

Trustee and Trustee Companies (Amendment) Bill

No.

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SCHEDULE 1

CONSEQUENTIAL AMENDMENTS

By Authority, Victorian Government Printer



LEGISLATIVE ASSEMBLY

Read 1° 11 October 1995

(Brought in by Mrs Wade and Mr Gude)

A BILL

to amend the **Trustee Act 1958** and the **Trustee Companies Act 1984**
and for other purposes.

**Trustee and Trustee Companies
(Amendment) Act 1995**

The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

1. *Purpose*

The purpose of this Act is to—

(a) amend the **Trustee Act 1958**—

- (i) to enable trustees to invest in any kind of investment provided that the investment is prudent having regard to the circumstances of the trust;

Section headings appear in bold italics and are not part of the Act.
(See **Interpretation of Legislation Act 1984**.)

Trustee and Trustee Companies (Amendment)

(ii) to make provision for the participation of trustees in the Reserve Bank Information Transfer System;

(b) amend the **Trustee Companies Act 1984**—

(i) to provide for an administration fee in relation to perpetual trusts; 5

(ii) to make further provision in relation to investments in common funds.

2. Commencement

This Act comes into operation on 1 January 1996. 10

PART 2—AMENDMENTS TO THE TRUSTEE ACT 1958

3. Definitions

In section 3 of the **Trustee Act 1958**, omit the definition “authorized investments”.

4. Substitution of Part I 15

For Part I of the **Trustee Act 1958** substitute—

‘PART I—INVESTMENTS

4. Application of Part

This Part applies to trusts created before or after the commencement of section 4 of the **Trustee and Trustee Companies (Amendment) Act 1995**. 20

5. Investments of trust funds

A trustee may, unless expressly prohibited by the instrument creating the trust— 25

(a) invest trust funds in any form of investment; and

(b) at any time, vary an investment.

N .
6401/1958.
R printed to
N . 94/1990.
Subsequently
am nd d by
Nos 84/1991,
115/1993,
45/1994 and
91/1994.

6. Duties of trustee in respect of power of investment

5 (1) Subject to the instrument creating the trust, a trustee must, in exercising a power of investment—

10 (a) if the trustee's profession, business or employment is or includes acting as a trustee or investing money on behalf of other persons, exercise the care, diligence and skill that a prudent person engaged in that profession, business or employment would exercise in managing the affairs of other persons; or

15 (b) if the trustee is not engaged in such a profession, business or employment, exercise the care, diligence and skill that a prudent person would exercise in managing the affairs of other persons.

20 (2) A trustee must exercise a power of investment in accordance with any provision of the instrument creating the trust that is binding on the trustee and requires the obtaining of any consent or approval with respect to trust investments.

25 (3) Subject to the instrument creating the trust, a trustee must, at least once in each year, review the performance (individually and as a whole) of trust investments.

7. Law and equity preserved

30 (1) Any rules and principles of law or equity that impose a duty on a trustee exercising a power of investment continue to apply except to the extent that they are

inconsistent with this or any other Act or the instrument creating the trust.

- (2) Without limiting the generality of sub-section (1), a duty imposed by any rules and principles of law or equity includes— 5
- (a) a duty to exercise the powers of a trustee in the best interests of all present and future beneficiaries of the trust; 10
 - (b) a duty to invest trust funds in investments that are not speculative;
 - (c) a duty to act impartially towards beneficiaries and between different classes of beneficiaries; 15
 - (d) a duty to take advice.
- (3) Any rules and principles of law or equity that relate to a provision in an instrument creating a trust that purports to exempt, limit the liability of, or indemnify a trustee in respect of a breach of trust, continue to apply. 20
- (4) If a trustee is under a duty to take advice, the reasonable costs of obtaining the advice are payable out of trust funds. 25

8. *Matters to which trustee must have regard in exercising power of investment*

- (1) Without limiting the matters that a trustee may take into account when exercising a power of investment, a trustee must, so far as they are appropriate to the circumstances of the trust, have regard to— 30
- (a) the purposes of the trust and the needs and circumstances of the beneficiaries; and 35

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- (b) the desirability of diversifying trust investments; and
 - (c) the nature of and risk associated with existing trust investments and other trust property; and
 - (d) the need to maintain the real value of the capital or income of the trust; and
 - (e) the risk of capital or income loss or depreciation; and
 - (f) the potential for capital appreciation; and
 - (g) the likely income return and the timing of income return; and
 - (h) the length of the term of the proposed investment; and
 - (i) the probable duration of the trust; and
 - (j) the liquidity and marketability of the proposed investment during, and on the determination of, the term of the proposed investment; and
 - (k) the aggregate value of the trust estate; and
 - (l) the effect of the proposed investment in relation to the tax liability of the trust; and
 - (m) the likelihood of inflation affecting the value of the proposed investment or other trust property; and
 - (n) the costs (including commissions, fees, charges and duties payable) of making the proposed investment; and
 - (o) the results of a review of existing trust investments.
- (2) A trustee may—
- (a) obtain and consider independent and impartial advice reasonably required

for the investment of trust funds or the management of the investment from a person whom the trustee reasonably believes to be competent to give the advice; and

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- (b) pay out of trust funds the reasonable costs of obtaining the advice.

9. Powers of trustee in relation to securities

- (1) If securities of a body corporate are subject to a trust, the trustee may concur in any scheme or arrangement—

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(a) for or arising out of the reconstruction, reduction of capital or liquidation of, or the issue of shares by, the body corporate; or

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(b) for the sale of all or any part of the property and undertaking of the body corporate to another body corporate; or

(c) for the acquisition of securities of the body corporate, or of control of the body corporate, by another body corporate; or

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(d) for the amalgamation of the body corporate with another body corporate; or

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(e) for the release, modification or variation of rights, privileges or liabilities attached to the securities, or any of them—

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in the same manner as if the trustee were beneficially entitled to the securities.

- (2) The trustee may accept instead of, or in exchange for, or in addition to, the securities subject to the trust any securities of any denomination or

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description of another body corporate party to the scheme or arrangement.

5 (3) If a conditional or preferential right to subscribe for securities in a body corporate is offered to a trustee in respect of a holding in that body corporate or another body corporate, the trustee may, as to all or any of the securities—

10 (a) exercise the right and apply capital money subject to the trust in payment of the consideration; or

15 (b) assign the benefit of the right, or the title to the right, to a person, including a beneficiary under the trust, for the best consideration that can be reasonably obtained; or

(c) renounce the right.

20 (4) A trustee accepting or subscribing for securities under this section is, for the purposes of any provision of this Part, exercising a power of investment.

25 (5) A trustee may retain securities accepted or subscribed for under this section for any period for which the trustee could properly have retained the original securities.

(6) The consideration for an assignment made under sub-section (3) (b) must be held as capital of the trust.

30 (7) This section applies in relation to securities acquired before or after the commencement of section 4 of the **Trustee and Trustee Companies (Amendment) Act 1995** but subject to the instrument creating the trust.

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9A. Investment in securities under RITS system

- (1) A chose in action arising under the RITS system and which entitles its holder to a security of a particular description (“the underlying security”) is, for the purposes of this Act and the instrument creating a trust, taken to be the same in all respects as the underlying security. 5
- (2) The holding or acquisition by a trustee of a chose in action referred to in sub-section (1) is to be regarded as an investment by the trustee in the underlying security. 10
- (3) It does not matter that the right conferred by the chose in action referred to in sub-section (1) is a right in respect of securities of a particular description and not in respect of particular securities. 15
- (4) This section applies to a trust created before or after the commencement of section 4 of the **Trustee and Trustee Companies (Amendment) Act 1995** but applies only to the extent that the trust instrument creating the trust does not expressly prohibit its application. 20
- (5) In this section— 25
“**RITS system**” means the Reserve Bank Information and Transfer System operated by the Reserve Bank of Australia, as operating from time to time. 30

10. Power of trustee as to calls on shares

Subject to the instrument creating the trust—

- (a) a trustee may apply capital money subject to a trust in payment of calls 35

on shares subject to the same trust;
and

- 5 (b) if the trustee is a trustee company, it may exercise the powers conferred by this section despite the shares on which the calls are made being shares in the trustee company.

11. ***Power to purchase dwelling house as residence for beneficiary***

10 (1) Subject to the instrument creating the trust, a trustee may—

(a) invest any trust funds in the purchase of a dwelling house for a beneficiary to use as a residence; or

15 (b) enter into any other agreement or arrangement to secure for a beneficiary a right to use a dwelling house as a residence.

20 (2) Despite the terms of the instrument creating the trust, a trustee may, if to do so would not unfairly prejudice the interests of the other beneficiaries, retain as part of the trust property a dwelling house for a beneficiary to use as a residence.

25 (3) A dwelling house purchased, retained or otherwise secured for use by the beneficiary as a residence may be made available to the beneficiary for that purpose on such terms and conditions consistent with the trust and the extent of the interest of the beneficiary as the trustee thinks fit.

30 (4) The trustee may retain a dwelling house or any interest or rights in respect of a dwelling house acquired under this section after the use of the dwelling house of the beneficiary has ceased.

(5) In this section—

“dwelling house” includes—

- (a) any building or part of a building designed, or converted or capable of being converted, for use as a residence; and 5
- (b) any amenities or facilities for use in connection with the use of a dwelling house.

12. *Power of trustee to retain investments* 10

A trustee is not liable for breach of trust by reason only of retaining an investment that has ceased to be—

- (a) an investment authorised by the instrument creating the trust; or 15
- (b) an investment properly made by the trustee exercising a power of investment; or
- (c) an investment made under this Act or a corresponding previous enactment; or 20
- (d) an investment authorised by any other Act or the general law.

12A. *Loans and investments by trustees not breaches of trust in certain circumstances* 25

(1) If a trustee lends money on the security of property, the trustee is not liable for breach of trust by reason only of the proportion borne by the amount of the loan to the value of the property at the time when the loan was made if it appears to the Court— 30

- (a) that, in making the loan, the trustee was acting on a report as to the value of the property made by a person 35

whom the trustee reasonably believed to be competent to give such a report and whom the trustee instructed and employed independently of any owner of the property; and

(b) that the amount of the loan did not exceed two-thirds of the value of the property as stated in the report; and

(c) that the loan was made in reliance on the report.

(2) This section applies to transfers of existing securities as well as to new securities and to investments made before or after the commencement of section 4 of the **Trustee and Trustee Companies (Amendment) Act 1995**.

12B. *Limitation of liability of trustee for loss on improper investments*

(1) If a trustee improperly advances trust money on a security that would at the time of the investment have been a proper investment if the sum advanced had been smaller than the actual sum advanced, the security is to be taken to be a proper investment in respect of the smaller sum, and the trustee is only liable to make good the difference between the sum advanced and the smaller sum, with interest.

(2) This section applies to investments made before or after the commencement of section 4 of the **Trustee and Trustee Companies (Amendment) Act 1995**.

12C. *Factors Court may take into account in action for breach of trust*

In proceedings against a trustee for breach of trust in respect of a duty under this Part

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relating to the trustee's power of investment, the Court may, when considering the question of the trustee's liability, take into account—

- (a) the nature and purpose of the trust; and 5
- (b) whether the trustee had regard to the matters set out in section 8 so far as is appropriate to the circumstances of the trust; and 10
- (c) whether the trust investments have been made pursuant to an investment strategy formulated in accordance with the duty of a trustee under this Part; and 15
- (d) the extent the trustee acted on the independent and impartial advice of a person competent (or apparently competent) to give the advice.

12D. *Power of Court to set off gains and losses arising from investment* 20

- (1) The Court may, when considering an action for breach of trust arising out of or in respect of an investment by a trustee where a loss has been, or is expected to be, sustained by the trust, set off all or part of the loss resulting from that investment against all or part of the gain resulting from any other investment whether in breach of trust or not. 25 30
- (2) The power of set off conferred by sub-section (1) is in addition to any other power or entitlement to set off all or part of any loss against any property.

12E. *Housing loans by trustees* 35

- (1) If a trustee lends money on a real security in accordance with the provisions of this

5 Act, or had made such a loan in
accordance with the provisions of this Act
as in force immediately before the
commencement of section 4 of the
Trustee and Trustee Companies
(Amendment) Act 1995, the trustee is not
chargeable with breach of trust by reason
only of the proportion borne by the
amount of the loan to the value of the
10 property on which the loan is secured if—

(a) the trustee was not expressly
forbidden by the instrument (if any)
creating the trust to lend money on a
real security; and

15 (b) the loan was a housing loan; and

(c) the loan is secured by a contract of
insurance in the prescribed form
entered into with an authorised
insurer.

20 (2) The Minister may by notice published in
the Government Gazette—

25 (a) declare a corporation that is lawfully
carrying on the business of insuring
mortgages in Victoria to be an
authorised insurer for the purposes of
this section;

(b) revoke a declaration made under
paragraph (a).

30 (3) The Minister may by notice published in
the Government Gazette—

35 (a) specify terms and conditions to
which an authorised insurer is
authorised to enter into contracts of
insurance for the purpose of this
section; or

(b) vary or revoke any such terms and
conditions.

- (4) An authorised insurer who fails to comply with any terms or conditions subject to which it is authorised to enter into contracts of insurance for the purpose of this section shall be guilty of an offence against this Act. 5

Penalty: 50 penalty units.

- (5) For the purposes of this section—
- (a) a declaration in force under section 8A (2) of this Act as in force immediately before the commencement of section 4 of the **Trustee and Trustee Companies (Amendment) Act 1995** is deemed to be a declaration under sub-section (2) of this section; and 10 15
- (b) terms and conditions applying under section 8A (3) of this Act as so in force are deemed to be terms and conditions applying under sub-section (3) of this section— 20

and may be revoked or varied under this section.

- (6) In this section—
- “authorised insurer”** means a corporation that has been declared to be an authorised insurer under sub-section (2); 25

“dwelling-house” includes—

- (a) any building that consists, or any buildings that consist, in whole or in substantial part, of residential accommodation, whether constituting a single unit of accommodation or two or more such units; and 30 35

(b) any residential accommodation of a kind commonly known as a flat or home unit;

(c) appurtenances, outbuildings, fences and permanent provision for lighting, water supply, drainage and sewerage provided in connection with the dwelling-house;

“housing loan” means a loan—

(a) made for any one or more of the following purposes, that is to say, of enabling the borrower—

(i) To acquire a prescribed interest in land and construct, or complete the construction of, a dwelling-house on the land;

(ii) To construct a dwelling-house, or complete the construction of a dwelling-house, on land in which the borrower has a prescribed interest;

(iii) To acquire a prescribed interest in land on which there is a dwelling-house;

(iv) To alter, improve or extend a dwelling-house constructed on land in which the borrower has a prescribed interest;

(v) To meet expenses or in respect of the provision or improvement of roads, kerbing, guttering or footpaths in connection with land in which the

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borrower has a prescribed interest; or

- (vi) To discharge a mortgage, charge or other encumbrance over land in which the borrower has a prescribed interest, being land on which a dwelling-house is being constructed; and

(b) the repayment of which is secured by security over the interest of the borrower in the land—

and, where the lender requires the borrower to meet the cost of the premium in respect of a contract of insurance entered into in respect of the loan, includes moneys advanced by the lender to enable the borrower to meet that cost, being moneys the repayment of which is secured by a security over the interest of the borrower in the land;

“prescribed interest in land” means—

- (a) an estate in fee simple;
- (b) an interest as lessee under a lease in perpetuity from the Crown in right of the Commonwealth or the State of Victoria; or
- (c) an interest as lessee under a lease for a term of years from the Crown in right of the Commonwealth or the State of Victoria or from the owner of an estate in fee simple if the authorised insurer is satisfied that the term, covenants and

conditions of the lease give reasonable security of tenure to the lessee for a substantial period.

5 **12E *Transitional provision***

Any provision in an Act or any other instrument (whether or not creating a trust) that empowers or requires a person to invest money in investments authorised by the **Trustee Act 1958** is to be read as if it empowered or required that person to invest that money according to the provisions of Part I of that Act relating to the investment of trust funds.’.

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15 **5. *Consequential amendments to the Trustee Act 1958***

In section 3A (6) (b) (ii) of the **Trustee Act 1958**, after “section 4 (1)” insert “as in force immediately before the commencement of section 4 of the **Trustee and Trustee Companies (Amendment) Act 1995**”.

20 **6. *Consequential amendments to other Acts***

An Act specified in the heading to an item in Schedule 1 is amended, on commencement of that item (or a provision of that item), as set out in that item (or provision).

25 **PART 3—AMENDMENTS TO THE TRUSTEE COMPANIES ACT 1984**

7. *New section 21A inserted*

After section 21 of the **Trustee Companies Act 1984**, insert—

30 **“21A. *Fee for administering perpetual trust***

(1) A trustee company is entitled to receive out of an estate in relation to which there

is a perpetual trust (whether that estate was committed to the company before or after the commencement of section 7 of the **Trustee and Trustee Companies (Amendment) Act 1995**) an administration fee in respect of each calendar year, or part of a calendar year, of the company's administration of the perpetual trust.

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(2) The administration fee in respect of a calendar year, or part of a calendar year, that a trustee company is entitled to receive under sub-section (1)—

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(a) must not exceed 0.96% per annum of the value of the perpetual trust, calculated in the prescribed manner, for that year; and

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(b) may be charged only against income received by the company on account of the perpetual trust for that year, or part of that year.

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(3) If a trustee company charges an administration fee under this section against a perpetual trust, it may not charge a commission under section 21 (1) or (7) in respect of the part of the estate constituted by the perpetual trust.”.

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8. Amendment of section 36

In section 36 (2) of the **Trustee Companies Act 1984**—

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- (a) paragraphs (b) and (c) are **repealed**;
- (b) in paragraph (d), **omit** “, other than a common fund to which paragraph (b) or (c) applies”.

9. Amendment of section 38

In section 38 of the **Trustee Companies Act 1984**—

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- (a) sub-section (2) is **repealed**;
- (b) in sub-section (4) **omit** “in which trust moneys may be invested by a trustee under the **Trustee Act 1958**”.

5 **10. Amendment of heading**

In the heading to Part VII of the **Trustee Companies Act 1984**, after “**FUNDS**” insert “**AND INVESTMENTS**”.

11. Common funds

- 10 (1) After section 40 (2) of the **Trustee Companies Act 1984**, insert—

“(2A) A trustee company may vary a class or classes of investments under sub-section (2) if—

- 15 (a) prior to the commencement of section 4 of the **Trustee and Trustee Companies (Amendment) Act 1995**, the company—

 (i) established a common fund under this section; and

20 (ii) determined to invest or invested the common fund in a class or classes of investments under section 4 of the **Trustee Act 1958** as in force immediately before the commencement of section 4 of the **Trustee and Trustee Companies (Amendment) Act 1995**; and

25 (b) the company makes the variation within 12 months of the commencement of section 4 of the **Trustee and Trustee Companies (Amendment) Act 1995**.”.

- 30 (2) In section 40 of the **Trustee Companies Act 1984**—

- (a) sub-section (4) is **repealed**;
- (b) in sub-section (13), after “21” insert “, 21A”.

12. *New section 41A inserted*

After section 41 of the **Trustee Companies Act 1984**, insert—

“41A. *Investment of money*

Subject to the instrument creating the trust, a trustee company must not invest money of an estate, or any other money, committed to its administration or management except in a manner in which trust funds may be invested by a trustee under the **Trustee Act 1958**.”.

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13. *Schedule 2 substituted*

For Schedule 2 of the **Trustee Companies Act 1984**, substitute—

“SCHEDULE 2

TRUSTEE COMPANIES

- ANZ Executors and Trustee Company Limited ACN 006 132 332
- Austrust Ltd ACN 007 869 794
- The Equity Trustees Executors and Agency Company Limited ACN 004 031 298
- Executor Trustee Australia Ltd ACN 007 869 276
- IOOF Australia Trustee Ltd ACN 007 870 644
- National Australia Trustees Limited ACN 007 350 405
- National Mutual Trustees Limited ACN 004 029 841
- Perpetual Trustees Australia Limited ACN 000 431 827
- Permanent Trustee Company Limited ACN 000 000 993
- Perpetual Trustees Victoria Ltd ACN 004 027 258
- Sandhurst Trustees Limited ACN 004 030 737
- State Trustees Limited ACN 064 593 148
- Trust Company of Australia Limited ACN 004 027 749”.

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CONSEQUENTIAL AMENDMENTS

1. *Aboriginal Lands Act 1970*

In section 11 (1), for paragraph (e) **substitute**—

“(e) invest money in any manner in which money may be invested under the **Trustee Act 1958**.”

2. *Benefit Associations Act 1958*

In section 12, for sub-section (2) **substitute**—

“(2) The trustees may invest any moneys standing to the credit of any such trust fund in any manner in which money may be invested under the **Trustee Act 1958**.”

3. *Board of Studies Act 1993*

In section 18 (4), **omit** “section 4 of”.

4. *Building Control (Plumbers Gasfitters and Drainers) Act 1981*

In section 91A (6)—

(a) paragraph (a) is **repealed**;

(b) in paragraph (b), **omit** “other”.

5. *Council of Adult Education Act 1981*

In section 17, for sub-section (4) **substitute**—

“(4) All moneys standing to the credit of the Council in the Fund may be invested in such manner as the Treasurer approves.”

6. *Education Act 1958*

In section 31 (a), for “securities in which a trustee may invest pursuant to section four of” **substitute** “any manner in which money may be invested under”.

7. *Estate Agents Act 1980*

In section 58, in the definition of “financial institution” after “**Trustee Act 1958**” **insert** “, as in force immediately before the commencement of section 4 of the **Trustee and Trustee Companies (Amendment) Act 1995**, or section 60 (6) (b) of this Act”.

SCHEDULE 1—*continued*

8. *Financial Management Act 1994*

- (a) In section 18 (1), for “by virtue of section 4 (1) of” **substitute** “under”.
- (b) In section 21, for “by reason of section 4 (1) of” **substitute** “under”.

9. *Friendly Societies Act 1986*

- (a) In section 66 (1), for paragraph (d) **substitute**—
“(d) Investing in investments in which a financial institution under the **Financial Institutions (Victoria) Act 1992** may invest;”.
- (b) In section 69 (3) (a), for “8A (2)” **substitute** “12E (2)”.

10. *Geelong Performing Arts Centre Trust Act 1980*

- In section 15, for sub-section (3) **substitute**—
“(4) All moneys standing to the credit of the Trust in the Account may be invested in such manner as the Treasurer approves.”.

11. *Guardianship and Administration Board Act 1986*

- (a) In section 51—
 - (i) in sub-section (1) (c), **omit** “Part I of”;
 - (ii) sub-section (2) is **repealed**.
- (b) In section 53 (4), **omit** “section 4 (1) of”.

12. *Intellectually Disabled Persons’ Services Act 1986*

- (a) In section 50E, for sub-section (3) **substitute**—
“(3) Money invested under this section may be invested in any manner in which money may be invested under the **Trustee Act 1958**.”.
- (b) In section 50o (1), for “permitted by section 4 (1) of the **Trustee Act 1958** in respect of trust funds” **substitute** “in which money may be invested under the **Trustee Act 1958**”.

13. *La Trobe University Act 1964*

- In section 37 (4A) (a), for “specified in section 4 of” **substitute** “permitted under”.

SCHEDULE 1—*continued*

14. *Libraries Act 1988*

In section 31 (3), paragraph (a) is **repealed**.

15. *Livestock Disease Control Act 1994*

- (a) In section 59 (3), for “authorised trustee investments” **substitute** “any manner in which money may be invested under the **Trustee Act 1958**”.
- (b) In section 66 (3), for “authorised trustee investments” **substitute** “any manner in which money may be invested under the **Trustee Act 1958**”.
- (c) In section 71 (3), for “authorised trustee investments” **substitute** “any manner in which money may be invested under the **Trustee Act 1958**”.
- (d) In section 80 (3), for “authorised trustee investments” **substitute** “any manner in which money may be invested under the **Trustee Act 1958**”.

16. *Medical Practice Act 1994*

In section 90 (a), for “authorised by section 4 (1) of” **substitute** “in which money may be invested under”.

17. *Melbourne University Act 1958*

In section 32A (2), for “the investments authorized by” **substitute** “any manner in which moneys may be invested under”.

18. *Mental Health Act 1986*

In section 89, **omit** “section 4 (1) of”.

19. *Mildura College Lands Act 1916*

In section 3, **omit** sub-section (5).

20. *Monash University Act 1958*

In section 35A—

- (a) for sub-section (4A), **substitute**—
 - “(4A) The Council may invest the capital of an investment common fund which includes the whole or any part of a trust fund in any manner in which a trust fund may be invested under the **Trustee Act 1958**.”.
- (b) sub-section (4B) is **repealed**.

SCHEDULE 1—*continued*

21. *Museums Act 1983*

In section 28 (3)—

- (a) paragraph (a) is **repealed**;
- (b) in paragraph (b), **omit** “other”;

22. *Nurses Act 1993*

In section 83, for “authorised by section 4 (1) of” **substitute** “in which money may be invested under”.

23. *Royal Melbourne Institute of Technology Act 1992*

In section 36 (3), for “authorised trustee investments” **substitute** “any manner in which money may be invested under the **Trustee Act 1958** which is”.

24. *Stamps Act 1958*

In section 137^{NA}, in the definition of “pool of mortgages”, after “**Trustee Act 1958**” **insert** “as in force immediately before the commencement of section 4 of the **Trustee and Trustee Companies (Amendment) Act 1995**”.

25. *State Film Centre of Victoria Council Act 1983*

In section 13 (3)—

- (a) paragraph (a) is **repealed**;
- (b) in paragraph (b), **omit** “other”;

26. *Swinburne University of Technology Act 1992*

In section 41 (3), for “authorised trustee investments” **substitute** “any manner in which money may be invested under the **Trustee Act 1958** which is”.

27. *University of Ballarat Act 1993*

In section 34 (3), for “investments authorised under the **Trustee Act 1958** which are” **substitute** “any manner in which money may be invested under the **Trustee Act 1958** which is”.

SCHEDULE 1—*continued*

28. Victorian Arts Centre Act 1979

In section 16 (3)—

- (a) for “any” **insert** “such”;
- (b) **omit** “authorized by law for the investment of trust funds or in such other securities”.

29. Victorian College of the Arts 1981

In section 29 (2), **omit** “(whether an authorized trustee investment or not)”.

30. Victoria University of Technology Act 1990

- (a) In section 37 (3), for “authorised trustee investments” **substitute** “any manner in which money may be invested under the **Trustee Act 1958**”.
- (b) In section 39 (5), for “authorised trustee investments” **substitute** “any manner in which money may be invested under the **Trustee Act 1958**”.
- (c) In section 41 (2), for “authorised trustee investments” **substitute** “any manner in which money may be invested under the **Trustee Act 1958**”.

31. Water Act 1989

In section 253 (1) (a), for “authorised by section 4 (1) of” **substitute** “in which money may be invested under”.

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