South Australia

Public Trustee Act 1995

An Act to provide for the office and functions of the Public Trustee; and for other purposes.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Public Trustee Act 1995*.

3—Interpretation

In this Act—

administration, in relation to a deceased person, means all letters of administration of the effects of the person, whether with or without a will annexed, and whether granted for general, special, or limited purposes, and ***administrator***, in relation to a deceased person, has a corresponding meaning;

common fund means a common fund established by the Public Trustee under Part 5;

Court means the Supreme Court of South Australia;

deliver property includes pay money;

domestic partner, in relation to a deceased person, means—

(a) a person declared under the *Family Relationships Act 1975* to have been the domestic partner of that person as at the date of the deceased person's death; or

(b) a person who was in a registered relationship with the deceased person as at the date of the deceased person's death;

estate under the control of the Public Trustee includes any property administered or managed by, or under the control of, the Public Trustee as trustee, executor, administrator (whether or not in relation to a deceased person) or in any other capacity authorised under this or any other Act, but does not include money deposited with the Public Trustee for the purpose only of investment in a common fund;

investor means an estate or person on whose behalf money is invested in the common fund;

Public Trustee means the person holding or acting in the office of Public Trustee under Part 2;

registered relationship means a relationship that is registered under the *Relationships Register Act 2016*, and includes a corresponding law registered relationship under that Act;

spouse, in relation to a deceased person, means a person who was legally married to the deceased as at the date of his or her death;

trustee includes a bare trustee or custodian trustee;

will includes codicil.

Note—

For definition of divisional penalties (and divisional expiation fees) see Appendix.

Part 2—Office of Public Trustee

4—Public Trustee

(1) There is to be a *Public Trustee*.

(2) The Public Trustee is to be an employee in the Public Service of the State appointed to the office of Public Trustee by the Governor.

(3) The office of Public Trustee may be held in conjunction with a position in the Public Service.

(4) The Public Trustee—

(a) is a body corporate; and

(b) has perpetual succession and a common seal; and

(c) is capable of suing and being sued; and

(d) is an instrumentality of the Crown and holds property on behalf of the Crown; and

(e) has the functions and powers assigned or conferred by or under this or any other Act.

(5) The Minister may assign an employee in the Public Service to act as the Public Trustee—

(a) during a vacancy in the office of Public Trustee; or

(b) when the Public Trustee is absent from, or unable to discharge, official duties.

5—Functions and powers

(1) Subject to this Act, the Public Trustee has the powers of a natural person.

(2) The Public Trustee may, for example—

(a) act as a trustee, executor of a will, administrator of an estate (whether or not of a deceased person), manager, receiver, committee, curator, guardian, next friend, agent, attorney or stakeholder; or

(b) act in any other capacity provided for under this or any other Act.

(3) The Public Trustee may, with the approval of the Court, act in the same matter or transaction in different capacities or in the same capacity but as representative of different persons or interests and, in so doing, may commence and maintain proceedings against the Public Trustee.

(4) The Court may, in granting its approval, give directions to the Public Trustee.

6—Ministerial control

(1) The Public Trustee is subject to control and direction by the Minister on matters of policy.

(2) A direction may not be given so as to affect the efficient discharge of the Public Trustee's duties at law or in equity.

(3) The Public Trustee must, at the request of the Minister, report to the Minister on a specified matter.

(4) The Public Trustee must not, in a report to the Minister, divulge information in breach of a confidence placed in the Public Trustee by a client.

7—Execution of documents

A document apparently bearing the common seal of the Public Trustee will be presumed, in the absence of proof to the contrary, to have been duly executed by the Public Trustee.

8—Delegations

(1) The Public Trustee may delegate any of the Public Trustee's functions or powers—

(a) to a person employed in the Public Service; or

(b) to the person for the time being occupying a specified position in the Public Service.

(2) A delegation under this section—

(a) must be in writing; and

(b) may be conditional or unconditional; and

(c) is revocable at will; and

(d) does not prevent the delegator from acting in any matter.

Part 3—Appointment as administrator, trustee etc

9—Administration of deceased estate

(1) The Court may make an order (an ***administration order***) granting administration of the estate of a deceased person to the Public Trustee, or authorising the Public Trustee to administer the estate of a deceased person—

(a) if, in the opinion of the Court—

(i) the deceased has died bankrupt or insolvent; or

(ii) a creditor would be entitled to obtain administration of the estate or to institute an action for the administration of the estate,

(and if, in such a case, probate or administration has been granted to a person other than the Public Trustee, the Court may revoke the probate or administration without prejudice to any proceedings taken or act done under it); or

(b) if the deceased has died wholly or partially intestate, leaving property within this State, but not leaving a spouse, domestic partner or next of kin resident in the State who is of or above 18 years of age; or

(c) if—

(i) the deceased has made a will without leaving an executor resident in this State willing to act and capable of acting in the execution of the will; and

(ii) there is no person of or above 18 years of age in this State entitled to obtain administration with the will annexed; or

(d) if the deceased has made a will and appointed an executor but probate of the will has not been obtained within four months from the death of the deceased; or

(e) if no person entitled to obtain administration (with or without a will annexed) obtains it within three months after the death of the deceased; or

(f) if probate or administration has been granted to a person who desires to retire from the office of executor or administrator (and, in such a case, the Court may revoke the probate or administration without prejudice to any proceedings taken or act done under it); or

(g) if—

(i) the estate or portion of it is liable to waste, of a perishable nature or in danger of being lost or destroyed, or great loss or expense may be incurred by reason of delay; and

(ii) the executor, person entitled to administration (with the will annexed), spouse, domestic partner or next of kin—

(A) is absent from the locality of the estate; or

(B) is not known; or

(C) has not been found; or

(D) is unfit or incapable; or

(h) if an executor, or person entitled to administration, requests the Public Trustee, in writing, to apply for an order under this section; or

(i) if part of an estate, already partly administered, is unadministered owing to the death, incapacity, insolvency, disappearance or absence from the State of the executor or administrator.

(2) If it appears to the Court—

(a) that there is reasonable ground to suppose that a person has died leaving property within this State; and

(b) that the person died intestate or without a will duly proved within a reasonable time after death,

the Court may, without requiring strict proof of death, make an administration order authorising the Public Trustee to administer the person's estate for the benefit of the person's creditors and for the discharge of the person's liabilities as if the person were dead.

(3) An application for an administration order may be made by—

(a) the Public Trustee; or

(b) a person interested in the estate (including a creditor); or

(c) a guardian or blood relation of a person under 18 years of age interested in the estate.

(4) An administration order may be obtained either without notice or after notice has been given as directed by the Court.

(5) The Court may revoke an administration order and order—

(a) that probate be granted to an executor entitled to probate of the will of the deceased, or that letters of administration with the will annexed be granted to any person entitled to them;

(b) that property from a deceased person's estate vested in or under the control of the Public Trustee be transferred or delivered to a person or persons entitled to it, whether in trust or beneficially.

(6) Revocation of an administration order is without prejudice to any proceedings taken or act done under it.

(7) An administration order of a kind referred to in subsection (2) may not be revoked unless the Court is satisfied that special circumstances of the case and lapse of time since the making of the order justify the revocation.

(8) If an order is made authorising the Public Trustee to administer the estate of a deceased person, the Public Trustee will be taken to be the administrator of the estate for the purposes of any other Act but subject to the provisions of the other Act.

10—Public Trustee need not give security

The Public Trustee need not, on obtaining administration, enter into a bond or give any security.

11—No action to be instituted after Public Trustee has obtained administration

Subject to this Act, after the grant of administration to the Public Trustee, or the making of an order authorising the Public Trustee to administer the estate of a deceased person, no person may institute an action or other proceeding for the administration of the estate, and any such action or proceeding previously commenced will, on the application of the Public Trustee, be stayed on such terms as the Court thinks fit.

12—Administrator pendente lite

(1) The Court may appoint the Public Trustee to be the administrator of the estate of a deceased person until an action relating to the validity of the will of the deceased, or for obtaining or revoking a grant of probate or administration, is determined.

(2) If appointed as administrator under this section, the Public Trustee is subject to control and direction by the Court in the administration of the estate.

13—Administration of trust estate

(1) The Court may, on the application of a person holding property in trust for any person or purpose, make an order authorising the Public Trustee to receive and administer the property.

(2) The order may be made whenever or however the trust may have been created or arisen.

(3) The Court may order that the costs and expenses of and incidental to the application be paid from the trust property, or by the person making the application, and, if the property is held in trust for public or charitable purposes, may, if it thinks fit, direct that no Court fees are payable.

14—Appointment as executor or trustee

(1) A person may appoint the Public Trustee, either solely or jointly with another person or persons, to be executor or trustee of his or her will or to be trustee of a settlement or other disposition of trust property made by the person.

(2) The Public Trustee must accept such an appointment unless granted permission to refuse by the Court on the ground that the nature of the trusts and the duties to be performed make it undesirable that the Public Trustee should act.

(3) If the Court grants permission, it may make such other provision as may be appropriate in the circumstances for the administration of the estate or trust property.

(4) If the Public Trustee is appointed executor or trustee jointly with another person, the Public Trustee has sole authority—

(a) to receive money and hold money on account of the estate or trust; and

(b) to give valid receipts for money paid to the estate or trust; and

(c) to make payments from the estate or trust.

15—Appointment of Public Trustee by executors, administrators or trustees

(1) With the consent of the Court—

(a) executors may, unless expressly prohibited, appoint the Public Trustee sole executor; and

(b) administrators may, unless expressly prohibited, appoint the Public Trustee sole administrator; and

(c) trustees (whether appointed by or under a will, settlement, declaration of trust or in any other way) may, unless expressly prohibited and despite the terms of the trust as to the number of trustees, appoint the Public Trustee sole trustee in their place.

(2) Executors whose duties continue in the nature of a trusteeship after completion of their administration will, for the purpose of subsection (1), be taken to be trustees.

(3) An application may be made for consent under this section by less than the full number of the executors, administrators or trustees but the Court may not give its consent if there is another executor, administrator or trustee willing and, in the opinion of the Court, suitable to act.

(4) An application may be made under this section by an executor before or after proving the will.

(5) The Public Trustee may be appointed under this section without the need to obtain the consent of any person whose consent to the appointment would, apart from this subsection, be required.

(6) This section is in addition to and does not derogate from section 14 of the *Trustee Act 1936*.

(7) This section applies to executors, administrators or trustees appointed before or after the commencement of this Act.

16—Appointment by court as trustee of amount of judgment etc

(1) If a court orders the delivery or transfer of property to a person, the court may direct that the property be delivered or transferred to the Public Trustee on behalf of that person.

(2) The Public Trustee must accept delivery or transfer of the property (and the acceptance is a sufficient discharge to the person delivering or transferring the property).

(3) The Public Trustee must hold the property on trust to apply it, and its income, in the manner and for the benefit of persons as the court may from time to time direct.

(4) Subject to direction by the court, the Public Trustee has all the rights and powers, and must undertake all the duties and liabilities, of a trustee (subject to this Act) in relation to the property.

(5) In this section—

court means any court, or person acting judicially, exercising jurisdiction either within or outside the State.

17—Custodian trustee

(1) The Public Trustee may be appointed to be custodian trustee of a trust—

(a) by order of the Court made on the application of a beneficiary or of a person on whose application the Court may order the appointment of a new trustee; or

(b) by the instrument constituting the trust; or

(c) by any person authorised to appoint new trustees.

(2) An order may be made by the Court or an appointment made by a person authorised to appoint new trustees whenever or however the trust may have been created or arisen.

(3) On appointment of a custodian trustee—

(a) the trust property must be transferred to the custodian trustee as if that trustee were sole trustee, and for that purpose orders may be made by the Court vesting the property in the custodian trustee; and

(b) those persons who would, if there were no custodian trustee, be the sole trustees of the trust have the management of the trust property; and

(c) as between the custodian trustee and the managing trustees (without prejudice to the rights of any other persons) the custodian trustee will have the custody of all securities and documents of title relating to the trust property, but the managing trustees will have free access to them and be entitled to take copies of or extracts from them.

(4) Subject to subsection (5), the custodian trustee must do all things necessary to enable the managing trustees to perform their functions and exercise their powers under the trust.

(5) Nothing in subsection (4) requires the custodian trustee to do anything that is a breach of trust or subjects the custodian trustee to a personal liability.

(6) The custodian trustee is not liable for any act or default of the managing trustees to which the custodian trustee has not consented.

(7) All money payable from the trust estate must be paid by the custodian trustee and all money payable to the trust estate must be paid to the custodian trustee or as that trustee directs.

(8) If the custodian trustee directs that trust property be delivered to the managing trustees or at their direction, the custodian trustee is not responsible for the application of that property or for its loss or misapplication.

(9) The custodian trustee does not have power to appoint a new trustee but is entitled to apply to the Court for the appointment of a new trustee in the circumstances in which the managing trustees could apply to the Court for that purpose.

(10) On application by the custodian trustee or any of the managing trustees or any beneficiary, the Court may—

(a) terminate the custodian trusteeship; and

(b) make such vesting orders and give such directions as are necessary,

if it is satisfied that—

(c) termination of the trusteeship is the wish of the majority of beneficiaries; or

(d) there are other reasons that make such an order expedient.

(11) The custodian trustee or the managing trustees may submit a dispute between them to the Court and the Court may determine the matters in dispute in such manner as it considers just.

18—Power of attorney continues despite subsequent legal incapacity

If the donor of a power of attorney granted to the Public Trustee (whether before or after the commencement of this Act) ceases to have legal capacity—

(a) the Public Trustee may, subject to the terms on which the power of attorney was granted, continue to act under the power of attorney despite the donor's legal incapacity; but

(b) the power—

(i) determines on appointment under an Act of an administrator or manager of the donor's property; and

(ii) may be revoked at any time by the Court.

Part 4—Administration of estates

19—Payments to or from executors etc elsewhere in Australia or in New Zealand

(1) If the Public Trustee has obtained an order to administer the estate in this State of a person who at the time of death was domiciled in another State or a Territory of the Commonwealth, or in New Zealand, the Public Trustee may pay over to the executor of the will or administrator of the estate in the place of domicile the balance of the estate after payment of debts in this State and charges provided for under this or any other Act, without seeing to the application of any money so paid and without incurring any liability in regard to the payment.

(2) If the person with duties similar to those of the Public Trustee in another State or a Territory of the Commonwealth, or in New Zealand, has obtained administration of the estate of a deceased person who at the time of death was domiciled in this State and whose estate in this State is being administered by the Public Trustee, the Public Trustee may receive the balance of the deceased's estate after payment of creditors and any charges provided for under the law of that place.

20—Public Trustee must require delivery or transfer of property to which Public Trustee is entitled

(1) The Public Trustee must require administrators and other persons to deliver or transfer to the Public Trustee all property to which the Public Trustee becomes entitled under this Act.

(2) For the purpose of ascertaining whether an administrator or other person has possession of or is entitled to any property that should be so delivered or transferred, the Public Trustee may institute inquiries regarding the particulars of estates under administration, and held in trust, and may, by summons executed by the Public Trustee, require an administrator or other person to appear before the Public Trustee and answer all questions that may be put with reference to any estate.

(3) The Public Trustee must pay or tender to the person summoned the same amount as the person would have been entitled to had he or she been summoned as a witness to the Supreme Court.

(4) An administrator or other person who, after receiving a summons, fails to attend at the time and place specified in it, or who fails to answer truthfully questions put by or on behalf of the Public Trustee, is guilty of an offence.

Penalty: Division 7 fine or division 7 imprisonment.

21—Court may summons administrator etc on application of Public Trustee

(1) If—

(a) an administrator or other person fails to deliver or transfer to the Public Trustee all property to which the Public Trustee is entitled; or

(b) the procedure in section 20 fails to elicit the particulars required,

the Court may, on the application of the Public Trustee, summon the administrator or other person, or any person who may be in possession of information relevant to the matters under investigation, to appear at a specified time and place for the purpose of being examined concerning the matters and to produce any books, papers, deeds or documents.

(2) If satisfied that the administrator or other person possesses or is entitled to any property that should be delivered or transferred to the Public Trustee, the Court may make—

(a) an order requiring the administrator or other person to deliver or transfer all such property to the Public Trustee within a specified time;

(b) an order as to costs against the administrator or other person.

(3) An order under subsection (2) may be made in the absence of the person summoned if the summons has been duly served.

(4) If the Court does not make an order as to costs, the costs and expenses will be paid by the administrator of the estate in respect of which the proceedings have been taken—

(a) out of the general funds of the estate in priority to all other claims; or

(b) if the Court so orders—out of a particular portion of the funds.

22—Result of disobedience to summons

(1) A person who—

(a) after being summoned to appear by the Court, fails (without reasonable excuse) to appear at the time and place specified in the summons; or

(b) on appearing, refuses to be sworn or fails to answer a question put by or on behalf of the Public Trustee; or

(c) after being summoned to produce books, papers, deeds or documents, fails (without reasonable excuse) to produce them, or, if so required, to hand them over to the Public Trustee; or

(d) disobeys an order made by the Court on the hearing of the summons,

is guilty of contempt of the Court.

(2) The Court may make an order for the arrest of the person in contempt, and for imprisonment, either for such period as the Court thinks fit or until the contempt is purged to the satisfaction of the Court.

(3) The Court may also order the person to pay the costs of the proceedings.

23—Public Trustee to give notice to beneficiary entitled to property

When a beneficiary is entitled to the transfer or delivery of property vested in or under the control of the Public Trustee, the Public Trustee must, when practicable, give notice to the beneficiary that he or she is entitled to the transfer or delivery of the property.

24—Administration of Public Trustee may be referred to Court

(1) The Court may, on application by a person who has an interest in property for the time being administered by the Public Trustee, summon the Public Trustee to appear at a specified time and place for the purpose of answering allegations in the application.

(2) The Court may, after hearing the Public Trustee—

(a) make such order in relation to the conduct of the Public Trustee in the matter giving rise to the application as the Court thinks fit; and

(b) order the Public Trustee to transfer or deliver property vested in or under the control of the Public Trustee to a person or persons named in the order.

25—Public Trustee may make advances for purposes of administration

(1) When the Public Trustee is administering an estate and property is vested in or under the control of the Public Trustee on account of the estate but there is insufficient money in the estate to make payments as authorised or required (whether to beneficiaries or creditors, for costs or expenses incurred in administering the estate or for any other purpose), the Public Trustee may advance and pay money on account of the estate as authorised or required (but no greater amount may be advanced and paid than the value of the property so vested in or under the control of the Public Trustee).

(2) The sums so advanced, with interest at a rate to be fixed by the Public Trustee from time to time in respect of all such sums, are a first charge on all property vested in or under the control of the Public Trustee on account of the estate.

26—Public Trustee to keep accounts in respect of estates etc

(1) The Public Trustee must cause proper accounts to be kept of all estates under the Public Trustee's control, and of all dealings and transactions in relation to the estates.

(2) The Auditor-General may at any time and must in respect of each financial year audit the accounts kept by the Public Trustee under this section.

Part 5—Investment of estate funds and common funds

27—Investment of estate funds

Subject to this and any other Act and the terms of a relevant instrument of trust or order of court, the Public Trustee must invest money comprising or forming part of an estate—

(a) in a manner authorised by the instrument of trust; or

(b) in a manner in which a trustee may lawfully invest trust money; or

(c) in a common fund.

28—Money from several estates may be invested as one fund

(1) Subject to the terms of a relevant instrument of trust or order of court, the Public Trustee may invest money from more than one estate under the control of the Public Trustee as one fund in one or more investments.

(2) Where money from more than one estate is invested under subsection (1), the Public Trustee must—

(a) keep an account showing the current amount for the time being at credit in respect of each estate; and

(b) after deduction of charges—

(i) divide income arising from investment of the money between the estates in proportion to the amounts invested; and

(ii) divide profit or loss of a capital nature arising from investment of the money between the estates in proportion to the amounts invested.

29—Common funds

(1) The Public Trustee may establish one or more common funds—

(a) for the investment of money comprising or forming part of an estate under the control of the Public Trustee;

(b) for the investment of money on behalf of other classes of persons approved by the Minister.

(2) The Public Trustee must determine the classes of investments in which a common fund may be invested and may vary the classes from time to time.

(3) Money may not be invested in a common fund unless the classes of investment in which that money could be invested on separate account are the same as, or include, the classes of investment in which the common fund may be invested.

(4) The Public Trustee must keep an account showing the current amount for the time being at credit in the common fund on account of each investor.

(5) The Public Trustee has a discretion to realise investments in which money from a common fund has been invested and to reinvest the money in investments of an appropriate class.

(6) The Public Trustee may withdraw from a common fund any amount at credit in the common fund on account of an estate—

(a) for the purpose of reinvestment; or

(b) for the purpose of defraying liabilities that are lawfully chargeable against that estate; or

(c) for the purpose of making a payment to a person who is beneficially entitled to that payment; or

(d) for the purpose of making any other payment in accordance with this or any other Act.

(6a) The Public Trustee may withdraw from a common fund an amount at credit in the fund on account of a class of persons referred to in subsection (1)(b) for the purpose of recovering commission, fees or expenses fixed by regulations as payable to the Public Trustee by persons of that class.

(7) After deduction of charges—

(a) income arising from the investment of a common fund must be divided between the investors in proportion to the amounts invested; and

(b) any profit or loss of a capital nature arising from investment of the fund must be divided between the investors in proportion to the amounts invested.

(8) The Public Trustee must value each common fund (including the investments in which the fund is invested) as at the last business day of each month and, if the Public Trustee thinks fit, as at such other times as may be appropriate according to the nature of the particular fund.

(9) Investments in and withdrawals from a common fund must be effected on the basis of the valuation last made under subsection (8).

(10) The Public Trustee may charge against each common fund a management fee fixed by the Public Trustee in respect of each month of the Public Trustee's management of the fund.

(11) The management fee charged against money invested in a common fund on account of an estate must not exceed one-twelfth of 1.2% of the value of the fund attributable to investment of the estate as at the last business day of the month.

(12) The Public Trustee may not increase a fee charged in respect of management of a common fund except after giving to each investor (other than an estate) not less than one month's notice in writing of the new fee.

(13) Nothing in this section limits or affects the operation of section 28.

(14) Money not otherwise held in trust by the Public Trustee is while invested in a common fund held by the Public Trustee in trust for the investor.

30—Accounts, audits and reports in respect of common funds

(1) The Public Trustee must cause proper accounts to be kept in relation to each common fund.

(2) The Auditor-General may at any time and must in respect of each financial year audit the accounts kept by the Public Trustee under this section.

(3) The Public Trustee must include in the Public Trustee's annual report to the Minister for each financial year—

(a) the audited statement of accounts in respect of each common fund for that financial year; and

(b) the Auditor-General's report on those accounts; and

(c) the following investor information in respect of each common fund:

(i) the nature and amount or rate of any fee that the Public Trustee charges in respect of investment in the fund; and

(ii) the class of investments in which the fund may be invested; and

(iii) the extent (if any) to which a capital sum invested may be reduced to defray losses from investment of the fund; and

(iv) the rights of an investor in the fund to withdraw all or part of the person's investment in the fund and the period of notice (if any) that the investor is required to give the Public Trustee in respect of such withdrawal; and

(v) the terms governing distribution of income and profit or loss of a capital nature attributable to each investment in the fund.

31—Information for investors or prospective investors in common fund

(1) The Public Trustee must, within four months after the end of each financial year, send to each investor (other than an estate) in a common fund an extract from the Public Trustee's annual report to the Minister for that financial year containing the information required under section 30(3).

(2) The Public Trustee must not accept money from a prospective investor (other than an estate) in a common fund unless the prospective investor has first been furnished with an extract from the Public Trustee's last annual report to the Minister containing the information required under section 30(3) together with any further information required to update the investor information contained in the report.

Part 6—Unclaimed property

32—Public Trustee's duties with respect to unclaimed money or land

(1) If the Public Trustee has, as at 1 July in any year, held money to the credit of a deceased estate for at least six years and has been unable to find a person beneficially entitled to the money, the Public Trustee must, within one month, pay the money to the Treasurer for the credit of the Consolidated Account.

(2) If the Public Trustee has held land for at least 20 years and has been unable to find a person beneficially entitled to or interested in the land, the Public Trustee may, with the permission of the Court, sell the land and pay the proceeds of sale (less costs and expenses) to the Treasurer for the credit of the Consolidated Account.

33—Provision for parties subsequently claiming to apply to Court etc

(1) If at any time after unclaimed money has been paid to the Treasurer under this Part the Court is satisfied, on application by a person claiming to be entitled to the money, that the person is entitled to the money, the Court may—

(a) make an order for payment of the money less costs and expenses that have been incurred by the Public Trustee in respect of the application;

(b) make any other order that is just.

(2) The Treasurer must, on service of an order under this section, pay the money mentioned in the order to the person entitled to it.

(3) No interest is payable on the money by virtue of any such order or otherwise from the time it has been paid to the Treasurer.

(4) Despite the preceding subsections, the Treasurer may, at any time, pay any such money to the Public Trustee on the certificate of the Public Trustee that the person or persons entitled to the money have been found.

34—Appointment as manager of unclaimed property

(1) The Public Trustee may be appointed manager of property in this State if, after due inquiry, it has not been possible to find the owner of the property or an agent or administrator in this State with authority to take possession of and administer the property.

(2) The Court may appoint the Public Trustee as manager of property on application made without notice to any person by the Public Trustee and on being satisfied that the appointment is advisable—

(a) in the interests of the owner of the property or of any other person; or

(b) to secure the development or better utilisation of land.

(3) Notice of the appointment must be published in the Gazette.

(4) The Court may, if it thinks fit, adjourn an application and order the Public Trustee to make further inquiries, publish advertisements or give notices as required by the Court in order to find the owner of the property or the owner's agent or administrator or to determine whether the property is subject to a trust.

35—Powers of Public Trustee as manager

(1) Unless the Court in a particular case otherwise orders, the Public Trustee, as manager of property under this Part, may—

(a) take or recover possession of the property, and recover all money, damages and mesne profits payable to the owner or the owner's agent or administrator in respect of the property (whether the payment became due before or after the Public Trustee became manager of the property);

(b) apply the property, money, damages or mesne profits, or any part of or income from them, for the maintenance or education (including past maintenance or education) or the advancement or benefit, in such manner as the Public Trustee in the exercise of an absolute discretion thinks fit, of the spouse, domestic partner or children of the owner of the property or any other person who is or was dependent on the owner;

(c) complete, carry out, perform or enforce in such manner as the Public Trustee thinks fit a contract affecting the property or entered into by the owner, and exercise powers conferred by any such contract;

(d) pay, out of money received, advanced or borrowed by the Public Trustee in exercise of powers conferred by this Part, mortgages, charges or other obligations on or attaching to the property and debts or other liabilities of the owner of the property;

(e) perform or discharge obligations or duties imposed by an Act or in any other manner on the owner of the property;

(f) do any act or thing necessary to obtain or perfect the title to the property;

(g) in the case of land—cut and gather crops on the land and erect fences on or around the land or contribute to the erection of dividing or boundary fences;

(h) exercise a power of sale or other powers or rights conferred on the owner by a mortgage, lease, Act or instrument;

(i) in the name of the owner, or in the Public Trustee's own name, bring an action or other proceeding relating to the property and defend, confess, compromise or submit to judgment in any action, claim, demand or proceeding relating to the property;

(j) exercise, as if the Public Trustee were the trustee of the property, all powers that a trustee could exercise without the consent of the Court under any Act or law;

(k) exercise in respect of the property any other power that may be conferred by the Court.

(2) All deeds and other documents executed by the Public Trustee as manager of property under this Part have effect and may be registered in all respects as if they were executed by the owner of the property.

36—Public Trustee to have discretion as to exercise of powers as manager

(1) The Public Trustee is not obliged to take any steps or proceedings to obtain appointment as manager of any property under this Part.

(2) If the Public Trustee is manager of property under this Part, the Public Trustee has, subject to any direction of the Court, a complete discretion as to whether any of the powers under this Part are to be exercised and is not liable for anything done or omitted to be done in good faith in exercise of that discretion or of any such power.

37—Public Trustee may apply to Court for directions

(1) The Public Trustee may, as manager of property under this Part, apply without notice to any person to the Court for directions concerning the property, or in respect of the management or administration of the property, or in respect of the exercise of a power or discretion as manager.

(2) The Court may order any such application to be served on such persons as it thinks fit.

38—Money to be invested in common fund

Money for the time being held by the Public Trustee under this Part must be invested in a common fund.

39—Remuneration and expenses of Public Trustee

(1) Expenditure incurred by the Public Trustee as manager of property under this Part and all commission, fees, costs and expenses incurred by or payable to the Public Trustee as manager of property under this Part are a charge on the property that will come next in priority to any mortgage or charge to which the property was subject when the Public Trustee became manager.

(2) The amount for the time being so charged on the property bears interest at a rate fixed from time to time by the Public Trustee.

40—Property managed by Public Trustee to be held for owner

If the Public Trustee, as manager under this Part, takes possession of property or receives or recovers money, damages or mesne profits in respect of any property, the property, money, damages or mesne profits must, after payment of all money authorised to be applied, expended or charged by the Public Trustee, be held by the Public Trustee for the owner of the property.

41—Termination of management

(1) The Public Trustee ceases to be manager of a property under this Part on the happening of any of the following events:

(a) if the Court so orders on application made by the owner of the property or by the owner's agent or administrator or by any person having an interest in the property or in any part of it;

(b) if the Public Trustee publishes notice in the Gazette that the Public Trustee has ceased to be manager of the property under this Part;

(c) if the Public Trustee transfers or delivers the property to the owner or the owner's agent or administrator.

(2) The termination of the Public Trustee's management of property under this Part does not affect a charge acquired by the Public Trustee under this Part or the validity of an act or thing done by the Public Trustee while manager of the property.

(3) No order can be made by the Court under this section without the consent of the Public Trustee until the Public Trustee has been paid all amounts to which the Public Trustee is entitled under this Part as manager of the property together with all costs incurred by the Public Trustee in connection with the application for the order.

(4) On the Public Trustee ceasing to be manager of property that remains in the Public Trustee's name or possession, the Public Trustee may transfer or deliver the property to the person entitled to it.

42—Transfer of unclaimed property to Crown

(1) If, after 20 years from the date of the publication in the Gazette of the order by which the Public Trustee was appointed manager of any land, no person has established a claim to the land and the Public Trustee has not become aware of the existence and whereabouts of any person who has a claim to the land—

(a) the land vests in the Crown (if it has not previously been sold by the Public Trustee under this Part);

(b) money held by the Public Trustee and derived from the land must be paid to the Treasurer for the credit of the Consolidated Account.

(2) If, after seven years from the date of the publication in the Gazette of the order by which the Public Trustee was appointed manager of any property other than land, no person has established a claim to the property and the Public Trustee has not become aware of the existence and whereabouts of any person who has a claim to the property—

(a) the property vests in the Crown (if, in the case of property other than money, it has not previously been sold by the Public Trustee under this Part);

(b) money held by the Public Trustee and derived from the property must be paid to the Treasurer for the credit of the Consolidated Account.

Part 7—Financial and other provisions

43—Expenditure of money on land

(1) The Public Trustee may, with the consent of the Minister—

(a) acquire an interest in land (either improved or unimproved) for use in carrying out the Public Trustee's operations; and

(b) erect a building on the land or alter an existing building; and

(c) provide plant, fixtures, fittings or furniture in connection with any such building.

(2) The Public Trustee may—

(a) lease, or grant rights of occupation in relation to, part of any land or building acquired or built under this section; or

(b) otherwise deal with any such land or building in a manner approved by the Minister.

(3) The Public Trustee may apply money from a common fund for the purposes of subsection (1).

(4) Subject to subsection (5), the interest to be paid on money so applied and the terms on which it is to be repaid to a common fund are to be as determined by the Minister.

(5) The rate of interest to be paid on the principal from time to time outstanding is to be not less than the long term bond rate.

(6) In this section—

the long term bond rate means a rate of interest payable in respect of a Commonwealth Public Loan having a currency exceeding five years being raised in Australia at the time the money is applied from the particular common fund, or if no such loan is then being raised, in respect of the Commonwealth Public Loan having a currency exceeding five years last raised in Australia prior to the application of money from the particular common fund.

44—Fee for administering perpetual trust

(1) The Public Trustee may charge against a perpetual trust administered by the Public Trustee (whether the Public Trustee commenced administering the trust before or after the commencement of this Act) an administration fee in respect of each month of the Public Trustee's administration of the trust.

(2) The administration fee—

(a) must not exceed one-twelfth of one per cent of the value of the trust as at the last business day of the month; and

(b) may be charged only against income received by the Public Trustee on account of the trust.

(3) If the Public Trustee charges an administration fee under this section against a perpetual trust, the Public Trustee may not charge commission in respect of the capital value of property subject to the trust unless the property comprises or forms part of a deceased estate administered by the Public Trustee.

45—General provision relating to Public Trustee's charges

(1) Subject to this section, the Public Trustee may charge against each estate under the control of the Public Trustee commission and fees (in addition to fees otherwise provided for under this or any other Act and proper expenses in connection with the estate)—

(a) at rates or in amounts fixed by the regulations; or

(b) at rates or in amounts determined by the Public Trustee in particular cases subject to maxima or minima rates or amounts fixed by the regulations.

(2) Any costs and expenses incurred by the Public Trustee that arise through legal proceedings or that are not ordinarily incurred in administering or managing estates are to be charged against the estate in respect of which the costs and expenses are incurred.

(3) Commission, fees, costs and expenses to be charged against an estate may—

(a) be deducted by the Public Trustee from money received for the estate or from money in the estate; or

(b) with the approval of the Court, be raised by sale or mortgage of, or other charge on, property of the estate (together with the costs and expenses of so raising them).

(4) The Court may direct what part or parts of an estate will bear the burden of any commission, fees, costs or expenses provided for under this section and in what proportions (if any) the burden is to be borne.

(5) Despite the other provisions of this section, the Court may, on application by the Public Trustee or any person interested, if it considers that it should do so having regard to the special circumstances of a particular case—

(a) fix the commission to be charged at a higher or a lower rate than that fixed or allowed under the regulations; or

(b) direct that no commission be charged.

45A—Recovery of GST

(1) Where—

(a) the Public Trustee will be liable to pay GST in respect of commission or a fee charged by the Public Trustee for a service provided by it; and

(b) a limit is imposed by or under another provision of this Act on the amount of the commission or fee,

the Public Trustee may (subject to the terms on which the Public Trustee provides the service) charge the relevant estate, trust or fund commission or a fee that does not exceed the amount that is, after deduction of the GST payable in respect of it, equivalent to the maximum commission or fee that could be charged by the Public Trustee in accordance with the limit referred to in paragraph (b).

(2) In this section—

GST means the tax payable under the GST law;

GST law means—

(a) *A New Tax System (Goods and Services Tax) Act 1999* of the Commonwealth; and

(b) the related legislation of the Commonwealth dealing with the imposition of a tax on the supply of goods, services and other things.

46—ADI accounts, investment and overdraft

(1) The Public Trustee may establish and maintain accounts at an ADI.

(2) The Public Trustee may—

(a) pay into the accounts money deducted or raised by way of commission, fees, costs or expenses and any other income of the Public Trustee; and

(b) apply the money towards the Public Trustee's operating costs and expenses and in making any other payments required or authorised to be made by the Public Trustee; and

(c) invest any of the money that is not immediately required for those purposes in a manner approved by the Treasurer.

(3) The Public Trustee may, with the approval of the Minister—

(a) borrow money on overdraft; and

(b) deposit as security for the overdraft any securities representing money invested in a common fund.

(4) An approval under subsection (3) may be given subject to such conditions as the Minister thinks fit.

47—Tax and other liabilities of Public Trustee

(1) Except as otherwise determined by the Treasurer, the Public Trustee is liable to all such rates (other than rates that would be payable to a council), duties, taxes and imposts and has all such other liabilities and duties as would apply under the law of the State if the Public Trustee were not an instrumentality of the Crown.

(2) Except as otherwise determined by the Treasurer, the Public Trustee is liable to pay to the Treasurer, for the credit of the Consolidated Account, such amounts as the Treasurer from time to time determines to be equivalent to—

(a) income tax and any other taxes or imposts that the Public Trustee does not pay to the Commonwealth but would be liable to pay under the law of the Commonwealth if it were constituted and organised in such manner as the Treasurer determines to be appropriate for the purposes of this subsection as a public company or group of public companies carrying on the business carried on by the Public Trustee; and

(b) rates that the Public Trustee would be liable to pay to a council if the Public Trustee were not an instrumentality of the Crown.

(3) Amounts determined by the Treasurer to be payable under subsection (2) must be paid by the Public Trustee at the times and in the manner determined by the Treasurer.

(4) This section does not affect any liability that the Public Trustee would have apart from this section to pay rates to a council.

48—Dividends

(1) The Public Trustee must, before the end of each financial year, consult with the Minister as to whether a dividend should be paid to the Treasurer for that financial year and, if so, as to the amount of the dividend.

(2) The Public Trustee may, at any time during a financial year, consult with the Minister as to whether an interim dividend should be paid to the Treasurer for that financial year and, if so, as to the amount of the interim dividend.

(3) If the Minister approves payment of a dividend or interim dividend after consultation with the Public Trustee, the Public Trustee must pay the dividend or interim dividend so approved to the Treasurer for the credit of the Consolidated Account in the manner and at the time or times approved by the Minister and the Treasurer after consultation with the Public Trustee.

49—Responsibility of Government for acts of Public Trustee

(1) Any liability incurred by the Public Trustee may be enforced against the Crown.

(2) The extent of the Public Trustee's liability in a particular case is no greater than that of a private trustee in a similar case.

50—Accounts and external audit

(1) The Public Trustee must cause proper accounts to be kept of the Public Trustee's financial affairs and financial statements to be prepared in respect of each financial year.

(2) The Auditor-General may at any time, and must in respect of each financial year, audit the accounts and financial statements of the Public Trustee.

51—Annual reports

(1) The Public Trustee must, within three months after the end of each financial year, deliver to the Minister a report on the Public Trustee's operations during that financial year.

(2) The report must—

(a) incorporate the audited accounts and financial statements of the Public Trustee for the financial year; and

(b) contain any other information required by or under the provisions of this or any other Act.

(3) The Minister must cause a copy of the report to be laid before both Houses of Parliament within 12 sitting days after his or her receipt of the report.

52—Deposit of certain wills and other documents with Public Trustee

(1) The following documents may be deposited for safe custody with the Public Trustee:

(a) a will of which the Public Trustee is appointed the executor or 1 of the executors; or

(b) a will prepared by a legal practitioner who—

(i) has died; or

(ii) has ceased, or is about to cease, the practice of the law in this State; or

(c) a will held by a legal practitioner or legal practice that was executed by a testator who cannot be located; or

(d) a settlement, declaration of trust or other instrument by which a trust is declared or created concerning property of any kind where the Public Trustee is appointed the trustee or 1 of the trustees; or

(e) any other document prepared by the Public Trustee.

(2) The Public Trustee must keep a register of wills deposited under this section.

(3) No fee is payable for depositing a will with the Public Trustee but a person may be required to pay a fee for any 1 or more of the following services:

(a) searching for a will deposited under this section;

(b) recovery of a will deposited under this section;

(c) delivery of a will deposited under this section.

(4) The Public Trustee may destroy a will deposited with the Public Trustee if—

(a) the testator has died; and

(b) a reasonable period has elapsed during which a person might be expected to have sought access to the will.

(5) The Public Trustee is not liable for—

(a) the loss of, or damage to, any will deposited with the Public Trustee under this section; or

(b) any inaccuracy or omission in the register kept under this section.

53—Certificate by Public Trustee of appointment to act

A certificate executed by the Public Trustee certifying that the Public Trustee has been appointed or otherwise empowered to act in a specified capacity will be accepted in any proceedings, in the absence of proof to the contrary, as proof of the matters so certified.

54—Indemnity to persons having dealings with Public Trustee

(1) No person entering into a transaction with the Public Trustee for which the authority of the Court or SACAT is required is bound or entitled to require evidence that the authority has been given further than either (as the Public Trustee considers appropriate)—

(a) the order or an office copy of the order giving the authority; or

(b) a certificate executed by the Public Trustee certifying that the Public Trustee has been given the authority.

(1a) The certificate referred to in subsection (1)(b) must include the following:

(a) the date of the order giving the authority;

(b) the court or tribunal that made the order;

(c) the scope of the authority.

(2) The certificate, order or office copy is, so far as all persons entering into any such transaction with the Public Trustee are concerned, conclusive evidence of the regularity of the transaction on the part of the Public Trustee.

(3) The receipts in writing of the Public Trustee for money payable under this Act are a sufficient discharge for the money to the persons paying it and they will not afterwards be liable for any misapplication of the money.

54A—Matters to consider when deciding whether to appoint Public Trustee as litigation guardian

In determining whether the Public Trustee should act as a litigation guardian for a person in a proceeding (whether commenced before or after the commencement of this section), a court or tribunal must consider the following matters:

(a) whether the Public Trustee has been appointed or otherwise empowered to act in a specified capacity in respect of the person;

(b) whether there is a relative, friend or associate of the person who is willing and able to act as a litigation guardian for the person;

(c) whether in all of the circumstances, and taking into account the nature of the litigation, the Public Trustee is the most appropriate person to act as a litigation guardian for the person.

55—Regulations and fee notices

(1) The Governor may make such regulations as are contemplated by, or necessary or expedient for the purposes of, this Act.

(2) Without limiting the generality of subsection (1), the regulations may—

(a) regulate the deposit of wills and other documents with the Public Trustee;

(b) regulate the payment, refund, waiver or reduction of fees prescribed by the Minister under subsection (3).

(3) The Minister may prescribe fees for the purposes of this Act by fee notice under the *Legislation (Fees) Act 2019*.

Schedule 1—Transitional provisions

1—Interpretation

In this Schedule—

repealed provisions means Part 4 of the *Administration and Probate Act 1919* repealed by Schedule 2.

2—Public Trustee

(1) The Public Trustee is the same body corporate as the Public Trustee under the repealed provisions.

(2) The person holding office as the Public Trustee immediately before the commencement of this Act continues as Public Trustee subject to the provisions of this Act.

3—Court orders etc continued

An order, direction, consent or decision of a court under the repealed provisions is to be taken to be an order, direction, consent or decision of the corresponding kind under this Act and continues in force or effect subject to the provisions of this Act.

4—Appointments to continue

An appointment of the Public Trustee in any capacity made before the commencement of this Act is to be taken to be an appointment of the corresponding kind for the purposes of this Act and continues in force or effect subject to the provisions of this Act.

5—Catherine Helen Spence Memorial Fund

The Public Trustee may continue to hold and administer the fund known as the "Catherine Helen Spence Memorial Fund".

6—Common funds

(1) A common fund established by the Public Trustee under the repealed provisions continues as a common fund under Part 5 subject to the provisions of that Part.

(2) A determination of the classes of investment for a common fund made by the Public Trustee under the repealed provisions continues as a determination of the corresponding kind under Part 5 subject to the provisions of that Part.

7—Accounts

(1) The money in the Common Fund Reserve Account kept by the Treasurer under the repealed provisions must, on the commencement of this Act, be paid by the Treasurer into an account kept by the Public Trustee to meet the operating costs of the Public Trustee.

(2) The money in the Income Adjustment Account kept by the Public Trustee under the repealed provisions may be kept by the Public Trustee to meet the operating costs of the Public Trustee.

Legislative history

Notes

- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of this Act (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Legislation amended by principal Act

The *Public Trustee Act 1995* amended the following:

Administration and Probate Act 1919

Principal Act and amendments

New entries appear in bold.

Year	No	Title	Assent	Commencement
1995	50	*Public Trustee Act 1995*	20.7.1995	3.8.1995 (*Gazette 3.8.1995 p346*)
1998	59	*Statutes Amendment (Attorney-General's Portfolio) Act 1998*	3.9.1998	Pt 10 (s 19)—13.12.1998 (*Gazette 3.12.1998 p1676*)
1999	33	*Financial Sector Reform (South Australia) Act 1999*	17.6.1999	Sch (item 43)—1.7.1999 being the date specified under s 3(16) of the *Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999* of the Commonwealth as the transfer date for the purposes of that Act: s 2(2)
2000	23	*Statutes Amendment (Public Trustee and Trustee Companies—GST) Act 2000*	8.6.2000	8.6.2000
2006	17	*Statutes Amendment (New Rules of Civil Procedure) Act 2006*	6.7.2006	Pt 62 (ss 187—191)—4.9.2006 (*Gazette 17.8.2006 p2831*)
2006	43	*Statutes Amendment (Domestic Partners) Act 2006*	14.12.2006	Pt 72 (ss 182—184)—1.6.2007 (*Gazette 26.4.2007 p1352*)
2017	13	*Statutes Amendment (Registered Relationships) Act 2017*	26.4.2017	Pt 11 (s 17)—1.8.2017 (*Gazette 1.8.2017 p3039*)
2021	5	*Statutes Amendment and Repeal (Budget Measures) Act 2021*	25.2.2021	Pt 12 (s 50)—1.7.2021 (*Gazette 6.5.2021 p1279*)
2023	30	*Succession Act 2023*	25.10.2023	Sch 2 (cll 7 & 8)—1.1.2025 (*Gazette 27.6.2024 p1894*)
2023	39	*Public Holidays Act 2023*	7.12.2023	Sch 1 (cl 17)—1.1.2024: s 2

2024	**34**	***Statutes Amendment (Public Trustee and Litigation Guardian) Act 2024***	**19.9.2024**	**Pt 3 (ss 6(2), (3) & 7)—1.1.2025; ss 5, 6(1) & 8 to 10—1.7.2025 (*Gazette 5.12.2024 p4545*)**

Provisions amended

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
Long title	amended under *Legislation Revision and Publication Act 2002*	4.9.2006
Pt 1		
s 2	*omitted under Legislation Revision and Publication Act 2002*	*4.9.2006*
s 3		
business day	*deleted by 39/2023 Sch 1 cl 17*	*1.1.2024*
domestic partner	inserted by 43/2006 s 182(1)	1.6.2007
	substituted by 13/2017 s 17(1)	1.8.2017
registered relationship	inserted by 13/2017 s 17(2)	1.8.2017
spouse	inserted by 43/2006 s 182(2)	1.6.2007
Pt 3		
s 9		
s 9(1)	amended by 43/2006 s 183(1), (2)	1.6.2007
s 9(4)	amended by 17/2006 s 187	4.9.2006
s 14		
s 14(2)	amended by 17/2006 s 188(1)	4.9.2006
s 14(3)	amended by 17/2006 s 188(2)	4.9.2006
Pt 5		
s 28		
s 28(2)	**amended by 34/2024 s 5**	**1.7.2025**
s 29		
s 29(6a)	inserted by 59/1998 s 19	13.12.1998
s 29(7)	**amended by 34/2024 s 6(1)**	**1.7.2025**
s 29(8)	amended by 34/2024 s 6(2)	1.1.2025
s 29(11)	amended by 5/2021 s 50	1.7.2021
	amended by 34/2024 s 6(3)	1.1.2025
Pt 6		
s 32		
s 32(2)	amended by 17/2006 s 189	4.9.2006
s 34		
s 34(2)	amended by 17/2006 s 190	4.9.2006
s 35		
s 35(1)	amended by 43/2006 s 184	1.6.2007

s 37		
s 37(1)	amended by 17/2006 s 191	4.9.2006
Pt 7		
s 44		
s 44(2)	amended by 34/2024 s 7	1.1.2025
s 45A	inserted by 23/2000 s 3	8.6.2000
s 46		
s 46(1)	amended by 33/1999 Sch (item 43)	1.7.1999
s 52	substituted by 30/2023 Sch 2 cl 7	1.1.2025
s 54		
s 54(1)	**amended by 34/2024 s 8(1), (2)**	**1.7.2025**
s 54(1a)	**inserted by 34/2024 s 8(3)**	**1.7.2025**
s 54(2)	**amended by 34/2024 s 8(4)**	**1.7.2025**
s 54A	**inserted by 34/2024 s 9**	**1.7.2025**
s 55	substituted by 30/2023 Sch 2 cl 8	1.1.2025
Sch 2	*omitted under Legislation Revision and Publication Act 2002*	*4.9.2006*

Transitional etc provisions associated with Act or amendments

Statutes Amendment (Public Trustee and Litigation Guardian) Act 2024, Pt 3

10—Transitional provision

(1) Section 54 of the principal Act, as amended by section 8 of this Act, applies whether the order referred to in section 54(1) of the principal Act was made before or after the commencement of section 8 of this Act.

(2) In this section—

principal Act means the *Public Trustee Act 1995*.

Historical versions

Reprint No 1—13.12.1998

Reprint No 2—1.7.1999

Reprint No 3—8.6.2000

4.9.2006

1.6.2007

1.8.2017

1.7.2021

1.1.2024

1.1.2025

Appendix—Divisional penalties and expiation fees

At the date of publication of this version divisional penalties and expiation fees are, as provided by section 28A of the *Acts Interpretation Act 1915*, as follows:

Division	Maximum imprisonment	Maximum fine	Expiation fee
1	15 years	$60 000	—
2	10 years	$40 000	—
3	7 years	$30 000	—
4	4 years	$15 000	—
5	2 years	$8 000	—
6	1 year	$4 000	$300
7	6 months	$2 000	$200
8	3 months	$1 000	$150
9	–	$500	$100
10	–	$200	$75
11	–	$100	$50
12	–	$50	$25

Note: This appendix is provided for convenience of reference only.