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**PUBLIC TRUST**

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PT301

PUBLIC TRUSTEE ACT 1941

**PUBLIC TRUSTEE AMENDMENT REGULATIONS 1997**

Made by His Excellency the Governor in Executive Council.

**Citation**

1. These regulations may be cited as the *Public Trustee Amendment Regulations 1997*.

**Second Schedule amended**

2. The Second Schedule to the *Public Trustee Regulations 1942\** is amended —

- (a) in item 1 (1) (a) (iii) by deleting “3.75%” and substituting the following —
  - “ 4% ”;
- (b) in item 1 (1a) —
  - (i) by deleting “subparagraph (a) of paragraph (1) of this item” and substituting the following —
    - “ subitem (1) (a) ”; and

- (ii) by deleting paragraph (a) and substituting the following paragraph —

“

- (a) where the estate includes —

- (i) a residential property that was the principal place of residence of the deceased person; or
- (ii) an interest as a tenant in common in a residential property of the kind described in subparagraph (i),

and that asset is transferred to the spouse or a child (within the meaning of the *Inheritance (Family and Dependants Provision) Act 1972*) of the deceased person, the fee payable on that part of the estate is 1% of the gross capital value of that asset;

”;

- (c) by inserting after item 1 (1a) the following subitem —

“

(1b) In subitem (1a) (a) the reference to the spouse of the deceased person includes a person who at the time of the deceased person's death was living with the deceased person in a marriage-like relationship, although not legally married to the deceased person.

”;

- (d) in item 1 (2) (a) and (b) by deleting “paragraph (1) of this item” and substituting in each case the following —

“ subitem (1) ”;

- (e) by deleting item 2 (1) and substituting the following subitems —

“

(1) Subject to this item, the fee payable on the gross capital value of assets realized or moneys collected by the Public Trustee in relation to the estate of a represented person is 4% of that value.

(1a) Where the assets realized by the Public Trustee include the principal place of residence of the represented person, the fee payable in respect of that asset is 2% of its gross capital value.

(1b) The fee prescribed under subitem (1) does not apply to moneys withdrawn by the Public Trustee from a cheque account or savings account held with a bank or other financial institution.

”;

- (f) by deleting items 3A and 3B and substituting the following items —

“

**Fee payable in respect of investment outside Common Fund**

**3A.** (1) Subject to subitem (2), on income earned, or on a distribution to an estate, from an investment outside the Common Fund under section 37 (1) of the Act, the fee payable is 6% of the income earned or amount distributed, as the case may be.

(2) The fee prescribed under subitem (1) does not apply to any capital gain resulting from the realization of an investment referred to in that subitem.

### Fee payable for administration of certain trusts

**3B.** Where the Public Trustee has completed duties as the executor or administrator of an estate but continues to hold assets of the estate as trustee (including as trustee of a perpetual charitable trust), the fee payable for work performed in connection with the administration of the trust is \$100 per hour (or part of an hour).

- ”,
- (g) in item 4 (2) —
- (i) by deleting “fees” and substituting the following —  
“ fee ”; and
- (ii) by inserting after “\$2 000 or more” the following —  
“  
or the person on whose behalf the fund is held has other funds or investments with a total value of \$2 000 or more  
”;
- (h) in item 9A (1), (4) and (5) by deleting “paragraphs” and substituting in each case the following —  
“ subitems ”;
- (i) in item 9A (3) and (4) by deleting “paragraph” and substituting in each case the following —  
“ subitem ”;
- (j) by deleting item 9C and substituting the following item —  
“  
**Fee payable for management of represented person’s estate**  
**9C.** (1) In this item, unless the contrary intention appears —  
“value” means gross capital value on 30 June in the financial year in respect of which the fee is payable.  
(2) Subject to subitems (3) and (4), the annual fee payable to the Public Trustee for management of the estate of a represented person is the amount specified in the Table to this subitem corresponding to the value of those assets of the estate that are under the day to day care of the Public Trustee.

TABLE

Value of estate \$	Fee \$
Not more than 5 000	50
5 001 to 15 000	100
15 001 to 25 000	150
25 001 to 50 000	200
50 001 to 100 000	300
100 001 to 500 000	500
500 001 to 1 000 000	1 000
More than 1 000 000	2 500

(3) The annual fee referred to in subitem (2) is to be calculated on a *pro rata* basis for the first financial year in respect of which the fee is payable, unless administration of the estate commences on 1 July in that year.

(4) If the Public Trustee ceases to administer the estate of a represented person on a day other than 30 June in a particular financial year —

(a) the annual fee referred to in subitem (2) is to be calculated on a *pro rata* basis for that year; and

(b) for that purpose the value of the assets referred to in subitem (2) is their gross capital value on the day on which administration of the estate ceases.

”

(k) by deleting item 9E and substituting the following item —

“

**Next of kin searches**

**9E.** (1) Subject to subitem (2), the fee payable to the Public Trustee in respect of work done for the purpose of establishing the next of kin of a deceased person is to be calculated at the rate of \$20 for every search of records conducted, or certificate, certified copy or other document obtained, whether in this State or elsewhere.

(2) The minimum fee payable under this item is \$200.

”

and

(l) by inserting after item 9F the following item —

“

**Fees payable for certain services**

**9G.** The following fees are payable to the Public Trustee for services provided in the management of an estate —

(a) \$100 per hour (or part of an hour) for the preparation of a tax return by an officer who is a registered tax agent under the *Income Tax Assessment Act 1936* of the Commonwealth;

(b) \$100 for the arrangement of a lease in respect of land or premises that form part of the estate.

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[\* Reprinted as authorized 17 January 1979.  
For amendments to 7 January 1997 see 1995 Index to Legislation  
of Western Australia, Table 4, p. 230.]

By His Excellency's Command,

J. PRITCHARD, Clerk of the Council.