

Reprint
as at 1 April 2008

**Trustee Companies Management
Act 1975**

Public Act 1975 No 25
Date of assent 15 August 1975

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Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this eprint.

A general outline of these changes is set out in the notes at the end of this eprint, together with other explanatory material about this eprint.

This Act is administered in the Ministry of Commerce

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An Act to make special provision for the protection of persons who have beneficial interests, or interests as depositors or contributors, in property or funds administered by trustee companies and their associated companies to which this Act is applied, and for matters incidental thereto

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1 Short Title and commencement

- (1) This Act may be cited as the Trustee Companies Management Act 1975.
- (2) This Act shall be deemed to have come into force at 7.30 pm on the 14th day of August 1975.

2 Interpretation

(1) In this Act, unless the context otherwise requires,—

Associated company, in relation to any trustee company, means a company which under subsection (2) of this section is deemed to be associated with that trustee company

Board of Directors or **Board**, in relation to any trustee company or other company to which this Act applies, means the Board of Directors thereof appointed under section 5 of this Act

Depositor includes a person who invests in any Group Investment Fund of a trustee company or an associated company or in any other scheme or arrangement for investment by a trustee company or an associated company on behalf of others, whether on a contributory or agency basis or otherwise

Estate means any property administered or held, managed, or controlled in a fiduciary capacity by a trustee company or associated company, whether as administrator or other trustee or as guardian, committee, manager, liquidator, receiver, agent, or attorney, or in any other capacity; and includes a Group Investment Fund and any other scheme or arrangement for investment by a trustee company or associated company on behalf of others, whether on a contributory or agency basis or otherwise

High Court or **Court** means the High Court of New Zealand

Minister means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act

Minister: substituted, as from 1 October 1995, by section 10(3) Department of Justice (Restructuring) Act 1995 (1995 No 39).

Trustee means a trustee within the meaning of section 2(1) of the Trustee Act 1956

Trustee company means a trustee company within the meaning of section 2 of the Trustee Companies Act 1967.

(2) For the purposes of section 3 of this Act a company shall be deemed to be associated with another company if, under section YC 1 of the Income Tax Act 2007, the 2 companies

are deemed to be under the control of substantially the same persons or to consist of substantially the same shareholders.

Compare: 1958 No 23 s 2(2)

Section 2(2): amended, on 1 April 2008, by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Subsection (2) was amended, as from 1 April 1977, pursuant to section 436 Income Tax Act 1976 (1976 No 65) by substituting the words “section 7 of the Income Tax Act 1976” for the words “section 3 Land and Income Tax Act 1954”.

Subsection (2) was amended, as from 1 April 1995, by section YB 1 Income Tax Act 1994 (1994 No 164) by substituting the words “section OD 1 of the Income Tax Act 1994” for the words “section 7 of the Income Tax Act 1976”.

Subsection (2) was amended, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35) by substituting the words “Income Tax Act 2004” for the words “Income Tax Act 1994”.

3 Application of Act

- (1) This Act shall apply to—
 - (a) The Perpetual Trustees, Estate, and Agency Company of New Zealand (Limited) as from the commencement of this Act:
 - (b) Any other trustee company to which this Act is applied by Order in Council made under subsection (3) of this section from the date specified in that Order in Council:
 - (c) Any other company (being a company that is associated with a trustee company to which this Act applies or is being applied) to which this Act is applied by Order in Council made under subsection (3) of this section from the date specified in that Order in Council.
- (2) This Act may be applied to any trustee company or company that is associated with a trustee company notwithstanding that it has been dissolved or struck off the register; and no trustee company to which this Act applies shall be struck off the register after the commencement of this Act unless the prior consent in writing of the Board of Directors for the time being of the trustee company is given to the Registrar of Companies.
- (3) Where it is desirable for the protection of any beneficiary under any trust administered by any trustee company or by any company that is associated with a trustee company to which this Act applies or is being applied, or for the protection of any depositors, or creditors (whether secured or unsecured)

of any such trustee company or associated company, or it is otherwise in the public interest, that the provisions of this Act should apply to the trustee company or associated company and the said beneficiaries, depositors, or creditors, or the public interest cannot be adequately protected under the Companies Act 1955 or under any other enactment or law, the Governor-General, on the advice of the Minister, may by Order in Council declare that from the date specified therein the provisions of this Act shall apply to that trustee company or associated company, whether it is incorporated in New Zealand or elsewhere; and in this subsection the terms **trustee company** and **company** include, as the case requires, any trustee company or company that has been dissolved or struck off the register.

4 Moratorium

- (1) The provisions of this section shall apply in relation to any trustee company or associated company during the period of 12 months after the commencement of the application of this Act to that trustee company or associated company or until such date (whether before or after expiry of that period) as the Minister may for the time being specify by notice in the *Gazette*.
- (2) No person who has deposited or entrusted any money with any trustee company or associated company to which this Act applies for investment, whether in a group investment fund, or on a separate account, or in separate securities, or on a contributory or agency basis, or otherwise, shall, while this section applies to that trustee company or associated company,—
 - (a) Bring or continue any action or proceeding, or exercise any other power, right, or remedy against that trustee company or associated company for recovery or repayment thereof notwithstanding that he may have made or be entitled to make demand therefor, or that the time for repayment (whether fixed by contract or otherwise) may have arrived; or
 - (b) Issue any execution, attach any debt, or otherwise enforce or seek to enforce any security or any judgment

or order obtained against that trustee company or associated company; or

- (c) Petition for the winding up of that trustee company or associated company; or
- (d) enter into possession, sell, appoint a receiver, or exercise or continue the exercise of any power or right under or in pursuance of any mortgage, charge, debenture, instrument, or other security relating to his investment:

Provided that, with the consent of the Board, an action or proceeding may be brought against the trustee company or associated company for the purpose of determining whether any right or liability exists.

- (3) No person having power to appoint a new trustee in place of that trustee company or associated company shall while this section applies to that trustee company or associated company exercise that power without the consent of the Court or the Board of Directors of that trustee company or associated company.
- (4) While this section applies to any trustee company or associated company to which this Act applies, the Court shall not give that consent, or make an order appointing a new trustee (whether under any Act or otherwise) in place of that trustee company or associated company, or removing that trustee company or associated company as trustee of any estate, unless either—
 - (a) The Board of Directors consents; or
 - (b) The Court is satisfied that there are extraordinary reasons which justify the making of that appointment or order and that the need to account to the new trustee for the assets of the estate will not strain unduly the liquidity of the trustee company or associated company.

Subsection (1) was amended, as from 9 December 1976, by section 2 Trustee Companies Management Amendment Act 1976 (1976 No 127) by inserting the words “for the time being”.

Section 4(2)(d): amended, on 1 January 2008, by section 364(1) of the Property Law Act 2007 (2007 No 91).

5 Directors of company to which Act applies

- (1) Upon the commencement of the application of this Act to any trustee company or associated company, the directors

thereof holding office immediately prior thereto, including the directors of any local Board, shall go out of office.

- (2) During the period while this Act continues to apply to any trustee company or associated company no directors thereof may be appointed to act during that period otherwise than in accordance with this section or section 11 of this Act.
- (3) Notwithstanding anything to the contrary in any other Act or instrument, while this Act applies to any trustee company the directors thereof shall be a Board of Directors comprising,—
 - (a) In the case of the Perpetual Trustees, Estate, and Agency Company of New Zealand (Limited)—
 - (i) Two persons appointed by the Minister, of whom one shall be a chartered accountant and the other shall be a barrister or solicitor:
 - (ii) The Secretary to the Treasury:
 - (iii)
 - (iv) Two or more other persons appointed by the Minister:
 - (b) In any other case not fewer than 5 persons appointed by the Minister.
- (4) The Minister shall appoint one of the appointed members to be Chairman of the Board of Directors.
- (5) Every appointed member shall hold office at the pleasure of the Minister.
- (6) The powers of the Board shall not be affected by any vacancy in its membership.
- (7) An appointed member may at any time resign his office by notice in writing to the Minister.
- (8) Any vacancy in the Board may be filled in the same manner as the appointment of the member vacating office.

Subsection (3)(a)(iii) was repealed, as from 1 March 2002, by section 170(1) Public Trust Act 2001 (2001 No 100). *See* clause 2 Public Trust Act Commencement Order 2002 (SR 2002/11).

6 Meetings of Board

- (1) Meetings of the Board shall be held at such times and places as the Chairman or the Board appoints.
- (2) At every meeting of the Board 3 members shall be a quorum.

- (3) The Chairman shall preside at every meeting at which he is present, and in his absence the members present shall elect one of their number to preside at that meeting.
- (4) On every question before a meeting of the Board the Chairman or other person presiding shall have a deliberative vote, and in the case of an equality of votes he shall also have a casting vote.

7 Conduct of business while Act applies to company

- (1) While this Act applies to any trustee company or associated company it shall not be lawful or competent for any manager or other person to be engaged in the management or conduct of that trustee company or associated company or its property, or to act as its agent or servant, save with the permission of the Board and so far as that permission extends.
- (2) In the case of any company not incorporated in New Zealand, being a company to which this Act applies, the provisions of this section shall not apply to its property outside New Zealand.

8 Termination of contract of agency or service

The Board of any trustee company or associated company to which this Act applies may at any time terminate any contract of service or agency between the trustee company or associated company and any person who is a servant or agent thereof, notwithstanding that by law apart from this Act the trustee company or associated company could not have so terminated the contract until some future date; and where a contract is so terminated under this section the trustee company or associated company shall thereupon be discharged from the further performance of the contract, and from all liability for subsequent non-performance of the contract:

Provided that after the termination of his contract the person may, within 6 months of receiving notice of the termination, apply to the High Court for compensation in respect of the contract; and that Court may award such compensation in respect of the contract as it considers just and reasonable having regard to the value of the consideration provided by the person, and to all amounts and benefits

which the person has received under the contract, and to the conduct of the parties.

The words “High Court” were substituted, as from 1 April 1980, for the words “Supreme Court” pursuant to section 12 Judicature Amendment Act 1979 (1979 No 124).

9 Duties and functions of Board

- (1) In the exercise in relation to any trustee company or associated company to which this Act applies of the powers and functions conferred upon the Board of that trustee company or associated company by this Act, it shall be the duty of the Board to take possession of and protect the property of that trustee company or associated company, and to manage and carry on its business, having due regard to the rights and interests of all beneficiaries, depositors, creditors, and shareholders.
- (2) Nothing in this section shall limit the powers expressly conferred upon the Board by section 10 of this Act.

10 Powers of Board

Notwithstanding anything to the contrary in any Act or instrument, the Board of any trustee company or associated company to which this Act applies shall have—

- (a) All such powers, authorities, rights, privileges, and immunities as the directors of that trustee company or associated company would have if this Act did not apply thereto:
- (b) Power to sell the business of that trustee company or associated company as a going concern, or to sell all or any part of the property of that trustee company or associated company that is used for the purposes of its business:
- (c) All such powers as are conferred upon it by regulations made under section 25 of this Act.

11 Local Boards of Directors

The Board of Directors appointed under section 5 of this Act in respect of any trustee company to which this Act applies may appoint local Boards of Directors of that trustee company

in accordance with the provisions of section 20 of the Trustee Companies Act 1967:

Provided that any such appointment may make provision for withholding a seal from the local Board to which the appointment relates, or may specify the circumstances in which the seal of the local Board may be used, or may impose conditions or restrictions on its use including a requirement that prior confirmation or supervision be obtained.

12 Delegations

Without restricting the generality of the powers, whether derived under this Act or any other enactment or instrument or in any other way, of the Board appointed under section 5 of this Act of any trustee company to which this Act applies, any such Board may revoke any delegation previously made under section 21 of the Trustee Companies Act 1967, and make such delegation as it thinks fit under that section.

13 Duty to deliver books and property to Board

(1) It shall be the duty of all persons having possession and control of,—

- (a) Any books or records or documents or other property, whatsoever and wheresoever situated, of any trustee company or associated company incorporated in New Zealand to which this Act applies; or
- (b) Any books or records or documents, whatsoever and wheresoever situated, relating to the property in New Zealand of any trustee company or associated company not incorporated in New Zealand to which this Act applies; or
- (c) Any property in New Zealand of any trustee company or associated company not incorporated in New Zealand to which this Act applies,—

forthwith after the passing of this Act in the case of the trustee company specified in section 3(1)(a) of this Act, or forthwith after the first Board of Directors is appointed under section 5 of this Act in respect of any other trustee company or associated company to which this Act applies, to deliver or yield up possession of all such books, records, documents,

or other property as aforesaid to the Board or its authorised agent.

- (2) If any person fails for 14 days to comply with the requirements of subsection (1) of this section, he commits an offence, and is liable on summary conviction to a fine not exceeding \$500 and to a further fine not exceeding \$10 for every day after the expiration of those 14 days during which the offence has continued.
- (3) If any person fails to comply with the requirements of subsection (1) of this section, the Board concerned may at any time certify the failure to the Court (whether or not an offence has been committed under subsection (2) of this section), and the Court may thereupon inquire into the matter of the failure and, after hearing any witnesses who may be produced against or by or on behalf of the alleged offender, and after hearing any statement which may be offered in defence, may punish the offender in like manner as if he had been guilty of contempt of Court.
- (4) It shall be no defence to any proceedings under this section that the person in possession or control of any property as aforesaid is or was a trustee of the property for any trustee company or associated company incorporated in New Zealand to which this Act applies or entitled to a lien or other charge over the property, or was a receiver or manager of the property appointed under Part 7 of the Companies Act 1955.
- (5) The rights of any person who, in accordance with this section, delivers any property to the Board in respect of any trustee company or associated company incorporated in New Zealand to which this Act applies or its authorised agent shall continue while this Act continues to apply to the trustee company or associated company as if the person had not so delivered the property; and when this Act ceases to apply to the trustee company or associated company, subject to the provisions of this Act and unless the Court otherwise orders, the property shall be returned to the person who delivered it or to someone who derives a right to possession of the property from that person. The provisions of this subsection shall apply whether the person who delivers the property is a receiver or manager appointed under Part 7 of the Companies Act 1955, or a person

entitled to a lien or charge in respect of the property, or any other person having any rights whatsoever in respect thereof.

14 Protection of Board, etc

- (1) For the purposes of this Act the Board in respect of any trustee company or associated company to which this Act applies, in the exercise of its powers and functions under this Act, shall have all the privileges and be entitled to the same protection as a director has under any rule of law or under any Act or pursuant to the articles of the trustee company or associated company.
- (2) No such Board nor any member thereof shall be liable for any acts done by it when in good faith in the exercise of its or his powers and functions as the Board or a member thereof, and every such Board and member shall be indemnified out of the property of the trustee company or associated company in respect of all liabilities properly incurred.
- (3) No action or proceeding shall be brought or commenced against any such Board or member except by leave of the Court and subject to such terms as the Court may impose.

15 Expenses of administration

All costs, charges, and expenses properly incurred by a Board appointed under section 5 of this Act or any local Board appointed under section 11 of this Act in the exercise, in relation to any trustee company or associated company to which this Act applies, of its powers and functions (including such fees, commission, or other remuneration as may be approved by the Minister in respect of the services of the Board) shall be payable out of the assets of that trustee company or associated company in priority to all other claims.

16 Determination of management

Every trustee company and associated company to which this Act applies shall remain subject to this Act from the time when this Act first applies thereto until the Governor-General, by Order in Council, declares that this Act shall cease to apply

thereto, whether or not there is for the time being a Board in office in respect thereof.

17 Report to Minister

- (1) As soon as practicable after its establishment, the first Board of Directors appointed under section 5 of this Act in respect of any trustee company or associated company to which this Act applies shall report to the Minister on the affairs of that trustee company or associated company showing, as at the date of its appointment, the particulars of the assets, debts, and liabilities of the trustee company or associated company, and such further or other information as the Board thinks fit or the Minister requires.
- (2) The statement of affairs shall be accompanied by any comments that the Board sees fit to make thereon.
- (3) At the end of each six-monthly period after its appointment the Board shall report to the Minister on the financial affairs of the trustee company or associated company and its management thereof.
- (4) In each period of 12 months and within one month after the determination of its appointment, the Board shall submit a statement of accounts, duly audited, showing in detail its receipts and payments in respect of that company.
- (5) A copy of every report and financial statement presented to the Minister pursuant to this section shall be lodged by the Board with the Registrar of Companies.

18 Claims by beneficiaries against company

- (1) Except with the consent of the High Court, no person who has or had a beneficial interest in property or funds at any time administered by any trustee company or associated company to which this Act applies (any such person being hereafter in this section referred to as a beneficiary) shall bring or maintain any action or other legal proceedings against the trustee company or associated company in respect of any breach or alleged breach of trust arising before the commencement of the application of this Act to that trustee company or associated company.

- (2) Subject to any directions that may be given by the High Court, it shall be the duty of the Board to investigate the affairs of any trustee company or associated company to which this Act applies to ensure that its business has been conducted in a lawful manner.
- (3) If the Board is satisfied that any such trustee company or associated company has been in breach of its fiduciary duties and it is satisfied that there is a common question of law or of fact affecting the several rights of all or any of the beneficiaries and a common relief is sought, it may bring an action or other legal proceedings in the name of the company against the company on behalf of all such beneficiaries and it shall not be necessary to make those beneficiaries parties to or join them in the action.
- (4) Any proceedings brought under this section may claim relief in respect of one or more causes of action.
- (5) In the conduct of proceedings to which this section applies, the High Court may make such orders as are appropriate for all or any of the following purposes:
 - (a) The separate representation of any class or classes of beneficiaries:
 - (b) Determining the course of proceedings:
 - (c) Prescribing measures to prevent undue repetition or complication in the presentation of evidence or argument:
 - (d) Requiring, for the protection of the beneficiaries or otherwise for the fair conduct of the action, that notice be given to any person of the action, and the proposed extent or effect of the judgment:
 - (e) Consenting to other persons intervening and presenting claims or defences or otherwise coming into the action on such conditions as the Court thinks just:
 - (f) Dealing with other procedural matters.
- (5A) Where the Court is satisfied that the amount that could be recovered under a judgment given against a company under this section would be more than the net worth of the company, the Court may at any time (whether at the time the judgment is given or thereafter) make an order determining that the maximum amount that can be recovered under the judgment

is the amount that the Court considers is the net worth of the company as a going concern (including any unpaid capital and any other amount liable to be contributed by the shareholders to the company in the event of the winding up thereof).

- (6) Every judgment given in an action brought under this section shall be final and binding on every beneficiary as if he had brought the action in his own name.
- (7) Where any judgment has been given under this section (whether before or after the commencement of the Trustee Companies Management Amendment Act 1987), the Board shall so far as practicable settle a list of beneficiaries entitled to participate to the extent of \$100 or more in the amount recovered under the judgment and their respective amounts.
- (7A) For the purpose of settling a list of beneficiaries so entitled, the Board may, if it thinks fit, advertise for claims by beneficiaries; and in any such case the Board shall not be required to include in the list any beneficiary who has not lodged a claim with the Board within such period after the date of the last publication of the advertisement as shall be fixed by the Court unless the Board has funds recovered under the judgment that are available for distribution to beneficiaries and is satisfied that there is reasonable excuse for the failure to lodge a claim within that period.
- (7B) If the amounts of the entitlements of beneficiaries exceed the amount recovered under the judgment, those amounts shall reduce rateably.
- (7C) The Board shall not advertise for claims under subsection (7A) of this section unless the Court has approved the form and content of the advertisements, the manner of advertising, and the dates of publication.
- (7D) The Board shall not be required to calculate the exact amount of the entitlement of a beneficiary under this section but may calculate the amount of the entitlement as near to the exact amount as the Board considers reasonable having regard to the amount of the claim and the costs involved in its calculation.
- (8) If any balance of the amount payable under the judgment remains undistributed, that balance shall be paid or applied

for charitable purposes in accordance with a scheme prepared by the Board and approved by the Court.

- (9) Any such scheme prepared by the Board shall be submitted to the High Court for approval with notice to such persons as that Court directs.
- (10) The High Court may, after hearing the Board and such other persons to whom notice has been given, approve such scheme as in its opinion is fair and just having regard to all the circumstances.

Subsection (5A) was inserted, as from 5 October 1978, by section 11 Trustee Companies Management Amendment Act 1978 (1978 No 39).

Subsection (7) was substituted, and subsections (7A) to (7D) were substituted, as from 10 July 1987, by section 2(1) Trustee Companies Management Amendment Act 1987 (1987 No 157).

Subsection (8) was substituted, as from 10 July 1987, by section 2(2) Trustee Companies Management Amendment Act 1987 (1987 No 157).

The words “High Court” were substituted, as from 1 April 1980, for the words “Supreme Court” pursuant to section 12 Judicature Amendment Act 1979 (1979 No 124).

18A Provisions apply to Perpetual Trustees Substitute Company Limited

Notwithstanding anything contained in section 18 of this Act, unless the Board in its absolute discretion otherwise decides, no person shall be entitled to participate in the amount recovered under any judgment against Perpetual Trustees Substitute Company Limited under that section in respect of any breach of trust by the Perpetual Trustees Estate and Agency Company of New Zealand (Limited) that occurred before the 14th day of August 1960.

Section 18A was inserted, as from 10 July 1987, by section 3 Trustee Companies Management Amendment Act 1987 (1987 No 157).

19 Prohibition on certain claims against other trustee companies

- (1) This section shall apply to any money deposited with or entrusted to a trustee company (not being a trustee company to which this Act applies) for investment in a Group Investment Fund, or on separate account, or in separate securities, or on a contributory or agency basis.

- (2) No money to which this section applies shall be demanded by any person, and no action shall be commenced or continued to enforce the payment of any such money, while this section is operative.
- (3) This section shall be operative—
 - (a) During 4 months from the commencement of this Act; and
 - (b) During 4 months from the commencement of the application of this Act to any trustee company by any Order in Council made under section 3(3) of this Act.

20 Offence to destroy or alter records

- (1) If any former director, or any director, or any officer, servant, or agent of any trustee company or associated company to which this Act applies or any other person,—
 - (a) With intent to defeat the purposes of this Act, destroys or alters any book, document, or record of or relating to the trustee company or associated company, or sends or attempts to send or conspires with any other person to send out of New Zealand any such book, document, or record, or any property of any description belonging to or in the disposition or under the control of the said trustee company or associated company; or
 - (b) Fails or refuses to answer to the best of his knowledge and ability any question which he may be asked by the Board in relation to any such book or document or record or property, or wilfully gives a false answer to any such question,—he commits an offence and is liable on conviction on indictment to imprisonment for a term not exceeding 2 years or to a fine not exceeding \$5,000 or both.
- (2) If in any prosecution for an offence alleged to have been committed against this section it is proved that the person charged with the offence has destroyed or altered any book, document, or record as aforesaid, or has sent or attempted to send or conspired to send out of New Zealand any such book, document, or record, or any other thing, the onus of proving that in so doing he had not acted in contravention of this section shall lie on him.

- (3) This subsection amended Part 2 of Schedule 1 to the Summary Proceedings Act 1957 (reprinted 1982, RS Vol 9, p 734).

21 Duty to report offences, etc

If it appears to the Board of any trustee company or associated company to which this Act applies that any person has been guilty of any offence against this Act, or of a breach of trust or any other offence in relation to that trustee company or associated company, it shall report the matter to the Solicitor-General.

22 Advances of fees of Boards, etc

- (1) With the consent of the Minister of Finance, there may be advanced, out of public money appropriated by Parliament for the purpose, to any members of a Board appointed under section 5 or section 11 of this Act in respect of any trustee company or associated company to which this Act applies, such amounts as the Minister may approve in respect of remuneration or allowances due to that member or expenses incurred by that member as such.
- (2) All money so advanced to any such person shall be refunded to the Crown out of money payable to that Board in respect of the trustee company or associated company, and the Crown shall have all the rights of the Board to which the advance was made to receive and recover such money
- (3) The Minister of Finance may, on behalf of the Crown, guarantee pursuant to the Public Finance Act 1989 the repayment of any money borrowed by the Board for the payment of any general expenses (including salaries) payable in the exercise of its functions by the Board while it has insufficient revenue for the payment thereof and the payment of interest on any money so borrowed.

Subsection (1) was amended, as from 1 April 1975, by section 160(1) Public Finance Act 1977 (1977 No 65) by repealing the word "Revenue". It was further amended, as from 1 July 1989, by section 86 Public Finance Act 1989 (1989 No 44) by substituting the words "public money" for the words "money in the Consolidated Account".

Subsection (2) was amended, as from 1 April 1975, by section 160(1) Public Finance Act 1977 (1977 No 65) by omitting the word "Revenue". It was further amended, as from 1 July 1989, by section 86 Public Finance Act 1989 (1989

No 44), by omitting the words “all money so refunded to the Crown shall be credited upon receipt to the Consolidated Account”.

Subsection (3) was amended, as from 1 April 1975, by section 160(1) Public Finance Act 1977 (1977 No 65) by inserting the words “pursuant to section 86 of the Public Finance Act 1977”. It was further amended, as from 1 July 1989, by section 86 Public Finance Act 1989 (1989 No 44) by substituting the words “the Public Finance Act 1989” for the words “section 86 of the Public Finance Act 1977”.

23 Special advances to companies

- (1) The Minister of Finance may advance money, or guarantee pursuant to the Public Finance Act 1989 the advance of money with or without securities, to the Board of any trustee company or associated company to which this Act applies.
- (2) The Minister of Finance may advance money, or guarantee pursuant to the Public Finance Act 1989 the advance of money with or without securities, to the Board for the repayment of the money borrowed by way of overdraft from the National Bank of New Zealand Limited by the Perpetual Trustees, Estate, and Agency Company of New Zealand (Limited) in respect of its Group Investment Funds.
- (3) On the repayment of the last mentioned money the National Bank of New Zealand Limited shall surrender to the Board the securities deposited with the Bank by the company as part of the transaction between them.
- (4) The National Bank of New Zealand Limited shall be indemnified by the Crown for any loss suffered or occasioned by the said bank by reason of the repayment of money under subsection (1) of this section.

Subsections (1) and (2) were amended, as from 1 April 1975, by section 160(1) Public Finance Act 1977 (1977 No 65) by inserting the words “the Public Finance Act 1989”. They were further amended, as from 1 July 1989, by section 86 Public Finance Act 1989 (1989 No 44) by substituting the words “the Public Finance Act 1989” for the words “section 86 of the Public Finance Act 1977”.

24 Application of Companies Act 1955

- (1) The Board in respect of any trustee company or associated company to which this Act applies shall notify the Registrar of Companies of the commencement and termination of the application of this Act to the trustee company or associated company.

- (2) Notwithstanding anything to the contrary in the Companies Act 1955, it shall not be obligatory on the Board of any trustee company or associated company to which this Act applies to furnish in respect of that trustee company or associated company any annual or other return required by that Act.
- (3) Subject to the provisions of this Act, all the provisions of the Companies Act 1955 and all rules and regulations under that Act, shall, so far as they are applicable, and with the necessary modifications, apply to any trustee company or associated company to which this Act applies:
- Provided that, except as otherwise provided in this Act, the provisions of the Companies Act 1955 specified in the Schedule to this Act shall not apply.

24A Application of Financial Reporting Act 1993

The Financial Reporting Act 1993 shall not apply to any trustee company or associated company to which this Act applies.

Section 24A was inserted, as from 1 July 1994, by section 2 Company Law Reform (Transitional Provisions) Act 1994 (1994 No 16).

25 Regulations

- (1) The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:
- (a) Conferring on the Board of Directors of any trustee company or associated company to which this Act applies such powers as are necessary for the due administration of any property belonging to or administered by that trustee company or associated company:
 - (b) Providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for the due administration thereof.
- (2) Regulations made under paragraph (a) of subsection (1) of this section may be so made as to apply generally to the Boards of all trustee companies and associated companies to which this Act applies or to one or more of them.
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Schedule
Provisions of Companies Act 1955 which
do not apply to companies to which this
Act applies

Sections 130 to 135 (both inclusive) and 152 to 162 (both inclusive),
and Part 7.

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Notes**1 General**

This is an eprint of the Trustee Companies Management Act 1975. It incorporates all the amendments to the Trustee Companies Management Act 1975 as at 1 April 2008. The list of amendments at the end of these notes specifies all the amendments incorporated into this eprint since 3 September 2007. Relevant provisions of any amending enactments that contain transitional, savings, or application provisions are also included, after the Principal enactment, in chronological order.

2 About this eprint

This eprint has not been officialised. For more information about officialisation, please see "Making online legislation official" under "Status of legislation on this site" in the About section of this website.

3 List of amendments incorporated in this eprint (most recent first)

Income Tax Act 2007 (2007 No 97): section ZA 2(1)
Property Law Act 2007 (2007 No 91): section 364(1)
