

State Trust Corporation of Victoria Bill

EXPLANATORY MEMORANDUM

PART 1—PRELIMINARY

Clause 1 sets out the purpose of the Act.

Clause 2 provides for the Act to come into operation on a day or days to be proclaimed.

Clause 3 contains the definitions relevant to the Act.

PART 2—THE STATE TRUST

Clause 4 creates the State Trust Corporation of Victoria, which may be known as the State Trust, to replace the Public Trustee.

Clause 5 outlines the objectives of the State Trust.

Clause 6 provides that the State Trust is to be subject to the direction and control of the Minister in its operations and must make public the directions it receives.

Clause 7 determines the constitution of the State Trust. Seven directors are to be appointed by the Governor in Council. The Managing Director is to be a full-time appointment, the remaining six directors are to hold part-time appointments. Of the six part-time directors, two are to have expertise in finance, commerce or investment, two are to have expertise in the provision of welfare services, one is to have expertise in trust administration and the sixth is to be elected from the staff of the State Trust. Schedule 1 contains details relating to the directors' positions.

Clause 8 provides for the State Trust to give policy and general directions to the Managing Director who is responsible for the day to day management of the operations of the State Trust.

Clause 9 states the staff of the State Trust are to be subject to the Public Service Act. The State Trust is to be an administrative unit and the Managing Director is to be a Chief Administrator.

Clause 10 permits the State Trust to delegate to a director or the staff any power or function of the State Trust.

Clause 11 refers to Schedule 2 which contains the procedures applicable to meetings of the State Trust.

Clause 12 makes it an offence for a director or staff member to make improper use of information.

Clause 13 is a secrecy provision, ensuring confidentiality for State Trust clients.

Clause 14 offers protection against the personal liability of directors and staff provided they act in good faith, and provides that the Consolidated Fund is liable to make good any liability of the State Trust.

PART 3—FUNCTIONS, POWERS AND DUTIES OF THE STATE TRUST

Clause 15 authorises the appointment of the State Trust as a trustee or representative. The State Trust can decline to act as nominated but cannot do so if appointed by law or because of the small value of the property involved.

Clause 37 allows the State Trust to sell the unclaimed property of an ex-publicly represented person after 2 years.

Clause 38 gives the State Trust the power to open the will of a publicly represented person.

Clause 39 enables the State Trust to deal with its interstate and overseas equivalents in handling the property of a publicly represented person.

PART 5—FINANCIAL

Clause 40 permits the State Trust to operate trust and general bank accounts and to receive the funds held by the Public Trustee.

Clause 41 allows the State Trust to individually invest estate money or invest it in a Common Fund.

Clause 42 provides for the establishment of Common Funds with Common Fund No. 1 holding the funds of specified clients, and Common Fund No. 2 holding the funds of other specified clients.

Clause 43 provides that past advances, under Section 56A of the Public Trustee Act, are deemed to be borrowings and will attract interest.

Clause 44 provides a government guarantee to Common Fund No. 1.

Clause 45 provides the State Trust with the authority to deposit and withdraw funds from a Common Fund.

Clause 46 provides for pro-rata capital and income distribution in a Common Fund.

Clause 47 enables the State Trust to charge fees and commissions at a rate determined by the Minister with certain restrictions.

Clause 48 permits the Treasurer to direct a dividend be paid out of the State Trust's general account after consultation with the directors.

Clause 49 requires the State Trust to keep proper accounts and records.

Clause 50 imposes audit requirements on the State Trust.

PART 6—GENERAL

Clause 51 allows the State Trust or an interested person to seek the advice of the Supreme Court.

Clause 52 provides a mechanism for a Court to transfer funds held for children to the State Trust.

Clause 53 states the preference for the use of private solicitors where appropriate.

Clause 54 contains protection for persons dealing with the State Trust.

Clause 55 states the State Trust's certificate is primary evidence of its contents.

Clause 56 is the regulation making clause.

Clause 57 is the repeal, consequential amendment and savings clause (see Schedules 3, 4 and 5).