

ACT FOR LIBRARIES & INFORMATION DEPARTMENT OF JUSTICE

Part 1 - Preliminary

Clause 1 Short title

Short title of the Act.

Libraries & Information
Department of Justice

Clause 2 Commencement

The proposed Act will come into operation on 1 July 2000 or on the date of Royal Assent whichever is the latter.

Part 2 - Public Trustee Act 1941 amended.

Clause 3 The Act amended

Clause 3 provides that all changes in Part 2 of the Act refer to the Public Trustee Act 1941.

Clause 4 Section 38 amended

Clause 4 refers to fees which may be prescribed, subject to the maximums set out in section 38 of the Public Trustee Act 1941. These fee caps have been increased by the maximum amount of Goods and Services Tax which is applicable to the services of the Public Trustee. However, in order to actually increase fees charged to clients, the Regulations made under the principal act will have to be amended. That is, the legislation sets the maximum fee whereas the actual fee is set by the Regulations.

Clause 5 Section 40 amended

Clause 5 refers to fees for the management of the Common Fund set out in section 40 of the Public Trustee Act 1941. These fees have been increased by the maximum amount of Goods and Services Tax which is applicable to the services of the Public Trustee. This will allow the Public Trustee to increase the fees to the extent necessary to offset the net effect of the Goods and Services Tax.

Part 3 - Trustee Companies Act 1987 amended.

Clause 6 The Act amended

Clause 6 provides that all changes in Part 3 of the Act refer to the Trustee Companies Act 1987.

Clause 7 Section 18 amended

Clause 7 allows a trustee company to pass on the applicable amount of GST to an estate where the Trustee Companies Act 1987 would formerly have prevented any variation in cost from the commencement of the administration of the estate. This only applies where the trustee company is acting as executor, administrator, trustee or other prescribed capacity in relation to a matter where fees were set prior to 2 December 1998, the date the GST legislation was introduced in Federal Parliament.

Clause 8 Section 20A inserted

Clause 8 inserts an authority for a trustee company to charge the applicable amount of GST to an investor of an Estate Common Fund or an Investment Common Fund where the trustee company is currently only able to charge the amount agreed at the time when the investment was made. This only applies where the investment was made prior to 8 July 1999 or 2 December 1998, depending upon the entitlement of the investor to full input tax credits.

Clause 9 Schedule 3 amended

Schedule 3 is a transitional and saving provision of the Trustee Companies Act 1987 which effectively limits the fees and commissions payable to the rates which applied before the commencement of the Act on 1 September 1988. Clause 9 allows trustee companies to recover any GST applicable to such estates.