Commission under this regulation in respect of any investment to which paragraph (a) of subclause (1) of this regulation is applicable shall be payable upon realisation thereof.

(4) Commission under this regulation in respect of any asset to which paragraph (d) of subclause (1) of this regulation is applicable shall be payable when the asset is transferred to the Public Trustee or otherwise becomes vested in him.

(5) If any asset to which paragraph (d) of subclause (1) of this regulation is applicable is realised after having become vested in the Public Trustee the commission payable in respect thereof under regulation 17 hereof shall be reduced by an amount equal to commission already charged in respect of the asset under this regulation 18.



19. The commission to be charged by the Public Trustee upon capital assets of which he is the trustee in terms of a deed of trust or of a settlement, antenuptial or otherwise (not being assets to which regulation 18 hereof applies) shall be as follows:

(a) Where the capital consists of cash which the Public Trustee is required to invest in the Common Fund, at the rate of 1 per cent on the amount of the capital; and the commission under this paragraph (a) shall be payable on distribution of the capital, except that, if the trust is perpetual, commission shall be payable on receipt of the capital fund:

Provided that no charge under this paragraph (a) shall be made in respect of capital funds which revert to the settlor in his lifetime:

(b) Where the capital consists of cash which the Public Trustee is required to invest otherwise than in the Common Fund, commission shall be payable in accordance with regulation 17 hereof in respect of so much of the fund as is distributed in cash or held on perpetual trust and in accordance with regulation 23 hereof in respect of investments of the capital which are transferred to any beneficiary or other person of a like character; and the commission under this paragraph (b) shall be payable on distribution or transfer of the assets, except that, if the trust is perpetual, commission shall be payable on receipt of the capital fund:

(c) Where the capital when the Public Trustee becomes trustee thereof consists of investments or other assets not being cash, commission shall be payable under the other regulations of this Part V as if the trusts had arisen under the will of a deceased person.

20. Where the Public Trustee is acting as attorney or agent, commission on assets realised shall be charged under regulation 17 hereof, except where a special fee or rate has been arranged between the Public Trustee and his principal. No charge under this regulation 20 shall be made in respect of investment agency funds.

21. Where insurance money is received in respect of loss of or damage to any estate asset—

(a) If the money is expended in replacing or repairing the asset, commission at  $1\frac{1}{2}$  per cent shall be charged by the Public Trustee on the money (in addition to commission in accordance with the other regulations of this Part V on ultimate realisation, transfer, or other disposal of the asset):

(b) In other cases the money shall be treated as the proceeds of a partial realisation of the asset and commission shall be charged accordingly.

22. The commission to be charged by the Public Trustee upon money received under the Workers' Compensation Act 1956, or the Deaths by Accidents Compensation Act 1952, or section 66 of the Act, shall be as follows:

	Per Cent
(a) On so much thereof as is immediately payable under a Court order or otherwise to the person entitled .....	1
(b) On so much thereof as is held and administered in terms of a Court order or otherwise .....	2

23. (1) The commission to be charged by the Public Trustee upon the gross value (as fixed by the Public Trustee) of the assets of an estate to which this regulation applies shall be at the following rates:

	Per Cent
On the first £10,000	3
On the next £10,000	2
On all in excess of £20,000	1

(2) This regulation shall apply to—

- (a) Any asset transferred or delivered in kind to or retained by any person entitled thereto being a devisee, legatee, next of kin, beneficiary, or other person of a like character:
- (b) Any asset abandoned to or sold by a mortgagee thereof:
- (c) Any advance to a beneficiary forgiven by will or brought into hotchpot:
- (d) Any asset of an estate administered by the Public Trustee under the Mental Health Act 1911 or the Aged and Infirm Persons Protection Act 1912 or Part V of the Act which is not realised but is handed over to the person entitled thereto or his personal representative on termination of the Public Trustee's administration as aforesaid.

(3) Commission under this regulation shall be payable when the asset is transferred or otherwise disposed of as aforesaid:

Provided that where commission under this regulation in respect of any asset will be payable from some other asset of an estate and that other asset is distributable before the time when the first-mentioned asset is transferred or otherwise disposed of as aforesaid, commission shall be payable as if the first-mentioned asset had been transferred to a beneficiary entitled thereto on the date (as fixed by the Public Trustee) when the asset from which the commission is payable became distributable.

24. (1) Except as otherwise provided in regulation 18 hereof, the commission to be charged by the Public Trustee upon the gross income received by the Public Trustee in any estate shall be as follows:

- (a) At the rate of  $3\frac{3}{4}$  per cent on dividends from shares or stock, interest on debentures, stock, deposits and savings bank money and on superannuation and other allowances and benefits from any institution:
- (b) At the rate of 5 per cent on rents and interest on mortgages, and on all other income (including the gross profit derived from any business carried on by the Public Trustee):

Provided that where any income to which this paragraph (b) would otherwise be applicable is collected on behalf of the Public Trustee by any authorised person who charges a commission for so doing, or where any such income is derived from another estate privately administered in which the administrator charges a commission for his services, the commission payable in respect of that income shall be computed under paragraph (a) instead of paragraph (b) of this subclause.

(2) No charge under this regulation shall be made in respect of interest credited to an estate in respect of its funds forming part of the Common Fund.

25. Where the Public Trustee is custodian trustee the charges provided for under the foregoing regulations of this Part V shall be reduced by half.

26. The minimum fee for the administration of any estate shall be £5 5s.; and, in addition to this charge, commission shall be charged on income received at the rate or rates prescribed by these regulations.

27. (1) The fee to be charged by the Public Trustee for discharging a mortgage under section 87 of the Property Law Act 1952 and receiving and holding the proceeds (if any) and whether principal or interest for the person entitled shall be as follows:

Where the amount paid to the Public Trustee does not exceed £250 or no amount is so payable	.....	.....	£	s.	d.
			5	5	0
Where the amount paid to the Public Trustee exceeds £250 but does not exceed £1,000	.....	.....	7	7	0
Where the amount paid to the Public Trustee exceeds £1,000	.....	.....	10	10	0

(2) The fee charged under this regulation shall be deducted from the amount received by the Public Trustee and shall accordingly reduce the amount to be held in trust for the mortgagee or other person entitled thereto. Where no amount is paid to the Public Trustee or the amount so paid is insufficient to provide for the fee, it shall be paid by the mortgagor either wholly or (as the case may be) to the extent of the deficiency. In addition to the fee mentioned in this regulation, the mortgagor shall pay the Office Solicitor's costs of and incidental to the discharge of the mortgage on the basis of the usual scale fee for a discharge of mortgage.

28. Fees shall be payable to the Public Trustee as follows:

- (a) For custody of securities under Part I of the Life Insurance Act 1908, such fee as is fixed by the Public Trustee but not exceeding £10 10s. per annum:
- (b) For making copy of any document, a fee of 1s. per folio of seventy-two words:
- (c) Upon the amount of any loan to any local authority, to cover the Office Solicitor's services relating to the loan and the security therefor, a fee of 5s. per cent with a minimum of £7 7s., which fee shall be payable by the local authority and may be deducted from the loan.

29. Where the Public Trustee is appointed as trustee for debenture holders, such fee or charge, whether annual or otherwise, shall be payable to him as shall have been arranged at the time of his appointment or may subsequently be agreed upon or failing agreement as may be fixed by the Public Trustee.

30. Money received by the Public Trustee of the following classes shall be exempted from charge under these regulations:

- (a) All payments by any local authority or by any Government Department for the credit of any local authority fund or Government fund:

- (b) All money lodged in the Public Trust Office or coming under the control of the Public Trustee to which the provisions of the Shipping and Seamen Act 1952 relating to the property of deceased seamen and apprentices apply:

Provided that the exemption conferred by this paragraph (b) shall not operate if the Public Trustee is the administrator of the estate of the deceased seaman or apprentice.

31. The Public Trustee may reduce or waive any of the foregoing charges to meet the special circumstances of any estate.

32. When an estate is administered as insolvent (whether under Part IV of the Administration Act 1952 or under section 104 of the Act) the Public Trustee may increase the charges otherwise payable under these regulations in respect of capital to an amount not exceeding commission at the following rates:

	Per Cent
On the first £10,000	5
On all in excess of £10,000	3

33. For any service in respect of the tracing of missing beneficiaries, the attempted realisation of assets which are ultimately transferred or delivered in kind to the beneficiaries, the carrying on of a business pending realisation, the preparation and filing of returns of income for taxation purposes or for any other matter or service of an unusual or special nature in connection with the administration of any estate, such fee shall be payable to the Public Trustee as he fixes.

34. In addition to the foregoing charges, there shall also be chargeable and payable all expenses and disbursements incurred by the Public Trustee in respect of postages, exchange, telegrams, toll calls, professional assistance, legal proceedings or charges, fees payable to any Court or Department, surveys, collection of rents, charges of auctioneers and land agents and sharebrokers, travelling expenses, and any other expenses which, in the opinion of the Public Trustee, it is necessary or expedient to provide for or incur in the administration of the estate or property to which the charge relates.

35. For the preparation by the Public Trustee of a will appointing the Public Trustee executor, no charge shall be made either at the time of preparation or when the estate subsequently falls in for administration.

36. Subject to the provisions of the trust instrument (if any) the remuneration of an advisory trustee when the responsible trustee is the Public Trustee shall in each case be such as is fixed by the Public Trustee with the concurrence of the advisory trustee, or if they do not agree then as is fixed by the Supreme Court.

37. Any person dissatisfied with the decision of the Public Trustee as to the application and extent of the provisions of this Part V of these regulations may apply to the Supreme Court to review the decision; and any such application shall be dealt with in all respects as if it were an application under section 68 of the Trustee Act 1956 to review the decision of a trustee in the exercise of any power conferred by that Act.

## PART VI—DESTRUCTION OF RECORDS

38. (1) The minimum periods of time for which the documents and records hereinafter described and relating to estates or loans shall be retained in the custody of the Public Trustee shall be as follows:

- (a) Ledger leaves and ledger cards in which estate and other payments and receipts are recorded, twenty-five years from the date of closing of the accounts to which they relate:
- (b) Files relating to estates administered by the Public Trustee, twenty-five years from the date of completion of the administration:
- (c) Files relating to loans actually made, seven years from the date of discharge of the mortgage or (if there is no mortgage) from the date of repayment of the loan:
- (d) Files relating to applications for loans declined, withdrawn, or otherwise not proceeded with, three years after the application has been withdrawn, declined, or otherwise disposed of:
- (e) Vouchers and receipts for money paid by the Public Trustee, twenty years from the date of payment:
- (f) Copies of receipts for money paid to the Public Trustee (being the copies used for the purpose of completing other accounting records), ten years after the date of payment:
- (g) Books, cards, papers, and records not otherwise specially provided for, one year.

(2) No file to which this regulation applies shall be destroyed until it has been searched by a responsible officer appointed to see that all documents of importance have been removed and there is no special reason for preservation of the file:

Provided that no documents of importance need be removed or preserved if copies thereof (whether on microfilm or otherwise) are being kept.

(3) Lists of all files destroyed shall be made and initialled by the officer supervising the disposal thereof. Each such list shall show the name in full of the estate or loan to which each file relates and such other particulars as may be regarded as necessary for purposes of identification.

(4) All index cards affected shall be marked "File destroyed", with the date.

(5) No files or papers shall be destroyed without the written approval of some officer authorised by the Public Trustee to give such approval.

(6) The Public Trustee or the officer appointed to supervise the destruction of records shall be the sole judge as to the date on which an account is closed, administration of an estate is completed, a mortgage is discharged, or a loan is repaid, an application for a loan is withdrawn, declined, or otherwise disposed of, or a payment is made.

(7) After the period of retention referred to in this regulation the documents may be destroyed by fire or otherwise in such manner as the Public Trustee approves.

PART VII—REVOCATIONS AND SAVINGS

39. (1) The regulations and Orders in Council specified in the Second Schedule to these regulations are hereby revoked.

(2) Without limiting the provisions of the Acts Interpretation Act 1924, it is hereby declared that the revocation of any provision by these regulations shall not affect any document made or any thing whatsoever done under the provision so revoked or under any corresponding former provision, and every such document or thing, so far as it is subsisting or in force at the time of the revocation and could have been made or done under these regulations, shall continue and have effect as if it had been made or done under the corresponding provision of these regulations and as if that provision had been in force when the document was made or the thing was done.

SCHEDULES

Reg. 4

FIRST SCHEDULE

DECLARATION OF FIDELITY AND SECRECY

I, [Full name], of [Address and occupation], do hereby solemnly and sincerely declare that I will truly and faithfully, according to the best of my skill and ability, perform the duties imposed upon me in my capacity as a member of the staff of the Public Trust Office (or an agent of the Public Trustee or a member of the Public Trust Office Investment Board\*), and that in the performance of my said duties I will maintain and aid in maintaining the secrecy of all matters coming to my knowledge appertaining to the business of the Public Trust Office or to the affairs of any estate under administration in the Public Trust Office, or in relation to the affairs of any person concerned in any such estate, and will not divulge any information concerning any such matters except as may be authorised by law to a person directly interested and entitled to information, or for the purpose of assisting to carry out the powers and functions of the Public Trustee and my own proper duties.

I am aware that if I wilfully act in contravention of the true intent of this declaration I am liable to a fine or imprisonment.

And I make this solemn declaration conscientiously binding myself to adhere to and observe the same, and by virtue of section 17 of the Public Trust Office Act 1957.

Signature:.....

Declared at ..... this ..... day of ..... 19....., before me—

.....  
Public Trustee,  
or District Public Trustee for  
.....

\*Portions not applicable to be deleted and initialled.

## SECOND SCHEDULE

Reg. 39 (1)

## REGULATIONS AND ORDERS IN COUNCIL REVOKED

Subject-matter or Title	Reference	
Investment of part of balances of Public Trust Office Accounts in Securities (made by Order in Council dated 20 July 1925) .....	Not published.	
Amending regulations under the Public Trust Office Act 1908 (made by Order in Council dated 24 March 1928) .....	Not published.	
	Published in <i>Gazette</i>	
Regulations under the Public Trust Office Act 1908 and the Public Revenues Act 1910 .....	Year	Page
Investment of part of balances of Public Trust Office Accounts in Securities .....	1919	3575
Custody and Destruction of Documents, Records, Vouchers, or Papers in the hands of the Public Trustee .....	1922	469
Regulations under the Public Trust Office Act 1908 .....	1922	1318
Amended Regulations under the Public Trust Office Act 1908 .....	1923	2254
Amended Regulations under the Public Trust Office Act 1908 .....	1925	3192
Amended Regulations under the Public Trust Office Act 1908 .....	1927	2621
Amended and Additional Regulations under the Public Trust Office Act 1908 .....	1929	3283
Amended Regulations under the Public Trust Office Act 1908 .....	1931	3576
Amended Regulations under the Public Trust Office Act 1908 .....	1932	1329
Amended Regulations under the Public Trust Office Act 1908 .....	1933	549
	Published in Statutory Regulations Serial No.	
Regulations under the Public Trust Office Act 1908	1945/34	
The Public Trust Office Amending Regulations 1945	1945/85	
The Public Trust Office Amending Regulations 1947	1947/140	
The Public Trust Office Amending Regulations 1949	1949/99	
The Public Trust Office Amending Regulations 1952	1952/69	
The Public Trust Office Amending Regulations 1954	1954/94	
The Public Trust Office Amending Regulations 1958	1958/12	

T. J. SHERRARD,  
Clerk of the Executive Council.

## EXPLANATORY NOTE

*This note is not part of the regulations, but is intended to indicate their general effect.*

These regulations consolidate and amend the existing regulations relating to the Public Trust Office. The amendments affect the commencing date for the payment of interest on money invested in the Common Fund, and minor matters in connection with the internal management of the Public Trust Office.

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Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 15 May 1958.

These regulations are administered in the Public Trust Office.