

WESTERN AUSTRALIA

**TRUSTEES AMENDMENT
ACT 1997**

No. 1 of 1997

AN ACT to amend the —

- ***Trustees Act 1962; and***
- ***Trustee Companies Act 1987,***

and to make consequential amendments to other Acts.

[Assented to 6 May 1997]

The Parliament of Western Australia enacts as follows:

No. 1]
s. 1

Trustees Amendment Act 1997

PART 1 — PRELIMINARY

Short title

1. This Act may be cited as the *Trustees Amendment Act 1997*.

Commencement

2. This Act comes into operation on such day as is fixed by proclamation.

PART 2 — AMENDMENTS TO *TRUSTEES ACT 1962*

Principal Act

3. In this Part the *Trustees Act 1962** is referred to as the principal Act.

[* *Approved for reprint 14 September 1981.*
For subsequent amendments see 1995 Index to Legislation of Western Australia, Table 1, pp. 227-8 and Act No. 14 of 1996.]

Section 3 repealed

4. Section 3 of the principal Act is repealed.

Section 6 amended

5. Section 6 (1) of the principal Act is amended —

- (a) by deleting the definitions of “authorized investments”, “shareholder’s equity” and “unitholder’s equity”; and
- (b) in the definition of “trust for sale” by deleting “for sale;” and substituting the following —
“ for sale. ”.

Part III repealed and a Part substituted

6. Part III of the principal Act is repealed and the following Part is substituted —

“

PART III — INVESTMENTS

Application of Part

16. This Part applies to trusts created before or after the coming into operation of the *Trustees Amendment Act 1997*.

Investment of trust funds

17. A trustee may, unless expressly prohibited by the instrument creating the trust —

- (a) invest trust funds in any form of investment; and
- (b) at any time, vary an investment or realize an investment of trust funds and reinvest money resulting from the realization in any form of investment.

Duties of trustee in respect of power of investment

18. (1) Subject to the instrument creating the trust, a trustee shall, in exercising a power of investment —

- (a) if the trustee's profession, business or employment is or includes acting as a trustee or investing money on behalf of other persons, exercise the care, diligence and skill that a prudent person engaged in that profession, business or employment would exercise in managing the affairs of other persons; or
- (b) if the trustee is not engaged in such a profession, business or employment, exercise the care, diligence and skill that a prudent person would exercise in managing the affairs of other persons.

(2) A trustee shall exercise a power of investment in accordance with any provision of the instrument creating the trust that is binding on the trustee and requires the obtaining of any consent or approval or compliance with any direction with respect to trust investments.

(3) Subject to the instrument creating the trust, a trustee must, at least once in each year, review the performance (individually and as a whole) of trust investments.

Law and equity preserved

19. (1) Any rules and principles of law or equity that impose a duty on a trustee exercising a power of investment including, without limiting the generality of those duties, rules and principles that impose —

- (a) a duty to exercise the power of a trust in the best interests of all present and future beneficiaries of the trust;
- (b) a duty to invest trust funds in investments that are not speculative or hazardous;
- (c) a duty to act impartially towards beneficiaries and between different classes of beneficiaries; or
- (d) a duty to take advice,

continue to apply except to the extent that they are inconsistent with this or any other Act or the instrument creating the trust.

(2) Any rules and principles of law or equity that relate to a provision in an instrument creating a trust that purports to exempt, limit the liability of, or indemnify a trustee in respect of a breach of trust, continue to apply.

(3) If a trustee is under a duty to take advice, the reasonable costs of obtaining the advice are payable out of trust funds.

Matters to which trustee shall have regard in exercising power of investment

20. (1) Without limiting the matters that a trustee may take into account when exercising a power of investment, a

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trustee shall, so far as they are appropriate to the circumstances of the trust, have regard to —

- (a) the purposes of the trust and the needs and circumstances of the beneficiaries;
- (b) the desirability of diversifying trust investments;
- (c) the nature of and risk associated with existing trust investments and other trust property;
- (d) the need to maintain the real value of the capital or income of the trust;
- (e) the risk of capital or income loss or depreciation;
- (f) the potential for capital appreciation;
- (g) the likely income return and the timing of income return;
- (h) the length of the term of the proposed investment;
- (i) the probable duration of the trust;
- (j) the liquidity and marketability of the proposed investment during, and on the determination of, the term of the proposed investment;
- (k) the aggregate value of the trust estate;
- (l) the effect of the proposed investment in relation to the tax liability of the trust;
- (m) the likelihood of inflation affecting the value of the proposed investment or other trust property;

- (n) the costs (including commissions, fees, charges and duties payable) of making the proposed investment; and
 - (o) the results of a review of existing trust investments.
- (2) A trustee may —
- (a) obtain and consider independent and impartial advice reasonably required for the investment of trust funds or the management of the investment from a person whom the trustee reasonably believes to be competent to give the advice; and
 - (b) pay out of trust funds the reasonable costs of obtaining the advice.

Powers of trustee in relation to securities

- 21.** (1) If securities of a body corporate are subject to a trust, the trustee may concur in any scheme or arrangement —
- (a) for or arising out of the reconstruction, reduction of capital or liquidation of, or the issue of shares by, the body corporate;
 - (b) for the sale of all or any part of the property and undertaking of the body corporate to another body corporate;
 - (c) for the acquisition of securities of the body corporate, or of control of the body corporate, by another body corporate;
 - (d) for the amalgamation of the body corporate with another body corporate; or

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- (e) for the release, modification or variation of rights, privileges or liabilities attached to the securities, or any of them,

in the same manner as if the trustee were beneficially entitled to the securities.

(2) The trustee may accept instead of, or in exchange for, or in addition to, the securities subject to the trust any securities of any denomination or description of another body corporate party to the scheme or arrangement.

(3) If a conditional or preferential right to subscribe for securities in a body corporate is offered to a trustee in respect of a holding in that body corporate or another body corporate, the trustee may, as to all or any of the securities —

- (a) exercise the right and apply capital money subject to the trust in payment of the consideration;
- (b) assign the benefit of the right, or the title to the right, to a person, including a beneficiary under the trust, for the best consideration that can be reasonably obtained; or
- (c) renounce the right.

(4) A trustee accepting or subscribing for securities under this section is, for the purposes of any provision of this Part, exercising a power of investment.

(5) A trustee may retain securities accepted or subscribed for under this section for any period for which the trustee could properly have retained the original securities.

(6) The consideration for an assignment made under subsection (3) (b) shall be held as capital of the trust.

(7) This section applies in relation to securities acquired before or after the coming into operation of the *Trustees Amendment Act 1997* but subject to the instrument creating the trust.

Investment in securities under RITS system

22. (1) A chose in action arising under the RITS system and which entitles its holder to a security of a particular description (“**the underlying security**”) is, for the purposes of this Act and the instrument creating a trust, taken to be the same in all respects as the underlying security.

(2) The holding or acquisition by a trustee of a chose in action referred to in subsection (1) shall be regarded as an investment by the trustee in the underlying security.

(3) It does not matter that the right conferred by the chose in action referred to in subsection (1) is a right in respect of securities of a particular description and not in respect of particular securities.

(4) This section applies to a trust created before or after the coming into operation of the *Trustees Amendment Act 1997* but applies only to the extent that the trust instrument creating the trust does not expressly prohibit its application.

(5) In this section —

“**RITS system**” means the Reserve Bank Information and Transfer System operated by the Reserve Bank of Australia, as operating from time to time.

Powers of trustees as to calls on shares

23. Subject to the instrument creating the trust —

- (a) a trustee may apply capital money subject to a trust in payment of calls on shares subject to the same trust; and
- (b) if the trustee is a trustee corporation, it may exercise the powers conferred by this section despite the shares on which the calls are made being shares in the trustee corporation.

Power to purchase dwelling-house as residence for beneficiary

24. (1) Subject to the instrument creating the trust, a trustee may —

- (a) invest any trust funds in the purchase of a dwelling-house for a beneficiary to use as a residence; or
- (b) enter into any other agreement or arrangement to secure for a beneficiary a right to use a dwelling-house as a residence.

(2) Despite the terms of the instrument creating the trust, a trustee may, if to do so would not unfairly prejudice the interests of the other beneficiaries, retain as part of the trust property a dwelling-house for a beneficiary to use as a residence.

(3) A dwelling-house purchased, retained or otherwise secured for use by the beneficiary as a residence may be made available to the beneficiary for that purpose on such terms and conditions consistent with the trust and the extent of the interest of the beneficiary as the trustee thinks fit.

(4) The trustee may retain a dwelling-house or any interest or rights in respect of a dwelling-house acquired under this section after the use of the dwelling-house by the beneficiary has ceased.

(5) In this section —

“dwelling-house” includes —

- (a) any building or part of a building designed, or converted or capable of being converted, for use as a residence; and
- (b) any amenities or facilities for use in connection with the use of a dwelling-house.

Power of trustee to retain investments

25. A trustee is not liable for breach of trust by reason only of retaining an investment that has ceased to be —

- (a) an investment authorized by the instrument creating the trust;
- (b) an investment properly made by the trustee exercising a power of investment;
- (c) an investment made under this Act or a corresponding previous enactment; or
- (d) an investment authorized by any other Act or the general law.

Loans and investments by trustees not breaches of trust in certain circumstances

26. (1) If a trustee lends money on the security of a property, the trustee is not liable for breach of trust by reason only of the proportion borne by the amount of the

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loan to the value of the property at the time when the loan was made if it appears to the Court —

- (a) that, in making the loan, the trustee was acting on a report as to the value of the property made by a person whom the trustee reasonably believed to be competent to give such a report and whom the trustee instructed and employed independently of any owner of the property;
- (b) that the amount of the loan did not exceed two-thirds of the value of the property as stated in the report; and
- (c) that the loan was made in reliance on the report.

(2) This section applies to transfers of existing securities as well as to new securities and to investments made before or after the coming into operation of the *Trustees Amendment Act 1997*.

Limitation of liability of trustee for loss on improper investments

26A. (1) If a trustee improperly advances trust money on a security that would at the time of the investment have been a proper investment if the sum advanced had been smaller than the actual sum advanced, the security shall be taken to be a proper investment in respect of the smaller sum, and the trustee is only liable to make good the difference between the sum advanced and the smaller sum, with interest.

(2) This section applies to investments made before or after the coming into operation of the *Trustees Amendment Act 1997*.

Factors Court may take into account in action for breach of trust

26B. In proceedings against a trustee for breach of trust in respect of a duty under this Part relating to the trustee's power of investment, the Court may, when considering the question of the trustee's liability, take into account —

- (a) the nature and purpose of the trust;
- (b) whether the trustee had regard to the matters set out in section 20 so far as is appropriate to the circumstances of the trust;
- (c) whether the trust investments have been made pursuant to an investment strategy formulated in accordance with the duty of a trustee under this Part; and
- (d) the extent the trustee acted on the independent and impartial advice of a person competent (or apparently competent) to give the advice.

Power of Court to set off gains and losses arising from investment

26C. (1) The Court may, when considering an action for breach of trust arising out of or in respect of an investment by a trustee where a loss has been, or is expected to be, sustained by the trust, set off all or part of the loss resulting from that investment against all or part of the gain resulting from any other investment whether in breach of trust or not.

(2) The power of set off conferred by subsection (1) is in addition to any other power or entitlement to set off all or part of any loss against any property.

Housing loans by trustee

26D. (1) If a trustee lends money on a real security in accordance with the provisions of this Act, or had made such a loan in accordance with the provisions of this Act as in force immediately before the coming into operation of the *Trustees Amendment Act 1997*, the trustee is not chargeable with breach of trust by reason only of the proportion borne by the amount of the loan to the value of the property on which the loan is secured if —

- (a) the trustee was not expressly forbidden by the instrument (if any) creating the trust to lend money on a real security;
- (b) the loan was a housing loan; and
- (c) the loan is secured by a contract of insurance in the prescribed form entered into with an authorized insurer.

(2) The Minister may by notice published in the *Gazette* —

- (a) declare a corporation that is lawfully carrying on the business of insuring mortgages in Western Australia to be an authorized insurer for the purposes of this section; and
- (b) revoke a declaration made under paragraph (a).

(3) The Minister may by notice published in the *Gazette* —

- (a) specify terms and conditions subject to which an authorized insurer is authorized to enter into contracts of insurance for the purpose of this section; and
- (b) vary or revoke any such terms and conditions.

(4) An authorized insurer who fails to comply with any terms or conditions subject to which it is authorized to enter into contracts of insurance for the purpose of this section shall be guilty of an offence.

Penalty: \$5 000.

(5) In this section —

“authorized insurer” means a corporation that has been declared to be an authorized insurer under subsection (2);

“dwelling-house” includes —

- (a) any building that consists, or any buildings that consist, in whole or in substantial part, of residential accommodation, whether constituting a single unit of accommodation or 2 or more such units;
- (b) any residential accommodation of a kind commonly known as a flat or home unit; and
- (c) appurtenances, outbuildings, fences and permanent provision for lighting, water supply, drainage and sewerage provided in connection with the dwelling-house;

“housing loan” means a loan —

- (a) made for any one or more of the following purposes, that is to say, of enabling the borrower —
 - (i) to acquire a prescribed interest in land and construct, or complete the construction of, a dwelling-house on the land;

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- (ii) to construct a dwelling-house, or complete the construction of a dwelling-house, on land in which the borrower has a prescribed interest;
- (iii) to acquire a prescribed interest in land on which there is a dwelling-house;
- (iv) to alter, improve or extend a dwelling-house constructed on land in which the borrower has a prescribed interest;
- (v) to meet expenses in respect of the provision of improvement of roads, kerbing, guttering or footpaths in connection with land in which the borrower has a prescribed interest; or
- (vi) to discharge a mortgage, charge or other encumbrance over land in which the borrower has a prescribed interest, being land on which a dwelling-house is being constructed;

and

- (b) the repayment of which is secured by a security over the interest of the borrower in the land,

and, where the lender requires the borrower to meet the cost of the premium in respect of a contract of insurance entered into in respect of the loan, includes moneys advanced by the lender to enable the borrower to meet that cost, being moneys the repayment of which is secured by a security over the interest of the borrower in the land;

“prescribed interest in land” means —

- (a) an estate in fee simple;
- (b) an interest as lessee under a lease in perpetuity from the Crown in right of the Commonwealth or the State of Western Australia; or
- (c) an interest as lessee under a lease for a term of years from the Crown in right of the Commonwealth or the State of Western Australia or from the owner of an estate in fee simple if the authorized insurer is satisfied that the term, covenants and conditions of the lease give reasonable security of tenure to the lessee for a substantial period.

Transitional provision

26E. Any provision in an instrument (whether or not creating a trust) that empowers or requires a person to invest money in investments authorized for the investment of trust funds or moneys is to be read as if it empowered or required that person to invest that money according to the provisions of this Part relating to the investment of trust funds.

”.

Section 27 amended

7. Section 27 (5) of the principal Act is amended by deleting “authorized” in both places where it occurs.

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Section 30 amended

8. Section 30 (1) (h) of the principal Act is amended —

- (a) by inserting “and” after subparagraph (i); and
- (b) by deleting subparagraphs (ii), (iii) and (iv), and “and” after subparagraph (iii), and substituting the following subparagraph —

“ (ii) nothing in this paragraph authorizes a trustee to advance money other than in accordance with Part III; ”.

Section 34 amended

9. Section 34 (6) of the principal Act is repealed.

Section 48 amended

10. Section 48 of the principal Act is amended by deleting “Subject to the provisions of section twenty-one of this Act, a trustee” and substituting the following —

“ A trustee ”.

Section 49 amended

11. Section 49 (1) (b) of the principal Act is amended by deleting “authorized investments” and substituting the following —

“ investments in which trust funds may be invested under this Act ”.

Section 56 amended

12. Section 56 (2) of the principal Act is amended by deleting “authorized”.

Section 58 amended

13. Section 58 (2) of the principal Act is amended by deleting “authorized investments” and substituting the following —

“
investments in which trust funds may be invested under
this Act
”.

Section 110 repealed and a section substituted

14. Section 110 of the principal Act is repealed and the following section is substituted —

“
Regulations

110. The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed or are necessary or convenient to be prescribed for giving effect to the purposes of this Act.
”.

PART 3 — AMENDMENTS TO *TRUSTEE COMPANIES ACT 1987*

Principal Act

15. In this Part the *Trustee Companies Act 1987** is referred to as the principal Act.

[* *Act No. 111 of 1987.*

For subsequent amendments see 1995 Index to Legislation of Western Australia, Table 1, p. 227.]

Section 19 amended

16. Section 19 of the principal Act is amended —

(a) by repealing subsection (4) and substituting the following subsection —

“
(4) The funds held by an Estate Common Trust Fund may be invested only as trust funds may be invested under Part III of the *Trustees Act 1962*.
”;

and

(b) in subsection (4b) —

(i) by inserting after “(in subsection (4c) called “**derivative powers**”)” the following —

“ under subsection (4) or ”; and

(ii) in paragraph (b) by inserting before “in compliance with” the following —

“
if the powers are exercised under paragraph (a),
”.

Section 20 amended

17. Section 20 of the principal Act is amended —

(a) by repealing subsection (4) and substituting the following subsections —

“

(4) The funds held by an Investment Common Trust Fund may be invested only —

- (a) in such class or classes of investments as are determined and published by the trustee company before the Fund is established; and
- (b) as trust funds may be invested under Part III of the *Trustees Act 1962*.

(4aa) A trustee company may vary a class or classes of investments under subsection (4) if —

- (a) prior to the coming into operation of the *Trustees Amendment Act 1997*, the trustee company —
 - (i) established an Investment Common Trust Fund under this section; and
 - (ii) determined to invest or invested the Investment Common Trust Fund in a class or classes of investments authorized under the *Trustees Act 1962* as in force immediately before the coming into operation of the *Trustees Amendment Act 1997*;

and

(b) the trustee company makes the variation within 12 months of the coming into operation of the *Trustees Amendment Act 1997*.

”;

and

(b) in subsection (4b) —

(i) by inserting after “(in subsection (4c) called “**derivative powers**”)” the following —

“ under subsection (4) or ”; and

(ii) in paragraph (b) by inserting before “in compliance with” the following —

“

if the powers are exercised under paragraph (a),

”.

PART 4 — CONSEQUENTIAL AMENDMENTS

**Consequential amendments, trustee investments
— Schedule 1**

18. The Acts in Column 1 of Schedule 1 are amended in the provision or provisions opposite them in Column 2 in the manner specified in Column 3.

SCHEDULE 1 — CONSEQUENTIAL AMENDMENTS

[Section 18]

Column 1	Column 2	Column 3
<i>Short title of Act</i>	<i>Provision amended</i>	<i>Amendment</i>
<i>Aboriginal Affairs Planning Authority Act 1972</i>	s. 40	After “in any investment authorized by law” insert — “ as in force immediately before the coming into operation of the <i>Trustees Amendment Act 1997</i> ”.
	s. 44	After “in any investment authorized by law” insert — “ as in force immediately before the coming into operation of the <i>Trustees Amendment Act 1997</i> ”.
<i>Administration Act 1903</i>	s. 17A (3)	Delete “in any of the securities or property authorized for the investment of trust funds” and substitute — “ as trust funds may be invested under Part III of the <i>Trustees Act 1962</i> ”.
<i>Albany Port Authority Act 1926</i>	s. 54F (1) (a)	Delete the paragraph.
	s. 54F (2)	Repeal the subsection.
<i>Alcohol and Drug Authority Act 1974</i>	s. 30	After “authorized by law” insert — “ as in force immediately before the coming into operation of the <i>Trustees Amendment Act 1997</i> ”.

<i>Anglican Church of Australia School Lands Act 1896</i>	s. 5 (7)	Delete “in any investments authorized by law for the investment of trust funds” and substitute — “ as trust funds may be invested under Part III of the <i>Trustees Act 1962</i> ”.
<i>Art Gallery Act 1959</i>	s. 22 (5)	After “authorized by law” insert — “ as in force immediately before the coming into operation of the <i>Trustees Amendment Act 1997</i> ”.
<i>Associations Incorporation Act 1987</i>	s. 13 (1) (c) (i)	Delete the subparagraph and substitute — “ (i) as trust funds may be invested under Part III of the <i>Trustees Act 1962</i> ; ”.
<i>Bunbury Port Authority Act 1909</i>	s. 54F (1) (a)	Delete the paragraph.
	s. 54F (2)	Repeal the subsection.
<i>Cemeteries Act 1986</i>	s. 50 (2)	Delete “in such categories of investments as trustees may lawfully invest trust funds” and substitute — “ as trust funds may be invested under Part III of the <i>Trustees Act 1962</i> ”.
<i>Coal Industry Superannuation Act 1989</i>	s. 11 (1) (a)	Delete the paragraph and substitute — “ (a) as trust funds may be invested under Part III of the <i>Trustees Act 1962</i> ; ”.
	s. 11 (1) (c)	Delete the paragraph.

<i>Companies (Co-operative) Act 1943</i>	s. 165 (e)	Delete “in any investment for the time being authorized by law for the investment of trust funds” and substitute — “ as trust funds may be invested under Part III of the <i>Trustees Act 1962</i> ”.
<i>Construction Industry Portable Paid Long Service Leave Act 1985</i>	s. 15 (3)	Delete “in any authorized investment within the meaning of the <i>Trustees Act 1962</i> ” and substitute — “ as trust funds may be invested under Part III of the <i>Trustees Act 1962</i> ”.
<i>Curtin University of Technology Act 1966</i>	s. 25 (b)	Delete “in any investments authorized by law as those in which trust funds may be invested” and substitute — “ as trust funds may be invested under Part III of the <i>Trustees Act 1962</i> ”.
<i>Dairy Industry Act 1973</i>	s. 75 (2)	Delete “in any manner authorized by law for the investment of trust funds.” and substitute — “ as trust funds may be invested under Part III of the <i>Trustees Act 1962</i> . ”.
<i>Dampier Port Authority Act 1985</i>	s. 70 (1) and (2)	Repeal the subsections.
<i>Eastern Goldfields Transport Board Act 1984</i>	s. 26 (3)	Delete “in any form of investment authorized by law for the investment of trust funds” and substitute — “ as trust funds may be invested under Part III of the <i>Trustees Act 1962</i> ”.

<i>Esperance Port Authority Act 1968</i>	s. 58 (1) (a)	Delete the paragraph.
	s. 58 (2)	Repeal the subsection.
<i>Fire Brigades Superannuation Act 1985</i>	s. 7 (1) (a)	Delete the paragraph and substitute — “ (a) as trust funds may be invested under Part III of the <i>Trustees Act 1962</i> ; ”.
<i>Fremantle Port Authority Act 1902</i>	s. 58G (1) (a)	Delete the paragraph.
	s. 58G (2)	Repeal the subsection.
<i>Friendly Societies Act 1894</i>	s. 15 (1) (h)	Delete the paragraph and substitute — “ (h) As trust funds may be invested under Part III of the <i>Trustees Act 1962</i> . ”.
<i>Geraldton Port Authority Act 1968</i>	s. 58 (1) (a)	Delete the paragraph.
	s. 58 (2)	Repeal the subsection.
<i>Geraldton Sailors and Soldiers' Memorial Institute Act 1929</i>	s. 5 (b)	Delete “in investments allotted by law for the investment of trust funds” and substitute — “ as trust funds may be invested under Part III of the <i>Trustees Act 1962</i> ”.
<i>Government Railways Act 1904</i>	s. 54G (1) (a)	Delete the paragraph.
	s. 54G (2)	Repeal the subsection.
<i>Home Building Contracts Act 1991</i>	s. 18 (3)	Delete “that is an authorized investment under the <i>Trustees Act 1962</i> ”.

<i>Legal Contribution Trust Act 1967</i>	s. 17	Delete “in the manner authorized by law for the investment of trust moneys,” and substitute — “ as trust funds may be invested under Part III of the <i>Trustees Act 1962</i> , ”.
<i>Litter Act 1979</i>	s. 19	After “authorized by law” insert — “ as in force immediately before the coming into operation of the <i>Trustees Amendment Act 1997</i> ”.
<i>Lotteries Commission Act 1990</i>	s. 21	Delete “in any investments that are from time to time authorized by law for investment of trust funds or in any other” and substitute — “ as trust funds may be invested under Part III of the <i>Trustees Act 1962</i> or in an ”.
<i>Metropolitan (Perth) Passenger Transport Trust Act 1957</i>	s. 50 (1) (a)	Delete the paragraph.
	s. 50 (2)	Repeal the subsection.
<i>Murdoch University Act 1973</i>	s. 31 (4)	Delete “in investments authorized by law for the investment of trust funds” and substitute — “ as trust funds may be invested under Part III of the <i>Trustees Act 1962</i> ”.
<i>Museum Act 1969</i>	s. 34	After “authorized by law” insert — “ as in force immediately before the coming into operation of the <i>Trustees Amendment Act 1997</i> ”.

<i>National Trust of Australia (W.A.) Act 1964</i>	s. 19 (1)	<p>Delete “in any manner in which trustees are for the time being authorized to invest trust funds” and substitute —</p> <p>“ as trust funds may be invested under Part III of the <i>Trustees Act 1962</i> ”.</p>
<i>Perth Theatre Trust Act 1979</i>	s. 23 (4) (a)	<p>Delete “in any manner in which trustees are for the time being authorized by law to invest trust funds;” and substitute —</p> <p>“ i n i n v e s t m e n t s authorized by law as in force immediately before the coming into operation of the <i>Trustees Amendment Act 1997</i> for the investment of trust funds; ”.</p>
<i>Port Hedland Port Authority Act 1970</i>	s. 57 (1) (a)	Delete the paragraph.
	s. 57 (2)	Repeal the subsection.
<i>Potato Growing Industry Trust Fund Act 1947</i>	s. 20	<p>Delete “in any investments authorized by law for the investment of trust funds” and substitute —</p> <p>“ as trust funds may be invested under Part III of the <i>Trustees Act 1962</i> ”.</p>
<i>Poultry Industry (Trust Fund) Act 1948</i>	s. 16	<p>Delete “in any investments authorized by law for the investment of trust funds” and substitute —</p> <p>“ as trust funds may be invested under Part III of the <i>Trustees Act 1962</i> ”.</p>

*Public Dental
Hospital Land
Act 1934*

s. 3 (2)

Delete “in any security in which trustees are by law authorized to invest trust moneys” and substitute —

“ as trust funds may be invested under Part III of the *Trustees Act 1962* ”.

*Public Education
Endowment
Act 1909*

s. 9

Delete “in such securities as trustees are authorized by law to invest trust funds in their hands” and substitute —

“ as trust funds may be invested under Part III of the *Trustees Act 1962* ”.

*Public Trustee
Act 1941*

s. 23 (2) (a)

Delete “of the nature for the time being authorized by law” and substitute —

“ authorized by law as in force immediately before the coming into operation of the *Trustees Amendment Act 1997* ”.

s. 40 (2)

Repeal the subsection and substitute —

“ (2) The Public Trustee may invest in investments authorized by law as in force immediately before the coming into operation of the *Trustees Amendment Act 1997* for the investment of trust funds. ”.

<i>Queen Elizabeth II Medical Centre Act 1966</i>	s.13 (7) (b)	Delete the paragraph and substitute — “ (b) may invest the proceeds as trust funds may be invested under Part III of the <i>Trustees Act 1962</i> , and the income of the investments shall be appropriated and used for the purposes of the medical centre. ”.
<i>Retirement Villages Act 1992</i>	s. 18 (1)	Delete “in a form of investment in which trustees are authorized by statute to invest trust money” and substitute — “ invested as trust funds may be invested under Part III of the <i>Trustees Act 1962</i> ”.
<i>Suitors' Fund Act 1964</i>	s. 4 (8)	Delete “in any investments authorized by law as those in which trust funds may be invested” and substitute — “ as trust funds may be invested under Part III of the <i>Trustees Act 1962</i> ”.
<i>The Fremantle Gas and Coke Company's Act 1886</i>	s. 10	Repeal the section.
<i>Uniting Church in Australia Act 1976</i>	s. 47	Delete “in any form of investment authorized by statute” and substitute — “ as trust funds may be invested under Part III of the <i>Trustees Act 1962</i> ”.

No. 1]
Sch. 1

Trustees Amendment Act 1997

*University
Endowment
Act 1904*

s. 9

Delete “in such securities as trustees are authorized by law to invest trust funds in their hands” and substitute —

“ as trust funds may be invested under Part III of the *Trustees Act 1962* ”.

*University of
Notre Dame
Australia
Act 1989*

s. 24 (2)

Delete “in investments authorized by law for the investment of trust funds” and substitute —

“ as trust funds may be invested under Part III of the *Trustees Act 1962* ”.