

# THE STATUTES OF THE REPUBLIC OF SINGAPORE

## PUBLIC TRUSTEE ACT

(CHAPTER 260)

**1970 Ed. Cap. 38**

**Ordinance**

**3 of 1915**

Amended by

16 of 1934

33 of 1939

62 of 1940

28 of 1956

31 of 1958

72 of 1959

13 of 1961

48 of 1966

S 223/59

S (NS)

179/59

S 106/60

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# Public Trustee Act

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## An Act to provide for the appointment of a Public Trustee.

[1st July 1935]

Short title.

1. This Act may be cited as the Public Trustee Act.

Interpre-  
tation.

2. In this Act, unless there is something repugnant in the subject or context —

“Board” means the Public Trustee Investment Board referred to in section 13;

“common fund” means the common fund referred to in section 10;

“expenses” includes costs and charges;

“letters of administration” means letters of administration of the estate and effects of a deceased person, whether general or with a will annexed, or limited either in time or otherwise;

“private trustee” means a trustee other than the Public Trustee;

“trust” includes an executorship or administratorship, and “trustee” shall be construed accordingly;

“trust property” includes all property in the possession or under the control wholly or partly of the Public Trustee by virtue of any trust.

*Establishment of Public Trustee*President  
to appoint  
Public  
Trustee.

3.—(1) The President shall appoint a fit person to the office of Public Trustee, who shall hold office during his pleasure, and receive such salary or fees, and be appointed on such terms, as the President determines.

(2) The President may appoint such fit and proper persons to be Assistant Public Trustees and other officers of the Public Trustee as he considers necessary for the purposes of this Act and the Assistant Public Trustees and other officers shall hold office upon such terms, and be remunerated at such rates and in such manner, as the President may determine.

Any reference in this Act or in any other written law to officers or officer of the Public Trustee shall include an Assistant Public Trustee.

Corporation  
sole.

(3) The Public Trustee shall be a corporation sole under that name, with perpetual succession and an official seal,

and may sue and be sued under the above name like any other corporation sole.

(4) The salary or remuneration of the Public Trustee and his officers and such other expenses of executing his office or otherwise carrying this Act into effect as are sanctioned by the President shall be paid out of the Consolidated Fund. Remuneration.

(5) The Public Trustee and every officer of the Public Trustee is hereby declared to be a public servant within the meaning of the Penal Code. Cap. 224.

### *Powers and Duties of Public Trustee*

4.—(1) Subject to and in accordance with this Act and the rules made thereunder, the Public Trustee may — General powers and duties of Public Trustee.

- (a) act in the administration of estates of small value;
- (b) act as an ordinary trustee;
- (c) be appointed trustee by a court of competent jurisdiction.

(2) Subject to and in accordance with this Act and the rules made thereunder, the Public Trustee may act either alone or jointly with any person or body of persons in any capacity to which he is appointed in pursuance of this Act, and shall have all the same powers, duties and liabilities, and be entitled to the same rights and immunities and be subject to the control and orders of the court, as a private trustee acting in the same capacity.

(3) The Public Trustee may decline, either absolutely or except on the prescribed conditions, to accept any trust, but he shall not decline to accept any trust on the ground only of the small value of the trust property.

(4) The Public Trustee shall not accept any trust which involves the management or carrying on of any business, except in the cases in which he is authorised to do so by rules made under this Act, nor any trust under a deed of arrangement for the benefit of creditors, nor the administration of any estate known or believed by him to be insolvent.

(5) Subject to any conditions or restrictions imposed in writing by the Minister, an Assistant Public Trustee may exercise all or any of the powers and perform all or any of

the duties of the Public Trustee under any written law except —

- (a) the power or duty of accepting or declining to accept any trust;
- (b) the power of transferring securities and of assuring immovable property:

Provided that an Assistant Public Trustee shall have power to transfer by endorsement cheques and other negotiable instruments to any banker or other duly authorised agent of the Public Trustee; and

- (c) the power of making payments or advances out of trust funds:

Provided that the Public Trustee may in writing authorise an Assistant Public Trustee to make such payments or advances as he may direct.

Public Trustee may represent minor in certain cases.

5.—(1) The Public Trustee may, on his own application, or on the application of any other person by summons, be appointed by the court to act as next friend of any minor for the purpose of instituting any suit or proceeding in the name of the minor.

(2) If in any pending suit or proceeding it becomes necessary to add any minor as co-plaintiff the court may of its own motion or on the application of the Public Trustee or any other person appoint the Public Trustee to act as next friend of the minor in the suit or proceeding.

(3) In any suit or proceeding in which a minor is defendant or in which it becomes necessary to add a minor as co-defendant, the court of its own motion or on the application of the Public Trustee or any other person may appoint the Public Trustee to act as guardian for the suit for the minor for the purposes of the suit or proceeding.

(4) The court shall not make any order under this section unless provision is made to the satisfaction of the court for the payment of the Public Trustee's costs as between solicitor and client and for the payment of any costs which may be awarded against the Public Trustee or directed to be paid by him.

(5) In any suit or proceeding in which the Public Trustee is appointed under this section to act for a minor, no costs shall be recoverable from the Public Trustee personally or from the Government.

(6) In this section, "suit" means a suit for the administration of the estate of any deceased person or of a trust, and "proceeding" means a proceeding under Order 80 of the Rules of the Supreme Court\* or under Order 72 of the Subordinate Courts Rules†.

*In the Administration of Small Estates*

6.—(1) Any person who in the opinion of the Public Trustee would be entitled to apply to the court for an order for the administration by the court of an estate, the gross capital value whereof is proved to the satisfaction of the Public Trustee to be less than \$5,000, may apply to the Public Trustee to administer the estate, and where any such application is made, and it appears to the Public Trustee that the persons beneficially entitled are persons of small means, the Public Trustee shall administer the estate, unless he sees good reason for refusing to do so.

Administra-  
tion of small  
estates.

(2) On the Public Trustee undertaking, by declaration in writing signed and sealed by him, to administer the estate, the trust property other than stock shall, by virtue of this Act, vest in him, and the right to transfer or call for the transfer of any stock forming part of the estate shall also vest in him, in like manner as if vesting orders had been made for the purpose by the court under the Trustees Act, and that Act shall apply accordingly:

Vesting  
of trust  
property.

Cap. 337.

Provided that the Public Trustee shall not exercise the right of himself transferring the stock without the leave of the court.

(3) As from such vesting any trustee entitled under the trust to administer the estate shall be discharged from all liability attaching to the administration, except in respect of past acts.

(4) For the purposes of the administration the Public Trustee may exercise such of the administrative powers and authorities of the court as are conferred on him by rules made under this Act, subject to such conditions as are imposed by the rules.

Administra-  
tive powers.

\*See G.N. No. S 274/70.

†See G.N. No. S 59/86.

Rules.

(5) Rules shall be made under this Act for enabling the Public Trustee to take the opinion of the court on any question arising in the course of any administration without judicial proceedings, and otherwise for making the procedure under this section simple and inexpensive.

Estate ordered by court to be administered by Public Trustee.

(6) Where proceedings have been instituted in any court for the administration of an estate, and by reason of the small value of the estate it appears to the court that the estate can be more economically administered by the Public Trustee than by the court, or that for any other reason it is expedient that the estate should be administered by the Public Trustee instead of the court, the court may order that the estate shall be administered by the Public Trustee, and thereupon, subject to any directions by the court, this section shall apply as if the administration of the estate had been undertaken by the Public Trustee in pursuance of this section.

(7) Where any trust money which is not included in the investment account of the common fund is normally insufficient to earn bank interest if kept in a bank current account the money may be kept in a general banking account or deposited in any bank and any interest allowed by the bank shall be paid into the Consolidated Fund.

#### *As an Ordinary Trustee*

Appointment of Public Trustee to be trustee, executor, etc.

7.—(1) The Public Trustee may by that name, or any other sufficient description, be appointed to be trustee of any will or settlement or other instrument creating a trust or to perform any trust or duty belonging to a class which he is authorised by rules made under this Act to accept, and may be so appointed whether the will or settlement or instrument creating the trust or duty was made or came into operation before or after 27th May 1915 and either as an original or as a new trustee, or as an additional trustee, in the same cases, and in the same manner, and by the same persons or court, as if he was a private trustee, with this addition, that, though the trustees originally appointed were two or more, the Public Trustee may be appointed sole trustee.

Retirement.

(2) Where the Public Trustee has been appointed a trustee of any trust, a co-trustee may retire from the trust under and in accordance with section 43 of the Trustees Act,

Cap. 337.

notwithstanding that there are not more than two trustees, and without such consents as are required by that section.

(3) The Public Trustee shall not be so appointed either as a new or additional trustee where the will, settlement or other instrument creating the trust or duty contains a direction to the contrary, unless the court otherwise orders.

Contrary provisions in trust instrument.

(4) Notice of any proposed appointment of the Public Trustee, either as a new or additional trustee, shall, where practicable, be given in the prescribed manner to all persons beneficially interested who are resident in Singapore and whose addresses are known to the persons proposing to make the appointment, or, if the beneficiaries are infants, to their guardians.

Notice to beneficiaries.

(5) If any person to whom such notice has been given within 21 days from the receipt of the notice applies to the court, the court may, if having regard to the interests of all the beneficiaries it considers it expedient to do so, make an order prohibiting the appointment being made:

Provided that a failure to give any such notice shall not invalidate any appointment made under this section.

8.—(1) If, in pursuance of any rule under this Act, the Public Trustee is authorised to accept by that name probates of wills or letters of administration, the court having jurisdiction to grant probate of a will or letters of administration may grant such probate or letters to the Public Trustee by that name.

Granting probate to Public Trustee.

(2) For such purpose the court shall consider the Public Trustee as in law entitled equally with any other person or class of persons to obtain the grant of letters of administration save that the consent or citation of the Public Trustee shall not be required for the grant of letters of administration to any other person, and that, as between the Public Trustee and the widower, widow or next of kin of the deceased, the widower, widow or next of kin shall be preferred, unless for good cause shown to the contrary.

(3) Any executor who has obtained probate or any administrator who has obtained letters of administration, and notwithstanding he has acted in the administration of the deceased's estate, may, with the sanction of the court,

Transfer by executor after probate to Public Trustee.

and after such notice to the persons beneficially interested as the court directs, transfer the estate to the Public Trustee for administration either solely or jointly with the continuing executors or administrators, if any.

(4) The order of the court sanctioning such transfer shall, subject to this Act, give to the Public Trustee all the powers of such executor and administrator.

(5) Such executor and administrator shall not be in any way liable in respect of any act or default in reference to such estate subsequent to the date of such order, other than the act or default of himself or of persons other than himself for whose conduct he is in law responsible.

Appointment  
by court  
of Public  
Trustee in  
place of  
executor  
or adminis-  
trator.

9. The court may, on the application of any person beneficially interested, appoint the Public Trustee, if sufficient cause is shown, in place of all or any existing executors or administrators.

#### *Common Fund*

Formation  
of common  
fund.

10.—(1) Subject as hereinafter provided all capital moneys available for investment which come into the hands of the Public Trustee shall form one common fund and may from time to time be invested in any investments permitted by law for the investment of trust funds.

(2) Any investments of capital moneys belonging to any estate in the hands of the Public Trustee may, subject as hereinafter provided, be taken over and included in the investment account of the common fund.

(3) All investments taken over under subsection (2) shall be taken over at the market rate ruling at the date of the taking over less any interest accrued at that date and no such investment shall be taken over unless it is an investment permitted by law for the investment of trust funds and in the opinion of the Board is and is likely to continue to be readily realizable. For the purpose of this section interest shall be deemed to accrue from day to day and shall be apportionable in respect of time accordingly.

(4) Any investment made on account of the common fund or included in its investment account shall not be made or held on account of or belong to any particular estate.

**11.—(1)** The following shall not be included in or form part of the common fund:

What are not to be included in the common fund.

- (a) moneys expressly or by necessary implication forbidden to be included in the common fund or directed to be invested in investments other than those permitted by law for the investment of trust funds;
- (b) investments held by the Public Trustee which have not been taken over under section 10 (2).

(2) Section 16 shall not apply to the moneys and investments referred to in subsection (1).

(3) Nothing in this section shall be deemed to limit or restrict the liability of the Consolidated Fund under section 17.

**12.—(1)** The interest payable to the respective estates the moneys of which form part of the common fund shall be at such rate or rates as the Minister may by notification in the *Gazette* appoint.

Interest payable on the moneys included in the common fund.

(2) Such rate or rates shall be published in the month of December in each year and shall remain in force from 1st January to 31st December of the next ensuing year.

(3) Different rates may be prescribed for payment on capital moneys not payable at call and on capital moneys held in the ordinary course of administration for distribution or at call.

(4) Interest payable from the common fund shall be credited half yearly to the respective estates provided that the Public Trustee may at his discretion credit such interest at such more frequent intervals as he may think fit in the case of any particular estate.

**13.—(1)** There shall be established a board styled the Public Trustee Investment Board.

Constitution of the Public Trustee Investment Board.

(2) The Board shall consist of the Permanent Secretary, Ministry of Finance, as chairman, the Solicitor-General, the Public Trustee and two other public officers to be nominated from time to time by the Minister.

(3) Three of the members of the Board shall form a quorum.

(4) The Board may from time to time make by-laws for the control of its business and proceedings.

Powers  
and duties  
of the  
Board.

**14.—**(1) No investments shall be purchased or sold by the Public Trustee without the sanction of the Board.

(2) No investments shall be taken over and included in the investment account of the common fund as provided by section 10 (2) without the sanction of the Board.

(3) In the month of November in each year the Board shall present to the Minister a report showing the estimated value of the capital assets of the common fund and the estimated revenue therefrom for the ensuing year, and shall at the same time recommend to the Minister the rate or rates which in its opinion should be prescribed by him for the ensuing year under section 12 (1).

(4) In the month of April or such later month as the Minister may appoint for that purpose in each year the Board shall give such directions to the Public Trustee as may be necessary with regard to the disposal of any balance standing to the credit of the income account of the common fund at the end of the preceding year after interest payable to the beneficiaries and other lawful charges have been duly debited to the said income account. Such part of the balance as the Board may direct shall be carried to the credit of a reserve fund and the balance if any shall be carried to the credit of the income account for the current year.

(5) The reserve fund shall be under the control of and shall be dealt with by the Board in such manner as may be prescribed.

Persons not  
obliged to  
enquire  
whether  
dealing  
sanctioned.

**15.** No person dealing with the Public Trustee in the matter of the sale or purchase of any investment shall be under any obligation to enquire whether such sale or purchase has received the sanction of the Board.

Government  
guarantee  
in regard  
to moneys  
included in  
the common  
fund.

**16.—**(1) The Consolidated Fund shall be liable to make good any lawful claims on the common fund which cannot be met therefrom, whether the claims relate to capital moneys or to income.

(2) The capital moneys claimable by any estate shall include the moneys from the estate included in the common fund and where investments have been taken over under section 10 (2) they shall also include the value of those investments as ascertained in accordance with section 10 (3).

### *Liability and Fees*

**17.** The Consolidated Fund shall be liable to make good all sums required to discharge any liability which the Public Trustee, if he were a private trustee, would be personally liable to discharge, except where the liability is one to which neither the Public Trustee nor any of his officers has in any way contributed, and which neither he nor any of his officers could by the exercise of reasonable diligence have averted, and in that case the Public Trustee shall not, nor shall the Consolidated Fund, be subject to any liability.

Liability of Consolidated Fund.

**18.—(1)** Such fees, whether by way of percentage or otherwise, as the Minister prescribes, shall be charged in respect of the duties of the Public Trustee.

Fees charged by Public Trustee.

(2) Any expenses which might be retained or paid out of the trust property, if the Public Trustee were a private trustee, shall be so retained or paid, and the fees shall be retained or paid in the like manner as and in addition to such expenses.

(3) Such fees shall be paid into the Consolidated Fund.

(4) The incidence of the fees and expenses under this section as between capital and income shall be determined by the Public Trustee.

### *Supplemental Provisions*

**19.** A person aggrieved by any act or omission or decision of the Public Trustee in relation to any trust may apply to the court, and the court may make such order in the matter as the court thinks just.

Appeal to court from Public Trustee.

**20.—(1)** The Public Trustee shall not, nor shall any of his officers, act under this Act for reward, except as provided by this Act.

Mode of action of Public Trustee.

Employment  
of solicitors,  
bankers,  
accountants,  
brokers, etc.

(2) The Public Trustee may, subject to the rules made under this Act, employ for the purposes of any trust such solicitors, bankers, accountants and brokers, or other persons as he considers necessary.

(3) In determining the persons to be so employed in relation to any trust the Public Trustee shall have regard to the interests of the trust, but subject to this shall, whenever practicable, take into consideration the wishes of the creator of the trust and of the other trustees, if any, and of the beneficiaries, either expressed or as implied by the practice of the creator of the trust, or in the previous management of the trust.

(4) On behalf of the Public Trustee such person as is prescribed may take any oath, make any declaration, verify any account, give personal attendance at any court or place, and do any act or thing whatsoever which the Public Trustee is required or authorised to take, make, verify, give or do.

(5) Where any bond or security would be required from a private person upon the grant to him of administration, or upon his appointment to act in any capacity, the Public Trustee, if administration is granted to him or if he is appointed to act in such capacity as aforesaid, shall not be required to give such bond or security, but shall be subject to the same liabilities and duties as if he had given such bond or security.

(6) The entry of the Public Trustee by that name in the books of a company shall not constitute notice of a trust, and a company shall not be entitled to object to enter the name of the Public Trustee on its books by reason only that the Public Trustee is a corporation, and in dealings with property, the fact that the person or one of the persons dealt with is the Public Trustee, shall not of itself constitute notice of a trust.

Unclaimed  
funds to be  
paid into  
Consolidated  
Fund.

21.—(1) Where, upon the conclusion of the administration of the estate of a person dying testate or intestate, there remain in the hands of the Public Trustee funds of which he is unable to dispose by distribution in accordance with law by reason of the untraceability of the person entitled to give a discharge, or for any other cause, or where the Public Trustee is unable to conclude the administration of any trust as there is remaining in his hands funds of which he is unable

to dispose by distribution in accordance with law by reason of the untraceability of the beneficiaries under the trust or for any other cause, the Public Trustee shall credit those funds to an account to be called the Unclaimed Estates Account and those funds shall be kept in the account for 7 years, and if they remain unclaimed at the expiration of that period the funds together with any interest earned thereon shall be paid into the Consolidated Fund.

(2) If any claim is made to any part of the funds so transferred to the Consolidated Fund and if the claim is established to the satisfaction of the Public Trustee, the amount certified by the Public Trustee to be due to the claimant shall be paid to him, without interest, from the Consolidated Fund.

#### *Investigation and Audit of Trust Accounts*

22.—(1) Subject to rules made under this Act and unless the court otherwise orders, the condition and accounts of any trust shall, on an application being made and notice thereof given in the prescribed manner by any trustee or beneficiary, be investigated and audited by such solicitor or public accountant as is agreed on by the applicant and the trustees or, in default of agreement, by the Public Trustee or some person appointed by him.

Investigation  
and audit  
of trust  
accounts.

(2) Except with the leave of the court such an investigation or audit shall not be required within 12 months after any such previous investigation or audit and a trustee or beneficiary shall not be appointed under this section to make an investigation or audit.

(3) The person making the investigation or audit, hereinafter called the auditor, shall have a right of access to the books, accounts and vouchers of the trustees, and to any securities and documents of title held by them on account of the trust, and may require from them such information and explanation as are necessary for the performance of his duties.

Access of  
auditor  
to books.

(4) Upon the completion of the investigation and audit such person shall forward to the applicant and to every trustee a copy of the accounts, together with a report thereon, and a certificate signed by him to the effect that the

accounts exhibit a true view of the state of the affairs of the trust and that he has had the securities of the trust fund investments produced to and verified by him or, as the case may be, that the accounts are deficient in such respects as are specified in such certificate.

Inspection  
by bene-  
ficiaries.

(5) Every beneficiary under the trust shall, subject to rules made under this Act, be entitled at all reasonable times to inspect and take copies of the accounts, report and certificate, and, at his own expense, to be furnished with copies thereof or extracts therefrom.

Removal  
of auditor.

(6) The auditor may be removed by order of the court, and, if any auditor is removed, or resigns, or dies, or becomes bankrupt or incapable of acting before the investigation and audit is completed, a new auditor may be appointed in his place in like manner as the original auditor.

Remunera-  
tion and  
expenses  
of auditor.

(7) The remuneration of the auditor and the other expenses of the investigation and audit shall be such as are prescribed, and shall, unless the Public Trustee otherwise directs, be borne by the estate.

(8) In the event of the Public Trustee so directing, he may order such expenses to be borne by the applicant or by the trustees personally or partly by them and partly by the applicant.

(9) If any person having the custody of any documents to which the auditor has a right of access under this section fails or refuses to allow him to have access thereto or in any way obstructs the investigation or audit, the auditor may apply to the court, and thereupon the court shall make such order as it thinks fit.

Penalty.

(10) Any person who in any statement of accounts, report or certificate required for the purposes of this section wilfully makes a statement false in any material particular shall be guilty of an offence and shall be liable on conviction to a fine or to imprisonment for a term not exceeding 2 years or to both.

### *Rules*

Rules.

**23.—(1)** The Minister shall make rules for carrying into effect the objects of this Act, and in particular for all or any of the following purposes:

- (a) establishing the office of Public Trustee and prescribing the trusts or duties he is authorised to

- accept or undertake, and the security, if any, to be given by the Public Trustee and his officers;
- (b) the transfer to and from the Public Trustee of any property;
  - (c) the accounts to be kept and an audit thereof;
  - (d) the establishment and regulation of any branch office;
  - (e) excluding any trusts from the operation of this Act or any part thereof;
  - (f) the form and manner in which notices under this Act shall be given;
  - (g) the payment of interest;
  - (h) the date from which interest, if allowed, is to be paid;
  - (i) the management, investment and disposal of the reserve fund;
  - (j) generally to carry out the provisions of sections 10 to 16.

(2) Any rules made by the Minister under this section shall be published in the *Gazette* and shall be presented to Parliament and shall not come into force until approved by a resolution of Parliament.

(3) In approving any rules Parliament may make such alterations therein as it thinks fit.

(4) Any rules made by the Minister under this section shall have the same force and effect as if enacted in this Act.