

Western Australia

**Trustee Legislation (GST Consequential  
Amendments) Act 2000**

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As at 04 Dec 2000

No. 67 of 2000

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Western Australia

# Trustee Legislation (GST Consequential Amendments) Act 2000

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Western Australia

## **Trustee Legislation (GST Consequential Amendments) Act 2000**

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**No. 67 of 2000**

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***An Act to amend the *Public Trustee Act 1941* and the *Trustee Companies Act 1987*.***

*[Assented to 4 December 2000]*

The Parliament of Western Australia enacts as follows:

## **Part 1 — Preliminary**

**1. Short title**

This Act may be cited as the *Trustee Legislation (GST Consequential Amendments) Act 2000*.

**2. Commencement**

This Act comes into operation on the day on which it receives the Royal Assent.

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**Part 2 — *Public Trustee Act 1941* amended**

**3. The Act amended**

The amendments in this Part are to the *Public Trustee Act 1941*\*.

[\* *Reprinted as at 8 September 1993.*

*For subsequent amendments see 1999 Index to Legislation of Western Australia, Table 1, pp. 204-5.]*

**4. Section 38 amended**

(1) Section 38(2)(a) is amended as follows:

(a) in subparagraph (i) by deleting “\$30” and inserting instead —

“ \$33 ”;

(b) in subparagraph (ii) by deleting “10 per centum” and inserting instead —

“ 11% ”;

(c) in subparagraph (iii) by deleting “\$200 or 4 per centum” and inserting instead —

“ \$220 or 4.4% ”.

(2) Section 38(2)(b)(ii) is amended by deleting “6 per centum” and inserting instead —

“ 6.6% ”.

**5. Section 40 amended**

Section 40(3a) is amended as follows:

(a) by deleting “shall” and inserting instead —

“ may ”;

(b) by deleting “6 per centum” and inserting instead —

“ up to 6.6% ”.

**Part 3 — Trustee Companies Act 1987 amended**

**6. The Act amended**

The amendments in this Part are to the *Trustee Companies Act 1987*\*.

[\* Reprinted as at 1 November 1999.]

**7. Section 18 amended**

After section 18(9) the following subsections are inserted —

“

- (10) If —
- (a) a trustee company provides a service in respect of the administration or management of an estate in a capacity referred to in subsection (1);
  - (b) the administration or management of the estate commenced before the transition date;
  - (c) the company charges, after the commencement time, a commission or other charge for the service that was set before the transition date;
  - (d) the company is prevented from increasing the commission or charge by subsection (2); and
  - (e) GST is payable by the company on the service,
- the company may increase the commission or charge —
- (f) during that part of the New Tax System transition period that occurs after the commencement time — to the extent necessary to offset the consequences to the company of the New Tax System changes in relation to the service, that arise during that period; and
  - (g) after that period — by 10%.

- (11) In this section —
- “**commencement time**” means the time at which the *Trustee Legislation (GST Consequential Amendments) Act 2000* comes into operation;
  - “**GST**” has the meaning given by section 195-1 of the *A New Tax System (Goods and Services Tax) Act 1999* of the Commonwealth;
  - “**input tax credit**” has the meaning given by section 195-1 of the *A New Tax System (Goods and Services Tax) Act 1999* of the Commonwealth;
  - “**New Tax System changes**” has the meaning given by the New Tax System Price Exploitation Code text applying as a law of this State under the *New Tax System Price Exploitation Code (Western Australia) Act 1999*;
  - “**New Tax System transition period**” has the meaning given by the New Tax System Price Exploitation Code text applying as a law of this State under the *New Tax System Price Exploitation Code (Western Australia) Act 1999*;
  - “**transition date**”, for an estate, means —
    - (a) if, at the commencement time, the estate is entitled to a full input tax credit for the company’s services — 8 July 1999; or
    - (b) if, at the commencement time, the estate is not so entitled — 2 December 1998.
- ”.

**8. Section 20A inserted**

After section 20 the following section is inserted —

“

**20A. Fees and commissions — effect of GST etc.**

(1) If —

- (a) a trustee company provides a service for an estate or an investor in relation to particular funds invested as part of an Estate Common Trust Fund or an Investment Common Trust Fund;
- (b) those funds were invested before the transition date;
- (c) the company charges, after the commencement time, a fee or commission for the service that was set before the transition date;
- (d) the company is prevented from increasing the fee or commission by section 19(14) or 20(12) (whichever is relevant); and
- (e) GST is payable by the company on the service,

the company may increase the fee or commission —

- (f) during that part of the New Tax System transition period that occurs after the commencement time — to the extent necessary to offset the consequences to the company of the New Tax System changes in relation to the service, that arise during that period; and
- (g) after the period — by 10%.

(2) In this section —

**“commencement time”** means the time at which the *Trustee Legislation (GST Consequential Amendments) Act 2000* comes into operation;

“**GST**” has the meaning given by section 195-1 of the *A New Tax System (Goods and Services Tax) Act 1999* of the Commonwealth;

“**input tax credit**” has the meaning given by section 195-1 of the *A New Tax System (Goods and Services Tax) Act 1999* of the Commonwealth;

“**New Tax System changes**” has the meaning given by the New Tax System Price Exploitation Code text applying as a law of this State under the *New Tax System Price Exploitation Code (Western Australia) Act 1999*;

“**New Tax System transition period**” has the meaning given by the New Tax System Price Exploitation Code text applying as a law of this State under the *New Tax System Price Exploitation Code (Western Australia) Act 1999*;

“**transition date**”, for an estate or an investor, means —

- (a) if, at the commencement time, the estate or investor is entitled to a full input tax credit for the company’s services — 8 July 1999; or
- (b) if, at the commencement time, the estate or investor is not so entitled — 2 December 1998.

”.

**9. Schedule 3 amended**

After clause 3 of Schedule 3 the following clauses are inserted —

“

3A. If —

- (a) an existing company provides a service for an estate referred to in clause 2 (other than a service to which Part IV applies because of clause 4);

- (b) the company charges, after the commencement time, a commission or fee that it is entitled to under clause 3;
- (c) the company is prevented from increasing the fee or commission because of the continued application of a provision of the relevant repealed Act; and
- (d) GST is payable by the company on the service,

the company may increase the commission or fee —

- (e) during that part of the New Tax System transition period that occurs after the commencement time — to the extent necessary to offset the consequences to the company of the New Tax System changes in relation to the service, that arise during that period; and
- (f) after the period — by 10%.

3B. In clause 3A —

**“commencement time”** means the time at which the *Trustee Legislation (GST Consequential Amendments) Act 2000* comes into operation;

**“GST”** has the meaning given by section 195-1 of the *A New Tax System (Goods and Services Tax) Act 1999* of the Commonwealth;

**“New Tax System changes”** has the meaning given by the New Tax System Price Exploitation Code text applying as a law of this State under the *New Tax System Price Exploitation Code (Western Australia) Act 1999*;

**“New Tax System transition period”** has the meaning given by the New Tax System Price Exploitation Code text applying as a law of this State under the *New Tax System Price Exploitation Code (Western Australia) Act 1999*.

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