

## PUBLIC TRUSTEE.

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No. 25 of 1978.

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AN ACT to amend the Public Trustee Act,  
1941-1975.

[Assented to 18th May, 1978.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the *Public Trustee Act Amendment Act, 1978*.

(2) In this Act the Public Trustee Act, 1941-1975 is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Public Trustee Act, 1941-1978.

Short title  
and citation.

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Acts 19th  
March, 1969  
and amended  
by Acts Nos.  
28 of 1972  
and 1 of  
1975.

Commence-  
ment.

2. (1) Subject to subsection (2) of this section, this Act shall come into operation on the date that it receives the Royal Assent.

(2) Sections 3, 4 and 6 of this Act shall come into operation on a date to be fixed by proclamation.

Section 10  
amended.

3. Subsection (4) of section 10 of the principal Act is amended by deleting the word "five" in line twelve and substituting the word "ten".

Section 14  
amended.

4. Section 14 of the principal Act is amended—

(a) as to subsection (1), by deleting the word "five" in line six and substituting the word "ten"; and

(b) as to subsection (4), by deleting the word "five" in line three and substituting the word "ten".

Sections 30  
and 31  
repealed  
and  
re-enacted.  
Public  
Trustee may  
authorise  
proper  
officers in  
other juris-  
dictions to  
administer  
property of  
incapable  
patients or  
infirm per-  
sons.

5. Sections 30 and 31 of the principal Act are repealed and re-enacted as follows—

30. (1) Where the Public Trustee has the care and management of the property, estate and affairs of a person in this State who is an incapable patient or an infirm person and it appears to the Public Trustee that that person is possessed of or entitled to, or has an interest in property in any State (other than this State), or a territory of the Commonwealth or in New Zealand, he may, by instrument in writing under his hand and seal directed to the officer of that State or territory or that country who is or may be charged by or under the laws of that State or territory or of that country to manage the affairs, property or estates of persons who are, however described under the laws of that State or territory or of that country, incapable of managing their property, estates and affairs by reason of senility, disease, illness or physical or mental infirmity—

- (a) certify that he has the care and management of the property, estate and affairs of the person named in the instruments; and
- (b) authorise that officer to collect, manage, sell or otherwise administer any property in that State or territory or in that country which the person named in the instrument is possessed of or is entitled to or which he appears to be entitled to or in which he has or appears to have an interest.

(2) The Public Trustee may give a discharge to the officer mentioned in subsection (1) of this section, on the payment over, or delivery, to the Public Trustee of the balance of the moneys or other property of the person named in an instrument given under subsection (1) of this section, after payment of all costs, charges and expenses incurred by that officer in the exercise of the authority given him under that subsection and after satisfying, or making provisions for, the debts of the person named in the instrument and claims against him of any persons residing in the other State or territory or that country.

31. (1) Where the officer charged by or under the laws of any State (other than this State), or a territory of the Commonwealth or the laws of New Zealand with the management of the affairs, property or estate of a person in that State or territory or that country who is, however described under the laws of that State or territory or that country, incapable of managing his property, estate or affairs by reason of senility, disease, illness or physical or mental infirmity, by instrument in writing under his hand and seal—

Power of Public Trustee to act on certificates issued by proper officers in other jurisdictions.

- (a) certifies to the Public Trustee that he has the care and management of the property, estate and affairs of that person; and

- (b) authorises the Public Trustee to collect, manage, sell or otherwise dispose of or administer any property in this State which the person named in the instrument is possessed of or is entitled to or which he appears to be entitled to or in which he has or appears to have an interest,

the Public Trustee shall have with respect to that property the powers conferred upon him under this Act as though the person named in the instrument were an incapable patient or an infirm person in this State.

(2) The Public Trustee may, without seeing to the application thereof and without liability therefor, pay over, or deliver, to the officer mentioned in subsection (1) of this section the balance of any moneys or property received by him pursuant to that subsection after the payment of all costs, charges and expenses incurred in or about the exercise of his powers and after satisfying, or providing for, the debts of the person named in the instrument referred to in subsection (1) of this section and claims against him of any person residing in this State of which he has had notice.

Section 38  
amended.

6. Section 38 of the principal Act is amended by repealing paragraphs (a) and (b) of subsection (2) and substituting the following paragraphs—

- (a) as to the gross capital of an estate which—
- (i) does not exceed three hundred dollars, the sum of thirty dollars;
  - (ii) exceeds three hundred dollars but does not exceed two thousand dollars, ten per centum;
  - (iii) exceeds two thousand dollars, the sum of two hundred dollars or four per centum whichever is the greater;

(b) as to the income of any estate—

- (i) in relation to income derived from rent, such amount expressed as a percentage or otherwise as applies under the scale adopted by the body known as the Real Estate Institute of Western Australia;
- (ii) in relation to income derived from sources other than rent, six per centum,

but this paragraph does not apply where the Public Trustee is acting merely as agent or attorney. .

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