Western Australia

Public Trustee Regulations 1942

Compare between:

[17 Mar 2006, 04-a0-02] and [01 Jul 2008, 04-b0-08]



Western Australia

Public Trustee Act 1941

Public Trustee Regulations 1942

##### 1. Citation and interpretation

(1) These regulations may be cited as the *Public Trustee Regulations 1942* 1.

(2) In these regulations unless the contrary intention appears —

estate includes trusts, estates and property which the Public Trustee as trustee, executor, administrator, guardian, next friend, committee, manager, receiver, attorney or otherwise is entitled under the Act to control, manage, administer or deal with.

[Regulation 1 inserted: Gazette 28 Sep 1984 p. 3158.]

##### 2. Public Trust Office

The Public Trust Office shall be situate in the city of Perth. Any premises which the Public Trustee from time to time occupies for the purpose of carrying on the business of the Public Trust Office shall be the Public Trust Office for the purpose of the Act and these regulations.

[Regulation 2 amended: Gazette 19 May 1944 p. 388.]

##### 3. Common seal

(i) The common seal of the Public Trustee shall bear the words “The Common Seal of the Public Trustee, Western Australia”.

(ii) The common seal shall be kept in the custody of the Public Trustee, or such other officer as is authorised by him.

##### 4. Form of claim

Every claim upon the Public Trustee shall be made in the form required by the Public Trustee.

##### 5. Forms

The several forms in the First Schedule shall be used for the purposes to which they are respectively applicable, with such variations as may be required.

[Regulation 5 amended: Gazette 30 Jun 1972 p. 2169.]

##### 6. Matters to be dealt with in written agreement

For the purposes of section 6B(1) of the Act, the following matters are prescribed —



(a) the determination of a scale of fees under section 38A(1) of the Act;

(b) the proportion of fees received by the Public Trustee to be credited to the Consolidated Account;

(c) the establishment of reserve funds;

(d) the moneys to be credited to reserve funds;

(e) the circumstances in which moneys may be transferred to or from a reserve fund;

(f) the uses to which moneys in a reserve fund may be put;

(g) the fixing of the rate or rates of Common Account interest;

(h) the establishment and operation of strategic common accounts.

[Regulation 6 inserted: Gazette 24 Jun 2008 p. 2888-9.]

[**6AA, 6A and 7.** Deleted: Gazette 24 Jun 2008 p. 2888.]

[**8.** Deleted: Gazette 12 Dec 1947 p. 2255.]

[**9.** Deleted: Gazette 1 May 1969 p. 1347.]

##### 10. Public Trustee next friend of represented person

Where the Public Trustee is the administrator or joint administrator of the estate of a represented person any proceeding by the Public Trustee with respect to any property of the represented person or any property in which he is interested or for the recovery of damages for conversion of or injury to that property shall be taken in the name of the represented person by the Public Trustee as his next friend.

[Regulation 10 inserted: Gazette 20 Jul 1993 p. 3963.]

##### 10A. Prescribed amount — s. 45(2)

The prescribed amount referred to in section 45(2) of the Act is $1 500.

[Regulation 10A inserted: Gazette 5 Sep 1986 p. 3272; amended: Gazette 6 Sep 1991 p. 4714; 24 Jun 2008 p. 2889.]

##### 11. Procedure

In case of doubt as to the mode of procedure to be adopted by the Public Trustee in any particular case, the procedure to be adopted shall be such as the Court directs.

First Schedule

(Reg. 5)

[Heading inserted: Gazette 30 Jun 1972 p. 2169.]

**Form No. 1**

NOTICE TO CREDITORS AND CLAIMANTS

In the Supreme Court of Western Australia — Probate Jurisdiction.

NOTICE is hereby given that all persons having claims or demands against the estates of the undermentioned deceased persons (orders to administer whose estates were granted to me by the said Court under the *Public Trustee Act 1941*) are hereby required to send particulars of such claims to me in writing on or before the day of 20 , after which date I will proceed to distribute the assets of the said deceased persons among those entitled thereto, having regard only to those claims of which I shall then have had notice.

Dated at Perth the day of 20 .

J. H. GLYNN,  
Public Trustee.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Name. | Date  of  Death. | Date  of  Order. | Address. | Occupation. |
|  |  |  |  |  |

**Form No. 2**

Public Trust Office,  
Perth, ................. 20 .......

The Manager,

...........................................................

...........................................................

*re*....................................................... deceased.

PLEASE have the notice to creditors and claimants as shown hereunder inserted once in your next issue and forward to this office the account, with a copy of the paper in which the advertisement appears.

J. H. GLYNN,  
Public Trustee,  
Perth.

NOTICE TO CREDITORS AND CLAIMANTS

*Re*.........................................................................................

late of ........................................................... deceased.

ALL persons having claims or demands against the estate of the abovenamed are required to send particulars thereof in writing to the undersigned before the ............................. day of ...................................... 20......., otherwise they will be excluded from participating in the distribution of the assets.

Dated this ............................. day of ............................. 20.......

J. H. GLYNN,  
Public Trustee.

**Form No. 3**

(Section 14(1))

ELECTION BY PUBLIC TRUSTEE TO ADMINISTER AN INTESTATE ESTATE

In the Supreme Court of Western Australia — Probate Jurisdiction.

In the matter of the Estate of .................................................................................  
 ...........................................................................................................................  
 ...........................................................................................................................  
 ...........................................................................................................................  
 ........................................................................................... deceased, intestate.

WHEREAS the abovenamed deceased died at ................................................. on the ............................. day of ........................................ 20......., intestate, leaving estate within the State of Western Australia the gross value of which as estimated by the Public Trustee does not now exceed the prescribed amount within the meaning given in section 14(6) of the *Public Trustee Act 1941*, and no person has taken out administration of the said estate:

AND WHEREAS the Public Trustee is entitled to an Order to administer such estate:

NOW this is to notify all whom it may concern that in pursuance of section 14(1) of the *Public Trustee Act 1941*, the Public Trustee hereby elects to administer such estate.

So far as now known to the Public Trustee the name, address, and occupation of the said deceased at the date of his death are as set out above and the total value of the estate is under $ ............................. of which $ ................... is real estate and $ ............................. personal estate.

Dated this ............................... day of ............................. 20.......

Public Trustee.

[Form No. 3 amended: Gazette 18 Aug 1978 p. 3063; 24 Jun 2008 p. 2889.]

**Form No. 3A**

(Section 14(1))

ELECTION BY THE PUBLIC TRUSTEE TO ADMINISTER A TESTATE ESTATE

In the Supreme Court of Western Australia — Probate Jurisdiction.

In the matter of the Will of ...................................................................................  
...............................................................................................................................  
...............................................................................................................................  
...............................................................................................................................  
...............................................................................................................................

WHEREAS the abovenamed ............................. deceased died at ........................ on the ............................. day of .............................. 20....... leaving estate within the State of Western Australia the gross value of which as estimated by the Public Trustee does not exceed the prescribed amount within the meaning given in section 14(6) of the *Public Trustee Act 1941* and no person has taken out probate or administration of the said estate in Western Australia.

AND WHEREAS the said deceased made ........................................last Will and Testament bearing date the ......................... day of .............................. 20.......; a certified copy of the Will is hereunto annexed and signed by the Public Trustee.

AND WHEREAS the Public Trustee is entitled to a Grant of Probate of the Will of the said deceased.

NOW this is to notify all whom it may concern that in pursuance of section 14(1) of the *Public Trustee Act 1941* the Public Trustee hereby elects to administer with the Will the estate of the said deceased.

SO far as now known to the Public Trustee the name address and occupation of the said deceased at the date of death are set out above and the total value of the said estate is ............................. of which ................................... is real estate and ............................. is personal estate.

DATED this ............................. day of ............................. 20.......

Public Trustee.

[Form No. 3A inserted: Gazette 18 Aug 1978 p. 3063; amended: Gazette 24 Jun 2008 p. 2889.]

**Form No. 3B**

ELECTION BY THE PUBLIC TRUSTEE TO ADMINISTER A TESTATE ESTATE

In the Supreme Court of Western Australia — Probate Jurisdiction.

In the matter of the Will and Estate of ................................................................... ....................................................................................................................................................................................................................................................................................................................................................................................................................................................................................................................................

WHEREAS the abovenamed ................................................................. deceased died at ......................... on the ......................... day of .............................. 20....... leaving estate within the State of Western Australia the gross value of which as estimated by the Public Trustee does not now exceed the prescribed amount within the meaning given in section 14(6) of the *Public Trustee Act 1941* and no person has taken out probate or administration of the said estate in Western Australia.

AND WHEREAS the said deceased made ....................................... last Will and Testament bearing date the ......................... day of .............................. 20.......; a certified copy of the Will is hereunto annexed and signed by the Public Trustee.

AND WHEREAS the Public Trustee is entitled to an Order to Administer with the Will the estate of the said deceased.

NOW this is to notify all whom it may concern that in pursuance of section 14(1) of the *Public Trustee Act 1941* the Public Trustee hereby elects to administer with the Will the estate of the said deceased.

SO far as now known to the Public Trustee the name address and occupation of the said deceased at the date of death are set out above and the total value of the said estate is ................................. of which ............................... is real estate and ............................. is personal estate.

DATED this ............................. day of ............................. 20.......

Public Trustee.

[Form No. 3B inserted: Gazette 18 Aug 1978 p. 3063; amended: Gazette 24 Jun 2008 p. 2889.]

**Form No. 4**

MEMORANDUM REVOKING AN ELECTION   
BY THE PUBLIC TRUSTEE

In the Supreme Court of Western Australia — Probate Jurisdiction.

In the matter of the Estate of ....................................................................................................................................................................................................................................................................................................................................................................................................................................................................., deceased.

WITH reference to the election by the Public Trustee, filed in this Honourable Court in this matter on the ......................... day of .................................. 20......., the Public Trustee now finds that the gross value of the property to be administered exceeds the prescribed amount within the meaning given in section 14(6) of the *Public Trustee Act 1941* (or that the deceased died possessed of property outside the State) and the said election is hereby revoked.

DATED the ............................. day of ............................. 20.......

Public Trustee.

[Form No. 4 inserted: Gazette 18 Aug 1978 p. 3064; amended: Gazette 24 Jun 2008 p. 2889.]

**Form No. 5**

(Section 59)

CERTIFICATE OF APPOINTMENT (OR AUTHORITY) OF THE PUBLIC TRUSTEE

In the matter of .......................................................................................................  
 ...................................................................................................................  
 ...................................................................................................................  
 ...................................................................................................................

THE Public Trustee hereby certifies that his appointment (or authority, as the case may be) in relation to the abovementioned   
in course of administration is (here set out the nature of the appointment or authority and the facts on the happening of which such authority was made or granted).

Dated the ............................. day of ............................. 20.......

Public Trustee.

[SEAL.]

[Form No. 6 deleted: Gazette 18 Aug 1978 p. 3064.]

**Form No. 7**

(Section 44(6))

CERTIFICATE OF AMOUNT OF ADVANCE FROM   
COMMON ACCOUNT

THE Public Trustee hereby certifies that the amount owing by ............................ ................................................................................................................................................................................................................................................................................................................................................................................................... for advances out of the Public Trustee Common Account and interest thereon at the ............................. day of ............................. 20....... is .............................. dollars ............................. cents.

Dated the ............................. day of ............................. 20.......

Public Trustee.

[SEAL.]

[Form No. 7 amended: Gazette 24 Jun 2008 p. 2889-90.]















[Second Schedule deleted: Gazette 24 Jun 2008 p. 2890.]

Notes

1 This is a compilation of the *Public Trustee Regulations 1942* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

Compilation table

| **Citation** | **Gazettal** | **Commencement** |
| --- | --- | --- |
| Untitled regulations 2 | 26 Jun 1942 p. 692‑5 | 26 Jun 1942 |
| Untitled regulations | 20 Nov 1942 p. 1182‑3 | 20 Nov 1942 |
| Untitled regulations | 9 Jul 1943 p. 665 | 9 Jul 1943 |
| Untitled regulations | 21 Jan 1944 p. 25 | 21 Jan 1944 |
| Untitled regulations | 19 May 1944 p. 388 | 19 May 1944 |
| Untitled regulations | 12 Dec 1947 p. 2255 | 12 Dec 1947 |
| Untitled regulations | 21 May 1948 p. 1097 | 21 May 1948 |
| Untitled regulations | 24 Apr 1952 p. 1055 | 24 Apr 1952 |
| Untitled regulations | 19 Feb 1954 p. 267 | 19 Feb 1954 |
| Untitled regulations | 3 May 1955 p. 781 | 3 May 1955 |
| **Reprint authorised 28 Jun 1956 in *Gazette* 5 Jul 1956 p. 1659-65** (includes amendments listed above) | | |
| Untitled regulations | 1 May 1969 p. 1347 | 1 May 1969 |
| Untitled regulations | 30 Jun 1972 p. 2169‑70 | 1 Jul 1972 |
| Untitled regulations | 28 Dec 1973 p. 4747 | 1 Jan 1974 (see r. 2) |
| Untitled regulations | 18 Aug 1978 p. 3062‑5 | 18 Aug 1978 |
| **Reprint authorised 10 Jan 1979 in *Gazette* 17 Jan 1979 p. 103‑10** (includes amendments listed above) | | |
| Untitled regulations | 23 May 1980 p. 1551‑2 | 23 May 1980 |
| *Public Trustee Amendment Regulations 1984* | 28 Sep 1984 p. 3158 | 1 Oct 1984 (see r. 2) |
| *Public Trustee Amendment Regulations 1986* | 5 Sep 1986 p. 3271‑2 | 5 Sep 1986 (see r. 2 and *Gazette* 5 Sep 1986 p. 3265) |
| *Public Trustee Amendment Regulations (No. 2) 1986* | 31 Oct 1986 p. 4039‑40 | 31 Oct 1986 |
| *Public Trustee Amendment Regulations 1989* | 24 Feb 1989 p. 593 | 24 Feb 1989 |
| *Public Trustee Amendment Regulations (No. 2) 1989* | 6 Oct 1989 p. 3726‑7 | 6 Oct 1989 |
| *Public Trustee Amendment Regulations 1991* | 6 Sep 1991 p. 4714‑15 | 6 Sep 1991 |
| *Public Trustee Amendment Regulations 1992* | 17 Mar 1992 p. 1226‑7 | 17 Mar 1992 |
| *Public Trustee Amendment Regulations 1993* | 20 Jul 1993 p. 3962‑4 | 20 Jul 1993 |
| *Public Trustee Amendment Regulations 1995* | 21 Apr 1995 p. 1403‑5 | 21 Apr 1995 |
| *Public Trustee Amendment Regulations 1997* | 11 Mar 1997 p. 1480‑3 | 11 Mar 1997 |
| *Public Trustee Amendment Regulations 2000* | 30 Jun 2000 p. 3429‑31 | 1 Jul 2000 (see r. 2) |
| **Reprint of the *Public Trustee Regulations 1942* as at 3 Oct 2000** (includes amendments listed above) | | |
| *Public Trustee (Amendment) Regulations (No. 2) 2000* 3 | 29 Dec 2000 p. 7927‑8 | 1 Jan 2001 (see r. 2 and *Gazette* 29 Dec 2000 p. 7903) |
| *Public Trustee Amendment Regulations (No. 3) 2000* | 29 Dec 2000 p. 7928‑9 | 1 Jan 2001 (see r. 2) |
| *Public Trustee Amendment Regulations 2001* | 12 Oct 2001 p. 5563 | 12 Oct 2001 |
| *Public Trustee Amendment Regulations 2002* | 17 Jan 2003 p. 115 | 17 Jan 2003 |
| *Public Trustee Amendment Regulations 2004* | 8 Jun 2004 p. 1977‑8 | 8 Jun 2004 |
| *Courts and Legal Practice (Consequential Amendments) Regulations 2005* r. 10 | 19 Apr 2005 p. 1294‑302 | 19 Apr 2005 |
| **Reprint 4: The *Public Trustee Regulations 1942* as at 17 Mar 2006** (includes amendments listed above) | | |
| *Public Trustee Amendment Regulations 2008* | 24 Jun 2008 p. 2888-90 | r. 1 and 2: 24 Jun 2008 (see r. 2(a))  Regulations other than r. 1 and 2: 1 Jul 2008 (see r. 2(b) and *Gazette* 24 Jun 2008 p. 2885) |

2 Now known as the *Public Trustee Regulations 1942*; citation changed (see note under r. 1).

3 The *Public Trustee (Amendment) Regulations (No. 2) 2000* r. 5 reads as follows:

“

5. Fees payable — savings

Despite the amendment effected by regulation 4, the *Public Trustee Regulations 1942* as in force before the commencement of these regulations continue to apply after that commencement in relation to —

(a) property that was in the Public Trustee’s control under the *Crimes (Confiscation of Profits) Act 1988* immediately before the commencement of these regulations; and

(b) property of which the Public Trustee has care or control under the *Crimes (Confiscation of Profits) Act 1988* as a result of the operation of the *Criminal Property Confiscation (Consequential Provisions) Act 2000*.

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