

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

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Western Australia

LEGISLATIVE ASSEMBLY

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

**A Bill for**

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

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*.

5 **2. Commencement**

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

## **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.

5       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:

- 10       (a) in subparagraph (i) by deleting “\$30” and inserting  
      instead —  
      “ \$33 ”;
- (b) in subparagraph (ii) by deleting “10 per centum” and  
      inserting instead —  
      “ 11% ”;
- 15       (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 —

20       “ 6.6% ”.

### **5. Section 40 amended**

Section 40(3a) is amended as follows:

- (a) by deleting “shall” and inserting instead —  
      “ may ”;
- 25       (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*\*.

5 [\* Reprinted as at 1 November 1999.]

### **7. Section 18 amended**

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

“

(10) If —

- 10 (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;
- 15 (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
- 20 (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
- 25 (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;

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

10 “**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;

15 “**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*;

20 “**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

25 (b) if, at the commencement time, the estate is  
not so entitled — 2 December 1998.

”.

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**8. Section 20A inserted**

After section 20 the following section is inserted —

“

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

- 5 (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;
- 10 (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;
- 15 (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,
- 20 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
- 25 (g) after the period — by 10%.
- (2) In this section —
- 30 **“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);

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- (b) the company charges, after the commencement time, a commission or fee that it is entitled to under clause 3;
- 5 (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 —
- 10 (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
- 15 (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;

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

25 “**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*;

30 “**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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