



Public Trustee Act 1978

Public Trustee Regulation 2001

Reprinted as in force on 1 September 2008

Reprint No. 3E

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the Office of the Queensland Parliamentary Counsel
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Information about this reprint

This regulation is reprinted as at 1 September 2008. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes. Also see list of legislation for any uncommenced amendments.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

Spelling

The spelling of certain words or phrases may be inconsistent in this reprint or with other reprints because of changes made in various editions of the Macquarie Dictionary (for example, in the dictionary, ‘judgement’ has replaced ‘judgment’). Variations of spelling will be updated in the next authorised reprint.

Dates shown on reprints

Reprints dated at last amendment All reprints produced on or after 1 July 2002, authorised (that is, hard copy) and unauthorised (that is, electronic), are dated as at the last date of amendment. Previously reprints were dated as at the date of publication. If an authorised reprint is dated earlier than an unauthorised version published before 1 July 2002, it means the legislation was not further amended and the reprint date is the commencement of the last amendment.

If the date of an authorised reprint is the same as the date shown for an unauthorised version previously published, it merely means that the unauthorised version was published before the authorised version. Also, any revised edition of the previously published unauthorised version will have the same date as that version.

Replacement reprint date If the date of an authorised reprint is the same as the date shown on another authorised reprint it means that one is the replacement of the other.



Queensland

Public Trustee Regulation 2001

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Public Trustee Regulation 2001

[as amended by all amendments that commenced on or before 1 September 2008]

Part 1 Preliminary

1 Short title

This regulation may be cited as the *Public Trustee Regulation 2001*.

2 Commencement

This regulation commences on 1 September 2001.

3 Definitions

The dictionary in schedule 2 defines particular words used in this regulation.

Part 2 Interest and investments

4 Interest payable on amounts in the common fund, Act s 19(1)(c)

- (1) The annual rate of interest payable under the Act, section 19(1)(c) to an estate having an amount held in the common fund is stated in schedule 1.
- (2) However, in relation to any term deposit amount for an estate, the annual rate of interest payable under the Act, section 19(1)(c) to the estate in relation to the term deposit amount is—

- (a) if the term deposit amount is less than \$500000—6.25%; or
- (b) if the term deposit amount is \$500000 or more—7.45%.
- (3) Also, if a term deposit amount is a class 2 amount and the rate agreed under schedule 1, item 2(a) or the rate allowed by order of a court is more than the rate mentioned in subsection (2) for the term deposit amount, the annual rate of interest payable under the Act, section 19(1)(c) to an estate in relation to the term deposit amount is the rate agreed or allowed.
- (4) Interest payable to an estate at the annual rate mentioned in subsection (2) or (3) must be credited monthly to the estate.
- (5) Interest payable under the Act, section 19(1)(c) is calculated on the daily balance of the amount held for the estate.
- (6) In this section—

term deposit amount, for an estate, means the part of the amount received by the public trustee for the estate and held in the common fund that the public trustee considers is not required at call or to meet short term or unforeseen liabilities of the estate.

5 Prescribed investments for unclaimed moneys, Act s 25(3)(b)

Each investment in which an amount held in the common fund may be invested is prescribed for section 25(3)(b) of the Act.

Part 3 Fees and remuneration

6 Fees for legal services by official solicitor, Act s 142(2)(h)

- (1) The public trustee may set a scale of fees for legal services provided by the official solicitor for the public trustee or any other person.
- (2) In setting the amount of a fee for a legal service, the public trustee must set an amount that will give a fair and reasonable level of remuneration for the service having regard to—

- (a) the nature and complexity of the service; and
 - (b) the number, type and importance of documents perused or prepared for the service; and
 - (c) the care, skill and specialised knowledge required, and the responsibility undertaken, in providing the service; and
 - (d) the time spent in providing the service.
- (3) Fees for legal services by the official solicitor must be paid into the common fund.
- (4) In this section—
legal services includes conveyancing services.

7 Power to remit fees, Act s 142(2)(ha)

- (1) The public trustee may remit all or part of any fee otherwise payable under the Act.
- (2) Subsection (1) does not apply if the Minister directs that a fee may not be remitted.

8 Remuneration of advisory trustees, Act s 41(8)

- (1) The remuneration of an advisory trustee out of an estate under administration is the remuneration agreed by the public trustee and the advisory trustee.
- (2) Subsection (1) applies subject to the provisions of any relevant trust instrument or court order.

Part 4 Miscellaneous financial matters

9 Preparing accounts, Act s 142(2)(e)

- (1) The public trustee must, at intervals the public trustee considers appropriate, prepare an account (a *regular account*) for every estate, trust or matter in the Public Trust Office.

- (2) The public trustee may—
- (a) give to a person the public trustee considers has a right to, or an interest in, a regular account a free copy of the regular account; and
 - (b) at the request of the person mentioned in paragraph (a), and after payment of the appropriate fee, give the person—
 - (i) extra copies of the regular account; or
 - (ii) a copy of an account, other than a regular account, prepared by the public trustee.
- (3) In this section—

appropriate fee, for a document, means a fee decided by the public trustee that is not more than the reasonable cost to the public trustee of providing a copy of the document.

10 Payment of claims, Act s 142(2)(a)

If—

- (a) the public trustee allows a claim; and
- (b) the claim is audited by an officer of the Public Trust Office;

the public trustee may pay the claim out of the common fund.

11 Application of Act, pt 8 to unclaimed superannuation benefits, Act s 97B

- (1) Part 8¹ of the Act applies to an unclaimed superannuation benefit if the only or each accountable person holding the benefit—
- (a) is a corporation within the meaning of the Corporations Act that is taken to be registered in Queensland under that Act; or

¹ Part 8 (Unclaimed property) of the Act

- (b) is an individual whose principal place of carrying on business as a holder of benefits in an approved deposit fund or regulated superannuation fund is in Queensland.
- (2) Part 8 of the Act also applies to an unclaimed superannuation benefit if—
 - (a) more than 2 accountable persons hold the benefit; and
 - (b) 1 or more, but not all, of the accountable persons are persons mentioned in subsection (1)(a) or (b); and
 - (c) the principal place where the fund in which the benefit is held is administered in Queensland.
- (3) The application of part 8 of the Act under this section, extends to the following things and persons to the full extent of, but not to exceed, Parliament's legislative power—
 - (a) an unclaimed superannuation benefit situated outside Queensland, whether or not in Australia;
 - (b) anything done or entered into, or happening outside Queensland in relation to an unclaimed superannuation benefit, whether or not in Australia;
 - (c) an accountable person, a member of a fund or a beneficiary situated or residing outside Queensland, whether or not in Australia.
- (4) In this section—

accountable person see the Act, section 98.

approved deposit fund see the Act, section 98A.

regulated superannuation fund see the Act, section 98A.

unclaimed superannuation benefit see the Act, section 98A.

Part 5 General

12 **Seal, Act s 142(2)(a)**

The design of the seal of The Public Trustee of Queensland may be decided by the public trustee.

13 Execution of documents, Act s 142(2)(a)

Transfers, mortgages, leases, agreements and other documents executed by the public trustee must be executed in a way showing the appointment or authority under which the public trustee acts.

14 Provision of legal assistance, Act s 142(2)(j)

- (1) The public trustee may give aid to a person for civil proceedings by or against the person if—
 - (a) the person is—
 - (i) not eligible for legal aid under the *Legal Aid Queensland Act 1997*; or
 - (ii) refused legal aid under the *Legal Aid Queensland Act 1997*; and
 - (b) approval for the public trustee to give aid to the person has been given by the Minister or a person authorised in writing by the Minister.
- (2) For giving aid to a person, the public trustee may—
 - (a) engage a lawyer to represent the person; and
 - (b) pay the lawyer the fees the public trustee considers reasonable.
- (3) An authority under subsection (1)(b) may be given to a person by name or to a person discharging a designated role.

15 Repeal of Public Trustee Regulation 1989

The Public Trustee Regulation 1989 is repealed.

Schedule 1 Interest payable on amounts in common fund

section 4

- 1 For a class 1 amount—
 - (a) held for a child or a person under a legal disability—4.35%; or
 - (b) held for a beneficiary, other than a child or a person under a legal disability, who has no right to payment at call—4.35%; or
 - (c) payable in the ordinary course of administration or at call—0.3%.
- 2 For a class 2 amount—
 - (a) a rate agreed on by the public trustee and the person paying the amount to the public trustee; or
 - (b) a rate allowed by order of a court; or
 - (c) if no rate has been agreed on or allowed by order, a rate not less than 2.25% decided by the public trustee having regard to—
 - (i) the amount held; and
 - (ii) the period the amount is held; and
 - (iii) the purpose for which the amount is held.
- 3 For a class 3 amount—4.35%.
- 4 For a class 4 amount—0.3%.

Schedule 2 Dictionary

section 3

class 1 amount means an amount received by the public trustee for an estate under—

- (a) part 3² of the Act, other than an amount received by the public trustee as agent, attorney, liquidator, receiver or manager; or
- (b) section 59³ of the Act.

class 2 amount means an amount received by the public trustee for an estate as agent, attorney, liquidator, receiver or manager.

class 3 amount means an amount received by the public trustee for an estate—

- (a) as manager of the estate under part 6⁴ of the Act; or
- (b) as manager of the estate under part 7⁵ of the Act; or
- (c) as administrator for a financial matter under the *Guardianship and Administration Act 2000*.

class 4 amount means an amount received by the public trustee for an estate under any Act that is not a class 1 amount, class 2 amount or class 3 amount.

estate means an estate under administration, and includes property the public trustee has a right to administer, manage or deal with.

2 Part 3 (Appointment as trustee or personal representative) of the Act

3 Section 59 (Compromise of actions by or on behalf of persons under a legal disability claiming moneys or damages valid only with sanction of court or public trustee) of the Act

4 Part 6 (Management of estates of incapacitated persons) of the Act

5 Part 7 (Administration of property of prisoners) of the Act

Endnotes

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 1 September 2008. Future amendments of the Public Trustee Regulation 2001 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No. [X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
num	= numbered	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2002
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments to	Effective	Reprint date
1	none	1 September 2001	7 September 2001
1A	2001 SL No. 236	1 December 2001	7 December 2001
1B	2002 SL No. 89	1 May 2002	10 May 2002

Reprint No.	Amendments included	Effective	Notes
1C	2002 SL No. 256	1 October 2002	
1D	2004 SL No. 43	1 May 2004	
1E	2005 SL No. 173	1 August 2005	
1F	2005 SL No. 243	1 October 2005	
1G	2006 SL No. 24	1 March 2006	
1H	2006 SL No. 101	1 June 2006	
1I	2006 SL No. 294	1 December 2006	R1I withdrawn, see R2
2	—	1 December 2006	
2A	2007 SL No. 46	1 April 2007	
2B	2007 SL No. 73	1 May 2007	
2C	2007 SL No. 97	1 June 2007	
2D	2007 SL No. 157	1 July 2007	
2E	2007 SL No. 216	1 September 2007	
2F	2007 SL No. 260	1 November 2007	
2G	2008 SL No. 11	1 February 2008	R2G withdrawn, see R3
3	—	1 February 2008	
3A	2008 SL No. 87	1 April 2008	
3B	2008 SL No. 107	1 May 2008	
3C	2008 SL No. 200	1 July 2008	
3D	2008 SL No. 250	1 August 2008	
3E	2008 SL No. 289	1 September 2008	

5 List of legislation

Public Trustee Regulation 2001 SL No. 152

made by the Governor in Council on 30 August 2001

notfd gaz 31 August 2001 pp 1618–19

ss 1–2 commenced on date of notification

remaining provisions commenced 1 September 2001 (see s 2)

exp 1 September 2011 (see SIA s 54)

Note—The expiry date may have changed since this reprint was published. See the latest reprint of the SIR for any change.

amending legislation—

Public Trustee Amendment Regulation (No. 2) 2001 SL No. 236

notfd gaz 30 November 2001 pp 1179–82
ss 1–2 commenced on date of notification
remaining provisions commenced 1 December 2001 (see s 2)

Public Trustee Amendment Regulation (No. 1) 2002 SL No. 89

notfd gaz 26 April 2002 pp 1540–3
ss 1, 3 commenced on date of notification
remaining provisions commenced 1 May 2002 (see s 2)

Public Trustee Amendment Regulation (No. 2) 2002 SL No. 256

notfd gaz 27 September 2002 pp 340–4
ss 1–2 commenced on date of notification
remaining provisions commenced 1 October 2002 (see s 2)

Public Trustee Amendment Regulation (No. 1) 2004 SL No. 43

notfd gaz 30 April 2004 pp 1601–2
ss 1–2 commenced on date of notification
remaining provisions commenced 1 May 2004 (see s 2)

Public Trustee Amendment Regulation (No. 1) 2005 SL No. 173

notfd gaz 29 July 2005 pp 1146–8
ss 1–2 commenced on date of notification
remaining provisions commenced 1 August 2005 (see s 2)

Public Trustee Amendment Regulation (No. 2) 2005 SL No. 243

notfd gaz 30 September 2005 pp 425–6
ss 1–2 commenced on date of notification
remaining provisions commenced 1 October 2005 (see s 2)

Public Trustee Amendment Regulation (No. 1) 2006 SL No. 24

notfd gaz 24 February 2006 pp 798–801
ss 1–2 commenced on date of notification
remaining provisions commenced 1 March 2006 (see s 2)

Public Trustee Amendment Regulation (No. 2) 2006 SL No. 101

notfd gaz 26 May 2006 pp 340–3
ss 1–2 commenced on date of notification
remaining provisions commenced 1 June 2006 (see s 2)

Public Trustee Amendment Regulation (No. 3) 2006 SL No. 294

notfd gaz 1 December 2006 pp 1587–90
ss 1–2 commenced on date of notification
remaining provisions commenced 1 December 2006 (see s 2)

Public Trustee Amendment Regulation (No. 1) 2007 SL No. 46

notfd gaz 30 March 2007 pp 1483–4
ss 1–2 commenced on date of notification
remaining provisions commenced 1 April 2007 (see s 2)

Public Trustee Amendment Regulation (No. 2) 2007 SL No. 73

notfd gaz 27 April 2007 pp 1887–90
ss 1–2 commenced on date of notification
remaining provisions commenced 1 May 2007 (see s 2)

Public Trustee Amendment Regulation (No. 3) 2007 SL No. 97

notfd gaz 1 June 2007 pp 582–4

ss 1–2 commenced on date of notification

remaining provisions commenced 1 June 2007 (see s 2)

Public Trustee Amendment Regulation (No. 4) 2007 SL No. 157

notfd gaz 29 June 2007 pp 1157–65

ss 1–2 commenced on date of notification

remaining provisions commenced 1 July 2007 (see s 2)

Public Trustee Amendment Regulation (No. 5) 2007 SL No. 216

notfd gaz 31 August 2007 pp 2326–7

ss 1–2 commenced on date of notification

remaining provisions commenced 1 September 2007 (see s 2)

Public Trustee Amendment Regulation (No. 6) 2007 SL No. 260

notfd gaz 26 October 2007 pp 1105–6

ss 1–2 commenced on date of notification

remaining provisions commenced 1 November 2007 (see s 2)

Public Trustee Amendment Regulation (No. 1) 2008 SL No. 11

notfd gaz 1 February 2008 pp 465–7

ss 1–2 commenced on date of notification

remaining provisions commenced 1 February 2008 (see s 2)

Public Trustee Amendment Regulation (No. 2) 2008 SL No. 87

notfd gaz 28 March 2008 pp 1721–4

ss 1–2 commenced on date of notification

remaining provisions commenced 1 April 2008 (see s 2)

Public Trustee Amendment Regulation (No. 3) 2008 SL No. 107

notfd gaz 24 April 2008 pp 2186–8

ss 1–2 commenced on date of notification

remaining provisions commenced 1 May 2008 (see s 2)

Public Trustee Amendment Regulation (No. 4) 2008 SL No. 200

notfd gaz 27 June 2008 pp 1268–78

ss 1–2 commenced on date of notification

remaining provisions commenced 1 July 2008 (see s 2)

Public Trustee Amendment Regulation (No. 5) 2008 SL No. 250

notfd gaz 1 August 2008 pp 1991–2

ss 1–2 commenced on date of notification

remaining provisions commenced 1 August 2008 (see s 2)

Public Trustee Amendment Regulation (No. 6) 2008 SL No. 289

notfd gaz 29 August 2008 pp 2831–5

ss 1–2 commenced on date of notification

remaining provisions commenced 1 September 2008 (see s 2)

6 List of annotations

Interest payable on amounts in the common fund, Act s 19(1)(c)

s 4 amd 2005 SL No. 173 s 4; 2005 SL No. 243 s 4; 2006 SL No. 24 s 4; 2006 SL No. 101 s 4; 2006 SL No. 294 s 4; 2007 SL No. 46 s 4; 2007 SL No. 97 s 4; 2007 SL No. 157 s 4; 2007 SL No. 216 s 4; 2007 SL No. 260 s 4
 sub 2008 SL No. 11 s 4
 amd 2008 SL No. 87 s 4; 2008 SL No. 107 s 4; 2008 SL No. 200 s 4; 2008 SL No. 250 s 4; 2008 SL No. 289 s 4

Provision of legal assistance, Act s 142(2)(j)

s 14 amd 2001 SL No. 236 s 4

SCHEDULE 1—INTEREST PAYABLE ON AMOUNTS IN COMMON FUND

 amd 2001 SL No. 236 s 5; 2002 SL No. 89 s 4; 2002 SL No. 256 s 4; 2004 SL No. 43 s 4; 2006 SL No. 294 s 5; 2007 SL No. 73 s 4; 2007 SL No. 216 s 5; 2007 SL No. 260 s 5; 2008 SL No. 11 s 5; 2008 SL No. 87 s 5; 2008 SL No. 107 s 5; 2008 SL No. 200 s 5

SCHEDULE 2—DICTIONARY

 def “**class 3 amount**” sub 2005 SL No. 173 s 5