

TRUSTEE AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill makes amendments to the Trustee Act 1956 arising from the recommendations of the Joint Working Party as to trustee investment. The Working Party's Report, entitled "Trustee Investment—The Prudent Man Approach?" was published by the Department of Justice in June 1986.

The principal feature of the Bill is that it reforms the law relating to the investment powers of trustees. It repeals the list of authorised trustee investments currently set out in section 4 of the Trustee Act 1956, and substitutes a "prudent man" approach to the exercise of statutory trustee investment powers.

Clause 1 relates to the Short Title and commencement. The Bill is to come into force on 1 October 1988.

Clause 2 relates to the interpretation of certain terms used in the principal Act. It repeals certain terms that are no longer used, and makes minor amendments to the definitions of the terms "securities" and "stock". It also provides that where an instrument creating a trust directs that trust funds shall be invested in any specified property or classes of property, this does not prevent a trustee exercising the power of investment conferred by the Bill and investing in types of property other than those specified.

Clause 3 repeals Part II of the principal Act, which confers statutory powers of investment on trustees, and substitutes a new Part II. Section 4 of the repealed Part sets out a list of authorised investments in which trustees are empowered to invest trust funds.

New section 13A provides that trustees may invest trust funds in any property.

New sections 13B and 13C specify the duties required of trustees exercising any power of investment. These duties apply whether the power is conferred by an instrument such as a trust deed or will or whether it is a statutory power of investment.

New section 13B provides that a trustee exercising any power of investment must exercise the care, diligence, and skill that a prudent person of business would exercise in managing the affairs of others. This duty is similar to the existing duty required of investing trustees by the general law.

New section 13C establishes a higher duty in the case of investing trustees who are acting professionally. It provides that where a trustee's profession, employment, or business is or includes acting as a trustee or investing money on behalf of others, the trustee, in exercising any power of investment, must exercise the care, diligence, and skill that a prudent person acting in that profession, employment, or business would exercise in managing the affairs of others.

New section 13D provides that the duties specified in the *new sections 13B and 13C* are subject to any alternative duty imposed on a trustee by the instrument creating the trust or any Act. Thus, a settlor may agree to a lower duty or a higher duty in respect of investment by his or her trustees. The ability of a settlor to set a lower standard is subject to *subsection (2)* of the new section which preserves any principles of the general law relating to exclusion and limitation of liability and indemnities. By reason of these principles, for example, it is possible that a trustee may not be able to rely on a clause exempting or limiting his or her liability, or indemnifying him or her in respect of any liability, if the liability arises from any bad faith on the part of the trustee.

New section 13E specifies the matters to which a trustee may have regard in exercising a power of investment. It is not mandatory for a trustee to have regard to any of those matters.

New section 13F provides that all rules and principles of law that impose any duty on an investing trustee are to remain in force and are to apply to the exercise of any power of investment except in so far as they are altered by or are inconsistent with any Act or the instrument, if any, creating the trust.

New section 13G imposes a duty on an investing trustee to comply with any binding requirements of the instrument creating the trust or of statute as to the obtaining of any consent or compliance with any direction with respect to the investment of trust funds. The section is based on section 7 of the repealed Part II.

New section 13H provides that a trustee will not be liable for breach of trust in certain circumstances by reason only of retaining investments that have ceased to be "prudent" investments or investments authorised by the trust instrument or by statute. The section is based on section 8 of the repealed Part II.

New section 13I relates to investment in bearer securities. It is based on section 9 of the repealed Part II.

New section 13J relates to the purchase of redeemable securities at a premium or discount. It is based on section 5 of the repealed Part II.

New section 13K relates to a trustee's powers in relation to company securities. It is based on section 12 of the repealed Part II.

New section 13L empowers a trustee to apply capital money subject to a trust to pay calls on any shares subject to the same trust. It is the same as section 13 of the repealed Part II.

New section 13M provides that, in considering whether a trustee is liable for breach of trust in respect of any duty in exercising any power of investment, the Court may take into account whether the trust investments have been diversified, so far as may be appropriate to the circumstances of the trust, and whether the investment was made pursuant to an investment strategy that was formulated in accordance with the relevant duty.

New section 13N provides special rules for determining whether a trustee is in breach of trust in respect of a loan of money on the security of any property. The section is based on section 10 of the repealed Part II.

New section 13O provides a special rule for assessing a trustee's liability for loss incurred as a result of investing on the security of any property. The section is based on section 11 of the repealed Part II. Section 11 relates only to advances of trust money on a mortgage security, whereas the new clause relates to investments on any security.

New section 13P relates to the release of part of any security, and is based on section 11A of the repealed Part II. Section 11A also only relates to investment of trust funds on mortgage of any property, whereas the new clause relates to all investments that are secured on any property.

New section 13Q extends the existing power to set-off gains and losses. Currently a trustee is only entitled to set-off gains and losses arising from the same transaction. The new section enables a court, in considering an action for breach of trust arising from an investment, to set-off, as it thinks just, gains and losses arising from any other investment. Thus, a court is able to make allowances for an investment strategy which is largely sound in assessing damages for breach of trust.

Clauses 4 to 8 make amendments to the principal Act that are consequential upon the substitution of a new Part II.

Clause 9 amends section 31 of the principal Act, which relates to the power of a trustee to delegate trusts in certain circumstances, such as the trustee going overseas. Subsection (7) provides that a statutory declaration by the donee of the power that the power has come into operation, or that in any transaction the donee is acting in the execution of the trust or the administration of the estate, shall in favour of the person dealing with the donee of the power be conclusive evidence of that fact. *Clause 9* simplifies this procedure by providing that instead of making a statutory declaration, the donee of the power may give a certificate in the prescribed form, which will have a similar effect. This follows the procedure set out in the Property Law Act 1952 where a certificate in the prescribed form is to be treated as conclusive evidence of the non-revocation of a power of attorney.

Clause 10 relates to the powers of a trustee in relation to carrying on a business. It inserts a new section 32A in the principal Act enabling a trustee to acquire shares in co-operative enterprises in certain circumstances where the trustee is empowered to carry on a business forming part of the assets of the trust. The new section is based on section 6 of the repealed Part II.

Clause 11 makes an amendment to the principal Act that is consequential on the repeal of the term "authorised investments".

Clause 12 substitutes a new definition of the term "fixed-income asset" for the purpose of section 83 of the principal Act (which sets out rules for apportioning capital and income on the purchase, sale, and transfer of assets in certain circumstances). The new definition is substituted partly as a consequence of the repeal of section 4 of the principal Act. The previous definition also provided that in order for an asset to be a "fixed income asset" for the purposes of the section, interest or a dividend had to have been paid regularly in respect of the asset for at least 5 years before the material date (as that term is defined). The new definition provides that an asset within the definition may be a "fixed-

income asset” if the trustee has no reason to believe that the interest or dividend will not be paid reasonably promptly after it falls due.

Clause 13 repeals the First Schedule to the principal Act (which lists other Acts authorising trustee investments) as a consequence of the introduction of the “prudent man” approach to trustee investment.

Clause 14 makes amendments to specified Acts and regulations. Most amendments are consequential on the repeal of the list of authorised trustee investments in section 4 of the principal Act. Certain amendments also widen the investment powers of various statutory bodies which currently have restrictive powers, in line with the reform of trustee investment powers effected by the Bill.

Clause 15 is a catch-all provision designed to apply to all enactments not specifically amended by *clause 14* and to all instruments creating a trust. It provides, in essence, that any provision in any Act or instrument creating a trust that empowers or requires any person to invest any money in accordance with any provisions of the Trustee Act 1956 shall be read and construed as if it empowered or required that person to invest in accordance with the new rules as to trustee investment as enacted by the Bill.

Clause 16 effects various consequential repeals and revocations.

Right Hon. Geoffrey Palmer

TRUSTEE AMENDMENT

ANALYSIS

Title	
1. Short Title and commencement	
2. Interpretation and application	
3. New Part II substituted	
PART II	
INVESTMENT	
13A. Power to invest	13M. Court may take into account investment strategy in action for breach of trust
13B. Duty of trustee to invest prudently	13N. Certain loans and investments by trustees not chargeable as breaches of trust
13C. Duty of certain persons to exercise special skill	13O. Liability for loss by reason of improper secured investment
13D. Provisions in trust instrument relating to duty of investing trustees	13P. Release of part of security
13E. Matters to which trustee may have regard in exercising power of investment	13Q. Power of Court to set-off gains and losses arising from investment
13F. Trustee's duties at law preserved	4. Power to postpone sale of investments
13G. Duty to comply with requirements of trust instrument or statute as to consents or directions	5. Renewal, extension, or variation of mortgages
13H. Power to retain investments	6. Power to sell property on terms
13I. Investment in bearer securities	7. Deposit of documents for safe custody
13J. Purchase of redeemable securities at a premium or discount	8. Reversionary interest
13K. Powers in relation to company securities	9. Power to delegate trusts
13L. Power to pay calls	10. Power of trustee carrying on trust business to acquire shares in co-operative enterprises
	11. Investment of income during a minority
	12. Special rules as to apportionment on purchase, sale, or transfer in certain cases
	13. First Schedule repealed
	14. Amendments
	15. Certain provisions deemed to empower investment in accordance with Trustee Act 1956 as amended
	16. Repeals and revocations Schedules

A BILL INTITLED

An Act to amend the Trustee Act 1956

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title and commencement—(1) This Act may be cited as the Trustee Amendment Act 1987, and shall be read together with and deemed part of the Trustee Act 1956* (hereinafter referred to as the principal Act).

(2) This Act shall come into force on the 1st day of October 1988. 5

2. Interpretation and application—(1) Section 2 (1) of the principal Act is hereby amended by repealing the definitions of the terms “authorised investments” and “Government securities” and “New Zealand Government securities”.

(2) Section 2 (1) of the principal Act is hereby further amended by repealing the definition of the term “securities”, and substituting the following definition: 10

“‘Securities’ includes stock, funds, shares, and convertible notes; and ‘securities payable to bearer’ includes securities transferable by delivery or by delivery and endorsement:” 15

(3) Section 2 (1) of the principal Act is hereby further amended by repealing the definition of the term “stock”, and substituting the following definition:

“‘Stock’— 20

“(a) Includes—

“(i) Securities issued by or under the authority of the Government by virtue of any Act, and secured upon the public revenues of New Zealand; and 25

“(ii) Shares; and

“(b) So far as relates to vesting orders made by the Court under this Act, includes any fund, money, annuity, or security transferable in books kept by any corporation or society, or by instrument of transfer either alone or accompanied by other formalities, and any share or interest therein.” 30

(4) Section 2 of the principal Act is hereby further amended by inserting, after subsection (5), the following subsection:

“(5A) Without limiting the generality of subsections (4) and (5) of this section, any power or direction in any instrument creating a trust to invest trust funds in any specified property or classes of property shall not, for the purposes of those subsections, be deemed to be a contrary intention preventing the exercise by a trustee of the power of investment conferred by Part II of this Act.” 40

3. New Part II relating to investment substituted—The principal Act is hereby amended by repealing Part II, and substituting the following Part:

“PART II

“INVESTMENT

5

“13A. **Power to invest**—(1) A trustee may invest any trust funds, whether at the time in a state of investment or not, in any property.

“(2) Any such investment may be varied from time to time.

10

“13B. **Duty of trustee to invest prudently**—Subject to sections 13c and 13d of this Act, a trustee exercising any power of investment shall exercise the care, diligence, and skill that a prudent person of business would exercise in managing the affairs of others.

15

“13C. **Duty of certain persons to exercise special skill**—Subject to section 13d of this Act, where a trustee’s profession, employment, or business is or includes acting as a trustee or investing money on behalf of others, the trustee, in exercising any power of investment, shall exercise the care, diligence, and skill that a prudent person engaged in that profession, employment, or business would exercise in managing the affairs of others.

20

“13D. **Provisions in trust instrument relating to duty of investing trustees**—(1) The duty imposed on a trustee by section 13b or section 13c of this Act shall apply to a trustee if and so far only as a contrary intention is not expressed in the instrument, if any, creating the trust or any Act, and shall have effect subject to the terms of that instrument or Act.

25

“(2) Any rules and principles of law relating to any provision in an instrument that purports to exempt or limit the liability of a trustee in respect of any breach of trust, or to indemnify a trustee in respect of any breach of trust, shall remain in force and apply in respect of any provision in a trust instrument that expresses a contrary intention for the purposes of subsection (1)

30

of this section.

35

“13E. **Matters to which trustee may have regard in exercising power of investment**—Without limiting the matters that a trustee may take into account, a trustee exercising any power of investment may have regard to the following matters so far as they are appropriate to the circumstances of the trust:

40

“(a) The desirability of diversifying trust investments:

- “(b) The nature of existing trust investments and other trust property:
- “(c) The need to maintain the real value of the capital or income of the trust:
- “(d) The risk of capital loss or depreciation: 5
- “(e) The potential for capital appreciation:
- “(f) The likely income return:
- “(g) The length of the term of the proposed investment:
- “(h) The probable duration of the trust:
- “(i) The marketability of the proposed investment during, 10
and on the determination of, the term of the proposed investment:
- “(j) The aggregate value of the trust estate:
- “(k) The effect of the proposed investment in relation to the tax liability of the trust: 15
- “(l) The likelihood of inflation affecting the value of the proposed investment or other trust property.

“13F. **Trustee’s duties at law preserved**—All rules and principles of law which impose any duty on a trustee exercising a power of investment, including, without limiting the generality of the foregoing, all rules and principles which impose— 20

- “(a) Any duty to exercise the powers of a trustee in the best interests of all present and future beneficiaries of the trust: 25
- “(b) Any duty to act impartially towards beneficiaries and between different classes of beneficiaries:
- “(c) Any duty to take advice,—
shall remain in force and apply in respect of any exercise of any power of investment, except so far as they are altered by 30
or are inconsistent with this Act or any other enactment or the instrument, if any, creating the trust.

“13G. **Duty to comply with requirements of trust instrument or statute as to consents or directions**—A trustee exercising any power of investment shall comply with 35
any requirements of the instrument, if any, creating the trust or of statute that are binding on the trustee and that relate to the obtaining of any consent or compliance with any direction with respect to the investment of trust funds.

“13H. **Power to retain investments**—A trustee shall not 40
be liable for breach of trust by reason only of continuing to hold an investment which has ceased to be—

- “(a) An investment authorised by the trust instrument; or

“(b) An investment that a trustee could properly make in exercising any power of investment; or

“(c) An investment authorised by section 4 of this Act before the repeal of that section by section 3 of the Trustee Amendment Act 1987; or

5

“(d) An investment authorised by any other Act.

“13i. **Investment in bearer securities**—(1) Unless expressly prohibited by the instrument creating the trust, a trustee shall not be liable for breach of trust by reason only of retaining or investing in securities that are payable to bearer.

15

“(2) Any direction in an instrument creating a trust that investments shall be retained or made in the name of a trustee shall not, for the purposes of subsection (1) of this section, be deemed to be an express prohibition.

15

“(3) In any case where a trustee (not being a trustee corporation) retains or invests in securities payable to bearer, that trustee shall, until those securities are sold, deposit them for safe custody and collection of income with a bank.

20

“(4) A trustee shall not be responsible for any loss incurred by reason of any such deposit, and any sum payable in respect of any such deposit and collection shall be paid out of the income of the trust property.

“13j. **Purchase of redeemable securities at a premium or discount**—(1) A trustee shall not be liable for breach of trust by reason only of investing in securities that are redeemable and paying a price that is greater or less than the redemption value.

25

“(2) A trustee may retain until redemption any redeemable security that may have been purchased in accordance with the powers conferred by this Act.

30

“(3) In any case where a redeemable security is purchased by a trustee at a price greater or less than its redemption value, and in terms of the trust the beneficial interest in the income from the security is not vested in the same persons as the beneficial interest in the capital of the security, then, subject to the provisions of section 83 of this Act,—

35

“(a) If the purchase price exceeds the redemption value, the trustee shall recoup to the capital out of which the purchase was made, by rateable instalments from the income derived from the security over the period between the date of purchase and the earliest date on which the security can be repaid or redeemed, the amount of the difference; and the

40

amount so recouped to capital from time to time shall be deemed to be received as capital repaid:

- “(b) If the redemption value exceeds the purchase price, the amount of the difference shall be distributable as if it were income accruing from day to day over the period between the date of the purchase and the latest date on which the security can be repaid or redeemed, and the trustee may by rateable instalments over the period appropriate or raise out of the capital of the security or out of the capital of other assets subject to the same trusts the amounts required from time to time to be distributed as income; and if the security is repaid or redeemed before the latest date on which the same can be repaid or redeemed any remaining balance of the difference shall on the repayment or redemption immediately become distributable as if it were income then due and payable.

“(4) Where the amount to be recouped to or deducted from capital in any year in accordance with paragraph (a) or paragraph (b) of subsection (3) of this section is less than \$50, it shall not be necessary for the trustee to comply with the provisions of that subsection.

“13k. Powers in relation to company securities—

(1) Where any securities of a company are subject to a trust, the trustee may concur in any scheme or arrangement—

- “(a) For the reconstruction of the company; or
 “(b) For the sale of all or any part of the property and undertaking of the company to another company; or
 “(c) For the acquisition of the securities of the company, or of control of the company, by another company; or
 “(d) For the amalgamation of the company with another company; or
 “(e) For the release, modification, or variation of any rights, privileges, or liabilities attached to the securities or any of them—

in like manner as if the trustee were entitled to the securities beneficially, with power to accept any securities of any denomination or description of the reconstructed company or purchasing company or new company instead of or in exchange for all or any of the first-mentioned securities.

“(2) If any conditional or preferential right to subscribe for any securities in any company is offered to a trustee in respect

of any holding in that company or any other company, the trustee may, as to all or any of the securities, either—

- “**(a)** Exercise the right and apply capital money subject to the trust in payment of the consideration; or
- 5 “**(b)** Renounce the right; or
- “**(c)** Assign, for the best consideration that can be reasonably obtained, the benefit of the right or the title to the right to any person, including any beneficiary under the trust.
- 10 “**(3)** A trustee accepting or subscribing for securities pursuant to this section is, for the purposes of any provision of this Part of this Act, exercising a power of investment.
- “**(4)** A trustee may retain any securities accepted or subscribed for pursuant to this section for any period for which
- 15 the trustee could properly have retained the original securities.
- “**(5)** The consideration for any assignment made under **subsection (2) (c)** of this section shall be held as capital money of the trust.
- “**13L. Power to pay calls**—A trustee may apply capital
- 20 money subject to a trust in payment of the calls on any shares subject to the same trust.
- “**13M. Court may take into account investment strategy in action for breach of trust**—In considering whether a trustee is liable, in respect of any investment made by that
- 25 trustee, for any breach of trust in respect of any duty—
- “**(a)** To exercise the care, diligence, and skill that a prudent person of business would exercise in managing the affairs of others; or
- “**(b)** To exercise the care, diligence, and skill that a prudent
- 30 person engaged in a profession, employment, or business that is or includes acting as a trustee or investing money on behalf of others would exercise in managing the affairs of others,—
- the Court may, if it thinks it appropriate, take into account—
- 35 “**(c)** Whether the trust investments have been diversified, so far as is appropriate to the circumstances of the trust; and
- “**(d)** Whether the investment was made pursuant to any investment strategy formulated in accordance with the duty referred to in **paragraph (a)** or **paragraph (b)** of
- 40 this section, as may be applicable.

“13N. Certain loans and investments by trustees not chargeable as breaches of trust—(1) A trustee lending money on the security of any property on which the trustee can properly lend shall not be chargeable with 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—

“(a) That in making the loan the trustee was acting upon a report as to the value of the property made by a person whom the trustee reasonably believed to be competent to value the property by reason of his or her profession or occupation and his or her personal expertise and experience, being a person instructed and employed independently of any owner of the property; and

“(b) That the amount of the loan does not exceed the proportion of the value of the property stated in the report as the maximum proportion that the valuer considers that it would be prudent to lend on that property; and

“(c) That the loan was made on the advice of the valuer as expressed in the report.

“(2) A trustee lending money on the security of any leasehold property shall not be chargeable with breach of trust only upon the ground that in making the loan the trustee dispensed either wholly or partly with the production or investigation of the lessor’s title.

“13O. Liability for loss by reason of improper secured investment—Where—

“(a) A trustee improperly advances trust money on the security of any property; and

“(b) The security would, at the time of the investment, be a proper investment in all respects for a smaller sum than the sum actually advanced—

the security shall be deemed to be an investment that could properly be made in respect of the smaller sum, and the trustee shall be liable to make good only the sum advanced in excess of the smaller sum, with interest.

“13P. Release of part of security—(1) Where any trust funds are invested and secured on any property, the trustee may release any part of the property from the security, whether part of the debt is repaid or not, if the unreleased part of the property would at the time be a proper security in all respects for the amount remaining unpaid.

“(2) Where trust funds are invested and secured on any land under the Land Transfer Act 1952, a subsequent purchaser of the released part of the property, or the District Land Registrar, shall not be concerned to inquire whether the requirements of **subsection (1)** of this section were fulfilled.

“13Q. **Power of Court to set-off gains and losses arising from investment**—(1) In considering any action for breach of trust arising in respect of or in relation to any investment by a trustee as a result of which any loss or losses have been, or are expected to be, sustained by the trust, the Court may set-off, as it thinks just, all or any part of the loss or losses resulting from that investment against all or any part of the gain or gains resulting from any other investment, whether in breach of trust or not.

“(2) The power of set-off conferred by **subsection (1)** of this section shall be without prejudice to any other power or entitlement to set-off all or any part of any loss or losses against any property.”

4. Power to postpone sale of investments—Section 14 of the principal Act is hereby amended by omitting from subsection (7) (as added by section 5 of the Trustee Amendment Act 1957) the word “authorised” in both places where it occurs.

5. Renewal, extension, or variation of mortgages—Section 15 of the principal Act is hereby amended by repealing the second proviso to paragraph (g), and substituting the following proviso:

“Provided also that nothing in this paragraph shall authorise any trustee to advance any money on the security of any mortgage if the trustee could not properly advance that money on that security:”.

6. Power to sell property on terms—Section 17 of the principal Act is hereby amended by repealing subsections (4) and (5), and substituting the following subsection:

“(4) A trustee selling property on terms authorised by this section or by any order of the Court—

“(a) Is not, for the purposes of any provision of **Part II** of this Act, or for the purposes of any consent or direction required by the instrument, if any, creating the trust, lending money, or investing trust funds; and

“(b) Shall not be liable for any loss that may be incurred by reason only of the security being insufficient at the date of the agreement or mortgage.”

7. Deposit of documents for safe custody—The principal Act is hereby amended by omitting from section 26 the expression “section 9”, and substituting the expression “section 131”. 5

8. Reversionary interest—Section 27 (1) of the principal Act is hereby amended by omitting from paragraph (b) the words “authorised investments”, and substituting the words “property in which the trustee may properly invest trust funds”. 10

9. Power to delegate trusts—(1) Section 31 of the principal Act is hereby amended by repealing subsection (7), and substituting the following subsections:

“(7) Where the donee of any power of attorney relating to any trust or estate is not a corporation aggregate, a certificate in form 1 in the Fourth Schedule to this Act, or to the like effect, shall, if given by the donee of the power of attorney, be taken to be conclusive evidence that the power of attorney has come into operation and that in any particular transaction the donee is acting in the execution of the trust or the administration of the estate. 15 20

“(7A) Where the donee of any power of attorney relating to any trust or estate is a corporation aggregate, a certificate in form 2 in the Fourth Schedule to this Act, or to the like effect, if given by a director, manager, secretary, or other officer duly authorised in that behalf by the corporation, shall be taken to be conclusive evidence that the power of attorney has come into operation and that in any particular transaction the donee is acting in the execution of the trust or the administration of the estate. 25 30

“(7B) Where any such certificate relates to the execution of any instrument it shall be sufficient if the certificate is endorsed on the instrument and signed by the donee of the power or by any of the persons specified in subsection (7A) of this section, as the case may be. 35

“(7C) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$100 who wilfully or negligently signs any certificate for the purposes of subsection (7) or subsection (7A) of this section if the certificate is false in any material respect.” 40

(2) The principal Act is hereby further amended by adding the Fourth Schedule set out in the First Schedule to this Act.

10. Power of trustee carrying on trust business to acquire shares in co-operative enterprises—The principal Act is hereby amended by inserting, after section 32, the following section:

“32A. (1) Unless expressly forbidden by the instrument, if any, creating the trust, a trustee who is empowered to carry on any business forming part of the assets of the trust property may, so long as the trustee continues lawfully to carry on that business,—

“(a) Take up and subscribe for or otherwise acquire, out of such of the trust funds as the trustee may lawfully use in the carrying on of that business, shares in any co-operative company registered under any Act or in any other co-operative enterprise:

“(b) Subject to the provisions of any other enactment relating to the compulsory surrender of shares, retain as part of the trust property any shares held in any such company or co-operative enterprise and, out of such of the trust funds as the trustee may lawfully use in the carrying on of that business, pay calls on any shares held in any such company or co-operative enterprise—

if membership of the company or enterprise is essential or highly advantageous to the carrying on of that business or the marketing of the products of that business.

“(2) A trustee exercising the powers conferred by subsection (1) of this section is not, for the purposes of any provision of Part II of this Act, exercising a power of investment.”

11. Investment of income during a minority—Section 40 (2) of the principal Act is hereby amended by omitting the words “authorised investments”, and substituting the words “accordance with the trust instrument or the provisions of this Act as to the investment of trust funds”.

12. Special rules as to apportionment on purchase, sale, or transfer in certain cases—(1) Section 83 (1) of the principal Act (as substituted by section 9 of the Trustee Amendment Act 1957) is hereby amended by repealing paragraph (a), and substituting the following paragraph:

“(a) The term ‘fixed-income asset’ means any asset bearing interest or carrying the right to a dividend if—

“(i) The interest or dividend is payable at a fixed rate; and

“(ii) The trustee has no reason to believe that the interest or dividend payable in respect of the period to which the apportionment relates will not be paid reasonably promptly after the interest or dividend falls due.” 5

(2) Section 83 (1) of the principal Act is hereby further amended by omitting from paragraph (b) the words “paragraph (iii) of” 10

13. First Schedule repealed—The principal Act is hereby amended by repealing the First Schedule.

14. Amendments—(1) The enactments specified in the **Second** Schedule to this Act are hereby amended in the manner indicated in that Schedule. 15

(2) The regulations specified in the **Third** Schedule to this Act are hereby amended in the manner indicated in that Schedule.

(3) The regulations specified in the **Third** Schedule to this Act may be amended or revoked as if the amendments specified in that Schedule had been effected by regulation and not by this Act. 20

15. Certain provisions deemed to empower investment in accordance with Trustee Act 1956 as amended—

(1) Except as expressly provided in this Act, any provision in any Act, or in any instrument creating a trust, that empowers or requires any person to invest any money in the investments authorised under the Trustee Act 1956 or otherwise in accordance with section 4 of the Trustee Act 1956 shall be read and construed as if it empowered or required that person to invest that money in accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds, as those provisions are amended by this Act. 25 30

(2) Except as expressly provided in this Act, any provision in any Act, or in any instrument creating a trust, that empowers or requires any person to invest any money in any specified class or classes of investment, one or more of which is defined by reference to section 4 of the Trustee Act 1956, shall be read and construed as if— 35

(a) It empowered or required that person to invest that money in accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds, as those provisions are amended by this Act; and 40

(b) The reference to every specified class or classes of investment had been omitted.

(3) Except as expressly provided in this Act, any provision in any Act that—

5 (a) Is, by virtue of **subsection (1)** or **subsection (2)** of this section to be read and construed as if it empowered or required any person to invest any money in accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds, as those
10 provisions are amended by this Act; and

(b) Empowers that person to invest that money in any other manner if the consent, approval, or authorisation of any Minister of the Crown is obtained,—
shall be read and construed as if the power or requirement
15 referred to in **paragraph (b)** of this subsection had been repealed.

16. Repeals and revocations—(1) The enactments specified in the **Fourth Schedule** to this Act are hereby repealed.

(2) The orders specified in the **Fifth Schedule** to this Act are hereby revoked.

SCHEDULES

Section 9 (2)

FIRST SCHEDULE

NEW FOURTH SCHEDULE TO PRINCIPAL ACT

“FOURTH SCHEDULE

*FORM 1

Certificate that power of attorney has come into operation and that the donee is acting in the execution of the trust or the administration of the estate

I, [Full name], of [Place of residence] in New Zealand, [Occupation], hereby certify:

1. That by deed dated [Date of instrument creating the power of attorney] [Full name of donor of power of attorney], of [Place of residence of donor], in New Zealand, [Occupation of donor] delegated to me the execution or exercise, during any period for which [Full name of donor] may be absent from New Zealand [or incapable of performing all of his [or her] duties as a trustee], of all [or some] of the trusts, powers, authorities, and discretions vested in the said [Full name of donor] in accordance with the terms and conditions set out in the said deed.

2. That the power of attorney set out in the said deed has come into operation.

3. That in [Describe particular transaction] I am acting in the execution of the trust [or the administration of the estate].

Signed at this day of 19.....

*NOTE—This form should not be used if the person holding the power of attorney is a corporation aggregate.

FIRST SCHEDULE—continued

NEW FOURTH SCHEDULE TO PRINCIPAL ACT—continued

*FORM 2

Certificate that power of attorney has come into operation and that the donee is acting in the execution of the trust or the administration of the estate

I, [Full name], of [Place of residence] in New Zealand, [Occupation], hereby certify:

1. That I am a[n] director [or manager or secretary or officer] of the [Full name of corporation holding power of attorney], a duly incorporated company [or society or association] having its registered office [or principal place of business] at [Address of registered office or principal place of business], and as such am authorised to give this certificate.

2. That by deed dated [Date of instrument creating the power of attorney], [Full name of donor of power of attorney], of [Place of residence of donor], in New Zealand, [Occupation of donor] delegated to the said [Full name of corporation] the execution or exercise, during any period for which [Full name of donor] may be absent from New Zealand [or incapable of performing all of his [or her] duties as a trustee], of all [or some] of the trusts, powers, authorities, and discretions vested in the said [Full name of donor] in accordance with the terms and conditions set out in the said deed.

3. That to the best of my knowledge and belief the power of attorney set out in the said deed has come into operation.

4. That in [Describe particular transaction] the [Full name of corporation] is acting in the execution of the trust [or the administration of the estate].

Signed at this day of 19.....

*NOTE—This form should be used only if the person holding the power of attorney is a corporation aggregate.

SECOND SCHEDULE
ENACTMENTS AMENDED

Section 14 (1)

Title	Amendment
1927, No. 76—The Electric Power Boards Amendment Act 1927 (Reprinted 1976 Vol. 4, p. 3536)	<p>By repealing section 23 (1) (as amended by section 2 (1) of the Electric Power Boards Amendment Act 1969), and substituting the following subsection:</p> <p>“(1) The Board shall in the month of April of each year, unless it has appointed Depreciation Fund Commissioners, invest all money credited in the previous financial year to the Depreciation Fund pursuant to section 20 of this Act, and, if the Board has appointed Depreciation Fund Commissioners, the Commissioners may invest all money received by them pursuant to section 22 of this Act, in accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds.”</p>
1941, No. 12—The Soil Conservation and Rivers Control Act 1941 (R.S. Vol. 17, p. 607)	<p>By repealing section 30 (6) (as amended by section 2 (2) of the Electric Power Boards Amendment Act 1957), and substituting the following subsection:</p> <p>“(6) The Board may invest any part of the Reserve Fund in accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds.”</p> <p>By repealing section 120 (3) (as amended by section 2 of the Soil Conservation and Rivers Control Amendment Act 1957), and substituting the following subsection:</p> <p>“(3) The Board may from time to time apply the money forming the fund or funds only to the purposes aforesaid, or any of them, and the Board, until the money is required for any of those purposes, may invest any of the money in accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds.”</p>
1946, No. 26—The Veterinary Services Act 1946 (R.S. Vol. 11, p. 761)	<p>By repealing section 26 (as amended by section 9 of the Veterinary Services Amendment Act 1980), and substituting the following section:</p>

SECOND SCHEDULE—*continued*
ENACTMENTS AMENDED—*continued*

Title	Amendment
1946, No. 26—The Veterinary Services Act 1946 (R.S. Vol. 11, p. 761)— <i>continued</i>	<p>“26. Investment of money belonging to Council—Any money belonging to the Council and available for investment, including any money for the time being at credit in any special fund or reserve account, may be invested by the Council in accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds.”</p>
1947, No. 63—The Patriotic and Canteen Funds Act 1947 (R.S. Vol. 4, p. 19)	<p>By repealing section 38 (3) (as substituted by section 3 of the Patriotic and Canteen Funds Amendment Act 1967 and amended by section 5 (1) of the Patriotic and Canteen Funds Amendment Act 1987), and substituting the following subsection:</p> <p>“(3) Subject to the terms of any trust or endowment affecting the same, all money belonging to the Funds or any Provincial Fund and not immediately required for expenditure by the Board or the Council concerned may be invested in accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds.”</p>
1950, No. 20—The Medical Research Council Act 1950 (R.S. Vol. 10, p. 75)	<p>By omitting from section 16 the words “, with the consent of the Minister of Finance,”.</p>
1950, No. 34—The Harbours Act 1950 (R.S. Vol. 2, p. 551)	<p>By repealing section 48 (as substituted by section 3 of the Harbours Amendment Act 1980), and substituting the following section:</p> <p>“48. Investment powers of Board—The Board may invest any money in accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds.”</p>

SECOND SCHEDULE—*continued*ENACTMENTS AMENDED—*continued*

Title	Amendment
1957, No. 36—The Public Trust Office Act 1957 (Reprinted 1976 Vol. 5, p. 4361)	<p>By repealing section 30 (2), and substituting the following subsection:</p> <p>“(2) A power or direction to invest money in one or some only of specified investments or classes of investment shall not be deemed to be an express prohibition against investment in the Common Fund, and the money shall form part of the Common Fund, unless there is an express direction to the contrary.”</p> <p>By repealing section 30A (as inserted by section 3 of the Public Trust Office Amendment Act 1975), and substituting the following section:</p> <p>“30A. Investment of money otherwise than in Common Fund—</p> <p>(1) Notwithstanding section 30 of this Act but subject to the provisions of this section, the Public Trustee may, at the Public Trustee’s discretion, invest any money forming part of an estate in accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds.</p> <p>“(2) Subsection (1) of this section shall not authorise any investment, if the instrument creating the trust or the authority of the Public Trustee to administer, hold, or control the estate expressly forbids the making of that investment or an investment of that class.</p> <p>“(3) Where any part of an estate is invested in accordance with this section, the part so invested shall not be part of the Common Fund and subsections (2) and (4) of section 31 of this Act shall apply to the money so invested; but nothing in this section shall prevent the reinvestment of that part of the estate in the Common Fund at any later time or times.</p> <p>“(4) Where the Public Trustee is acting as a co-trustee, the exercise of the discretion conferred by subsection (1) of this section shall be subject to the consent of every other co-trustee of the estate who, at the time the investment is made, is acting in the trusts of that estate and is not a mentally disordered person within the meaning of the Mental Health Act 1969.</p>

SECOND SCHEDULE—*continued*ENACTMENTS AMENDED—*continued*

Title	Amendment
1957, No. 36—The Public Trust Office Act 1957 (Reprinted 1976 Vol. 5, p. 4361)— <i>continued</i>	<p>“(5) This section shall apply whether, at the time of investment in accordance with this section, the estate was in a state of investment or not, and whether the estate came into the possession of the Public Trustee before or after the commencement of this section.”</p> <p>By repealing section 31, and substituting the following section:</p> <p>“31. Special investments not guaranteed—(1) Where money is available for investment but in accordance with the provisions of this Act does not form part of the Common Fund, the Public Trustee shall invest the money in accordance with any powers or directions as to the investment of the money contained in the instrument, if any, governing the trust or, to the extent that they are applicable, in accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds.</p> <p>“(2) Investments made under this section shall not be entitled to the protection afforded by section 36 of this Act to investments of the Common Fund, and any loss or deficiency in respect of any such investments, or of the money received from any such investments or arising from a realisation of any such investments, shall be borne by the estate to which the investments or money belongs or would belong if received or realised.</p>

SECOND SCHEDULE—*continued*ENACTMENTS AMENDED—*continued*

Title	Amendment
1957, No. 36—The Public Trust Office Act 1957 (Reprinted 1976 Vol. 5, p. 4361)— <i>continued</i>	<p>“(3) Forthwith upon the receipt by the Public Trustee of any such money, the Public Trustee shall make all reasonable efforts to invest the money in accordance with any powers or directions as to the investment of the money contained in the instrument, if any, governing the trust or, to the extent that they are applicable, in accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds, and if the whole of the money cannot be so invested within one calendar month from the date of receipt of the money, the Public Trustee may, until the money can be so invested, temporarily appropriate and allocate as an investment for the money, or any part of the money, one or more of the existing investments of the Common Fund of the same nature and kind as the investments that the money could properly be invested in in accordance with subsection (1) of this section.</p> <p>“(4) Any investment of the Common Fund while so appropriated and allocated as a special investment shall not be entitled to the protection afforded by section 36 of this Act to investments of the Common Fund.”</p> <p>By repealing section 32, and substituting the following section:</p> <p>“32. Investment of the Common Fund—(1) Except as otherwise provided by this Act, money in the Common Fund shall be invested in accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds.</p> <p>“(2) No investment shall be made in land, or in the erection or alteration of buildings on land which is for the time being an investment of the Common Fund, or in the improvement of any such land or buildings, if—</p>

SECOND SCHEDULE—*continued*
 ENACTMENTS AMENDED—*continued*

Title	Amendment
<p>1957, No. 36—The Public Trust Office Act 1957 (Reprinted 1976 Vol. 5, p. 4361)—<i>continued</i></p>	<p>“(a) The investment would cause the total amount invested in that manner to exceed 10 percent of the amount of the Common Fund at the time of the making of that investment; or</p> <p>“(b) As a result of fluctuations of the amount of the Common Fund, more than 10 percent of the Common Fund would for the time being be invested in that manner.</p> <p>“(3) It shall be lawful for the Public Trustee in investing money under the provisions of this section to provide that the money, with interest, shall be repaid to the Public Trustee by periodical instalments extending over such period, and subject to such terms and conditions, as the Public Trustee thinks fit.</p> <p>“(4) All land which for the time being constitutes an investment of the Common Fund, together with the buildings on and the improvements made in respect of that land, may be managed, leased, let, mortgaged, exchanged, sold, or otherwise dealt with or disposed of by the Public Trustee in such manner and at such time or times and upon such terms and conditions in all respects as the Public Trustee from time to time thinks fit.”</p> <p>By repealing section 33 (1), and substituting the following subsection:</p> <p>“(1) This section applies where any loan granted by the Public Trustee is secured by a mortgage on the security of the interest of a lessee or licensee of any Crown land or other land administered by the Director-General of Lands or Lands Corporation Limited or of any Maori land.”</p>

SECOND SCHEDULE—*continued*ENACTMENTS AMENDED—*continued*

Title	Amendment
<p>1957, No. 36—The Public Trust Office Act 1957 (Reprinted 1976 Vol. 5, p. 4361)—<i>continued</i></p>	<p>By omitting from section 42 the words “or of any change in the class of securities in which the Common Fund may be invested, or for any other reason, any such extension or renewal is not an investment authorised by this Act or any other Act in respect of money which forms part of the Common Fund”, and substituting the words “; or for any other reason, any such extension or renewal is not an investment that the Public Trustee could properly make in respect of money which forms part of the Common Fund”.</p> <p>By repealing subsection (2) of section 42A (as inserted by section 4 of the Public Trust Office Amendment Act 1975), and substituting the following subsection:</p> <p>“(2) All money forming part of any Group Investment Fund shall be invested, as the Public Trustee determines at the time when the Fund is established,—</p> <p>“(a) In any class or classes of investments authorised by the instrument (if any) creating the trust under which the money is held; or</p> <p>“(b) In accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds.</p> <p>By repealing paragraph (b) of section 42A (3), and substituting the following paragraph:</p> <p>“(b) If the money is not directed to be invested in some other specified manner and investment in a Group Investment Fund is not inconsistent with the terms of the trust instrument (if any) or other authority governing the money, as part of any Group Investment Fund established and kept by the Public Trustee.”</p>

SECOND SCHEDULE—*continued*ENACTMENTS AMENDED—*continued*

Title of Act	Amendment
1957, No. 40—The Hospitals Act 1957 (R.S. Vol. 2, p. 757)	By repealing paragraph (b) of section 75 (1), and substituting the following paragraph: “(b) Notwithstanding the terms of the trust, in accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds.”
1957, No. 108—The Taranaki Scholarships Trust Board Act 1957 (R.S. Vol. 13, p. 705)	By repealing paragraph (b) of section 16 (1), and substituting the following paragraph: “(b) To invest such part as it thinks fit of any funds for the time being vested in the Board in accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds, and from time to time to realise, alter, or vary any such investments.”
1961, No. 5—The Dairy Board Act 1961 (Reprinted 1976 Vol. 4, p. 3337)	By repealing section 46, and substituting the following section: “46. Investment of funds of Board — Any money paid to the Board under this Part of this Act and available for investment, including any money standing to the credit of the Dairy Industry Levy Account or of the Dairy Industry Superannuation Account or of any special fund or reserve account established pursuant to section 43 of this Act, may from time to time be invested by the Board in accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds.”
1961, No. 46—The Maori Education Foundation Act 1961 (R.S. Vol. 8, p. 393)	By repealing section 22, and substituting the following section: “22. Powers of investment —(1) Any money held by or on behalf of the Foundation, whether as capital or unexpended income, may, at the discretion of the Board, from time to time be invested in accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds.

SECOND SCHEDULE—*continued*
 ENACTMENTS AMENDED—*continued*

Title	Amendment
1961, No. 46—The Maori Education Foundation Act 1961 (R.S. Vol. 8, p. 393)— <i>continued</i>	“(2) Notwithstanding any rule of law or equity to the contrary, the Board shall not be obliged to convert any property which is the subject of a gift to the Board and which is not property in which the Board may properly invest money pursuant to subsection (1) of this section.”
1961, No. 48—The University of Otago Amendment Act 1961 (R.S. Vol. 13, p. 857)	By omitting from section 29 the words “, or in such other manner as the Minister of Finance from time to time approves”.
1961, No. 49—The University of Canterbury Act 1961 (R.S. Vol. 13, p. 819)	By omitting from section 43 the words “, or in such other manner as the Minister of Finance from time to time approves”.
1961, No. 50—The University of Auckland Act 1961 (R.S. Vol. 14, p. 813)	By omitting from section 42 the words “, or in such other manner as the Minister of Finance from time to time approves”.
1961, No. 51—The Victoria University of Wellington Act 1961 (R.S. Vol. 14, p. 889)	By omitting from section 43 the words “, or in such other manner as the Minister of Finance from time to time approves”.
1961, No. 52—The Lincoln College Act 1961 (R.S. Vol. 14, p. 407)	By omitting from section 41 the words “, or in such other manner as the Minister of Finance from time to time approves”.
1961, No. 54—The Universities Act 1961 (R.S. Vol. 13, p. 773)	By omitting from section 16 the words “, or in such other manner as the Minister of Finance from time to time approves”.
1963, No. 7—The Massey University Act 1963 (R.S. Vol. 14, p. 441)	By omitting from section 42 the words “, or in such other manner as the Minister of Finance from time to time approves”.
1963, No. 8—The University of Waikato Act 1963 (R.S. Vol. 14, p. 849)	By omitting from section 42 the words “, or in such other manner as the Minister of Finance from time to time approves”.

SECOND SCHEDULE—*continued*
ENACTMENTS AMENDED—*continued*

Title	Amendment
1963, No. 12—The Architects Act 1963 (R.S. Vol. 15, p. 1)	By repealing section 49 (6), and substituting the following subsection: “(6) The Board may from time to time, as it thinks fit, invest any money not for the time being required for any of the purposes mentioned in subsection (3) of this section in accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds.”
1963, No. 26—The Royal New Zealand Foundation for the Blind Act 1963 (R.S. Vol. 4, p. 251)	By repealing section 38, and substituting the following section: “38. Investment of trust money prior to application in terms of trust —All money held in trust by the Foundation shall, pending the application thereof in accordance with the terms of the trust, be invested, at the discretion of the Board, either in the manner directed or authorised by the trust, or (notwithstanding the terms of the trust) in accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds.”
1963, No. 139—The New Zealand Society of Accountants Amendment Act 1963 (R.S. Vol. 5, p. 902)	By repealing section 13, and substituting the following section: “13. Investment of fund —Any money in the fund that is not immediately required for the purposes of the fund may be invested by the Council in accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds.”
1963, No. 18 (Local)—The Auckland Regional Authority Act 1963 (Reprinted 1970, Vol. 3, p. 1779)	By repealing section 72 (5), and substituting the following subsection: “(5) Where the Authority, in any financial year, credits any money to, or holds any money in, a special account established pursuant to subsection (2) of this section, it shall not later than 6 months after the close of that financial year, pay that money into a separate bank account or accounts, and, subject to subsection (6) of this section, may invest the whole or any part of that money either in the capital works of the undertaking, service, or activity in respect of which the special account was established, or in accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds.”

SECOND SCHEDULE—*continued*
ENACTMENTS AMENDED—*continued*

Title	Amendment
1965, No. 39—The Winston Churchill Memorial Trust Act 1965	<p>By repealing section 17, and substituting the following section:</p> <p>“17. Powers of investment—(1) Any money, being capital of the Fund within the meaning of section 16 of this Act, held by or on behalf of the Board shall from time to time be invested in accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds:</p> <p>“Provided that, notwithstanding any rule of law or equity to the contrary, the Board shall not be obliged to convert any property which is the subject of a gift to the Board and which is not property in which the Board may properly invest money pursuant to this subsection.</p> <p>“(2) Any money, being income of the Fund within the meaning of section 16 of this Act, may, at the discretion of the Board, from time to time be invested in accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds.”</p>
1967, No. 35—The Trustee Companies Act 1967	<p>By repealing paragraph (a) of section 15 (1), and substituting the following paragraph:</p> <p>“(a) The fund may be placed with any trustee company to be administered by the company and to be invested in accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds:”.</p> <p>By repealing section 29 (2), and substituting the following subsection:</p> <p>“(2) All funds forming part of any Group Investment Fund shall be invested, as the company which establishes the Group Investment Fund determines at the time when the Fund is established,—</p> <p>“(a) In any class or classes of investments authorised by the instrument (if any) creating the trust under which the funds are held; or</p> <p>“(b) In accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds.”</p>

SECOND SCHEDULE—*continued*
ENACTMENTS AMENDED—*continued*

Title	Amendment
1967, No. 35—The Trustee Companies Act 1967— <i>continued</i>	By omitting from section 29 (3) (b) the words “, being a Fund the investment of which is limited to the class or classes of investments in which the funds might lawfully be invested on the separate account of the trust estate.”
1967, No. 161—The Technicians Training Act 1967 (R.S. Vol. 13, p. 733)	By omitting from section 24 (2) the words “or in any other manner that may from time to time be authorised by the Minister of Finance”.
1972, No. 11—The National Art Gallery, Museum, and War Memorial Act 1972	By repealing section 21, and substituting the following section: “21. Investment of money —Subject to the terms of any trust or endowment, any money held by or on behalf of the Board and available for investment shall be invested in accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds: “Provided that, notwithstanding any rule of law or equity to the contrary, the Board shall not be obliged to convert any property which is the subject of a gift to the Board and which is not property in which the Board may properly invest money pursuant to this section.”
1972, No. 30—The University of Albany Act 1972 (R.S. Vol. 14, p. 777)	By omitting from section 42 the words “, or in such other manner as the Minister of Finance from time to time approves”.
1972, No. 138—The Pacific Islands Polynesian Education Foundation Act 1972 (R.S. Vol. 8, p. 847)	By repealing section 22, and substituting the following section: “22. Powers of investment —(1) Any money held by or on behalf of the Foundation, whether as capital or unexpended income, may, at the discretion of the Board, from time to time be invested in accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds.

SECOND SCHEDULE—*continued*ENACTMENTS AMENDED—*continued*

Title	Amendment
1972, No. 138—The Pacific Islands Polynesian Education Foundation Act 1972 (R.S. Vol. 8, p. 847)— <i>continued</i>	“(2) Notwithstanding any rule of law or equity to the contrary, the Board shall not be obliged to convert any property which is the subject of a gift to the Board and which is not property in which the Board may properly invest money pursuant to subsection (1) of this section.”
1974, No. 2—The New Zealand Export-Import Corporation Act 1974	By repealing section 21, and substituting the following section: “21. Investment of money belonging to Corporation —Any money belonging to the Corporation and available for investment may be invested in accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds.”
1974, No. 3—The Rural Banking and Finance Corporation Act 1974	By repealing section 21 (6), and substituting the following subsection: “(6) Notwithstanding any rule of law or other provision to the contrary, and without prejudice to the provisions of Part II of the Trustee Act 1956 as to the investment of trust funds, any person may advance money on the security of a mortgage of land if the repayment of the money advanced, or of the excess above the amount that might otherwise be advanced, is directly or indirectly secured by a guarantee or indemnity under this section that is expressed to be a guarantee or indemnity to which this subsection applies.”

SECOND SCHEDULE—*continued*
ENACTMENTS AMENDED—*continued*

Title	Amendment
1974, No. 19—The Housing Corporation Act 1974	<p>By repealing section 23 (6), and substituting the following subsection:</p> <p>“(6) Notwithstanding any rule of law or other provision to the contrary, and without prejudice to the provisions of Part II of the Trustee Act 1956 as to the investment of trust funds, any person may advance money on the security of a mortgage of land if the repayment of the money advanced, or of the excess above the amount that might otherwise be advanced, is directly or indirectly secured by a guarantee or indemnity under this section that is expressed to be a guarantee or indemnity to which this subsection applies.”</p>
1974, No. 66—The Local Government Act 1974 (R.S. Vol. 5, p. 77)	<p>By omitting from section 208 (3) (as substituted by section 2 of the Local Government Amendment Act (No. 3) 1977) the words “in any manner authorised by section 4 of the Trustee Act 1956 or in the National Provident Fund”, and substituting the words “in accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds”.</p>
1975, No. 42—The Fire Service Act 1975	<p>By repealing section 46 (3) (as substituted by section 3 (1) of the Fire Service Amendment Act 1986), and substituting the following subsection:</p> <p>“(3) Notwithstanding subsection (2) of this section, the Commission may invest money in accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds.”</p>
1977, No. 77—The Potato Industry Act 1977	<p>By repealing section 26, and substituting the following section:</p> <p>“26. Investment of money of Board— The Board may invest any of its surplus money in accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds.”</p>
1977, No. 84—The Gaming and Lotteries Act 1977	<p>By repealing section 94 (4) (as enacted by section 3 of the Gaming and Lotteries Amendment Act 1987), and substituting the following subsection:</p>

SECOND SCHEDULE—*continued*ENACTMENTS AMENDED—*continued*

Title	Amendment
1977, No. 84—The Gaming and Lotteries Act 1977— <i>continued</i>	<p>“(4) The Commission may, up to that time, invest the proceeds in accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds.”</p> <p>By repealing section 111 (as enacted by section 3 of the Gaming and Lotteries Amendment Act 1987), and substituting the following section:</p> <p>“111. Investment of funds—The Commission may invest any of its funds in accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds.”</p> <p>By repealing section 116v (1) (as enacted by section 3 of the Gaming and Lotteries Amendment Act 1987), and substituting the following subsection:</p> <p>“(1) Subject to any directions of the Board, the Secretary may invest any profits of New Zealand lotteries, pending their distribution under section 116H of this Act, in accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds.”</p>
1977, No. 102—The Queen Elizabeth the Second National Trust Act 1977	<p>By repealing section 25, and substituting the following section:</p> <p>“25. Powers of investment—(1) Any money, being capital of the Trust Fund within the meaning of section 23 of this Act, held by or on behalf of the Trust, and not required for any other purpose, may from time to time be invested in accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds.</p> <p>“(2) Notwithstanding any rule of law or equity to the contrary, the Trust shall not be obliged to convert any property which is the subject of a gift to the Trust and which is not property in which the Trust may properly invest money pursuant to subsection (1) of this section.</p>

SECOND SCHEDULE—*continued*
ENACTMENTS AMENDED—*continued*

Title	Amendment
1977, No. 102—The Queen Elizabeth the Second National Trust Act 1977— <i>continued</i>	“(3) Any money, being income of the Trust within the meaning of section 23 of this Act, may, at the discretion of the Board, from time to time be invested in accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds.”
1979, No. 58—The Vocational Awards Act 1979	By repealing section 24, and substituting the following section: “24. Investment of money of Authority —Subject to the terms of any trust or endowment, the Authority may invest any of its surplus money in accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds.”
1980, No. 16—The Historic Places Act 1980	By repealing section 29, and substituting the following section: “29. Investment of funds —Subject to the terms of any trust or endowment, any money held by or on behalf of the Trust and available for investment shall be invested in accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds: “Provided that, notwithstanding any rule of law or equity to the contrary, the Trust shall not be obliged to convert any property which is the subject of a gift to the Trust and which is not property in which the Trust may properly invest money pursuant to this section.”
1980, No. 50—The Poultry Board Act 1980	By repealing section 16, and substituting the following section: “16. Investment of money of Board —The Board may invest any of its surplus money in accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds.”
1981, No. 3—The Music Teachers Act 1981	By repealing paragraph (c) of section 7, and substituting the following paragraph:

SECOND SCHEDULE—*continued*ENACTMENTS AMENDED—*continued*

Title	Amendment
1981, No. 3—The Music Teachers Act 1981— <i>continued</i>	“(c) Invest any money in accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds.”
1981, No. 55—The Phosphate Commission of New Zealand Act 1981	By repealing section 12 (3) (as enacted by section 2 of the Phosphate Commission of New Zealand Amendment Act 1986), and substituting the following subsection: “(3) Where the Commission at any time has any surplus funds with respect to which— “(a) It has advised the Minister that such surplus funds exist; and “(b) The Minister has not directed that such surplus funds be paid into the Consolidated Account,— the Commission may, subject to subsection (4) of this section, invest those funds in accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds.”
1981, No. 119—The New Zealand Railways Corporation Act 1981	By repealing section 108 (4), and substituting the following subsection: “(4) Any money held in the Corporation’s bank account on behalf of the society may, at the request of the Welfare Board, be invested by the Corporation in accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds.”
1982, No. 118—The Friendly Societies and Credit Unions Act 1982	By omitting from section 49 (2) the words “In the exercise”, and substituting the words “Without limiting the matters to which a trustee may have regard pursuant to Part II of the Trustee Act 1956, in the exercise”. By repealing section 52, and substituting the following section: “52. Investment powers —Subject to this Act, a trustee may invest the funds of a registered society or branch in accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds.”

SECOND SCHEDULE—*continued*
ENACTMENTS AMENDED—*continued*

Title	Amendment
1982, No. 118—The Friendly Societies and Credit Unions Act 1982— <i>continued</i>	By omitting from section 53 (1) (b) the word “Invest”, and substituting the words “Without limiting the powers of investment contained in section 52 of this Act, invest”. By repealing section 117 (2), and substituting the following subsection: “(2) The trustees of a credit union may invest its surplus funds in accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds.”
1982, No. 138—The Pork Industry Board Act 1982	By repealing section 23, and substituting the following section: “23. Investment of money of Board — The Board may invest any of its money not immediately required in the exercise of its functions and powers in accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds.”
1983, No. 116—The Trustee Banks Act 1983	By omitting from section 37 (d) the words “that are authorised investments for the investment of trust funds under the provisions of section 4 of the Trustee Act 1956”.
1983, No. 134—The Area Health Boards Act 1983	By repealing paragraph (b) of section 76 (1), and substituting the following paragraph: “(b) Notwithstanding the terms of the trust, in accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds.”
1986, No. 1—The New Zealand Market Development Board Act 1986	By repealing section 27, and substituting the following section: “27. Investment of money of Board — The Board may invest any of its money not immediately required by it in accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds.”

SECOND SCHEDULE—*continued*
 ENACTMENTS AMENDED—*continued*

Title	Amendment
1986, No. 123—The Survey Act 1986	<p>By repealing section 76 (3), and substituting the following subsection: “(3) The Board may invest any money for the time being not required for any of the purposes referred to in subsection (2) of this section in accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds.”</p>
1987, No. 13—The Recreation and Sport Act 1987	<p>By repealing section 29, and substituting the following section: “29. Investment of funds—Subject to the terms of any trust or endowment, any money held by or on behalf of the Commission and available for investment shall be invested in accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds: “Provided that, notwithstanding any rule of law or equity to the contrary, the Commission shall not be obliged to convert any property which is the subject of a gift to the Commission and which is not property in which the Commission may properly invest money pursuant to this section.”</p>

THIRD SCHEDULE
REGULATIONS AMENDED

Section 14 (2)

Title	Amendment
The Superannuation Regulations 1957 (S.R. 1957/102)	By revoking regulation 10 (as amended by regulation 2 of the Superannuation Regulations 1957, Amendment No. 3), and substituting the following regulation: "10. Any part of the money for the time being belonging to the Fund may be invested by the Board in accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds."
The Superannuation Schemes Regulations 1983 (S.R. 1983/34)	By revoking subclauses (2) and (3) of regulation 10, and substituting the following subclause: "(3) Subject to subclauses (4) to (6) of this regulation, and any limitations imposed under the Reserve Bank of New Zealand Act 1964 as that Act affects superannuation schemes, all money available for investment may be invested in accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds."
The Superannuation Regulations 1957, Amendment No. 3 (S.R. 1985/173)	By revoking regulation 2.

Section 16 (1)

FOURTH SCHEDULE

ENACTMENTS REPEALED

- 1949, No. 22—The Co-operative Dairy Companies Act 1949: Section 26. (R.S. Vol. 1, p. 553.)
- 1953, No. 1 (Local)—The Nelson Harbour Board Empowering Amendment Act 1953: Section 3.
- 1956, No. 3 (Local)—The Nelson Harbour Board Empowering Act 1956: Section 8.
- 1957, No. 37—The Trustee Amendment Act 1957: Sections 2 and 3. (R.S. Vol. 15, p. 717.)
- 1957, No. 48—The Electric Power Boards Amendment Act 1957. (Reprinted 1976, Vol. 4, p. 3560.)
- 1957, No. 72—The Soil Conservation and Rivers Control Amendment Act 1957. (R.S. Vol. 17, p. 758.)
- 1958, No. 11 (Local)—The Nelson Harbour Board Empowering Act 1958: Section 7.
- 1959, No. 11 (Local)—The Nelson Harbour Board Empowering Act 1959: Section 7.
- 1960, No. 101—The Trustee Amendment Act 1960: Section 2 (2). (R.S. Vol. 15, p. 718.)
- 1960, No. 15 (Local)—The Auckland Metropolitan Drainage Act 1960: Section 61 (4).
- 1962, No. 107—The Trustee Amendment Act 1962. (R.S. Vol. 15, p. 719.)
- 1963, No. 18 (Local)—The Auckland Regional Authority Act 1963: Section 56 (4).
- 1963, No. 19 (Local)—The Auckland Regional Planning Authority Act 1963: Section 8 (4).
- 1964, No. 4 (Local)—The Tauranga Harbour Board Loan and Empowering Act 1964: Section 9.
- 1964, No. 7 (Local)—The Taranaki Harbour Board Empowering Act 1964: Section 6.
- 1965, No. 22—The Building Societies Act 1965: Sections 56F and 113N (as enacted by the Building Societies Amendment Act 1987). (R.S. Vol. 17, p. 41.)
- 1965, No. 6 (Local)—The Tauranga Harbour Board Loan and Empowering Act 1965: Section 6.
- 1965, No. 7 (Local)—The Northland Harbour Board Act 1965: So much of the Second Schedule as relates to the Trustee Act 1956.
- 1965, No. 12 (Local)—The Nelson Harbour Board Empowering Act 1965: Section 7.
- 1965, No. 17 (Local)—The Taranaki Harbours Board Empowering Act 1965: Section 8.
- 1966, No. 13 (Local)—The Tauranga Harbour Board Loan and Empowering Act 1966: Section 6
- 1967, No. 107—The Patriotic and Canteen Funds Amendment Act 1967: Section 3. (R.S. Vol. 4, p. 61.)
- 1967, No. 12 (Local)—The Tauranga Harbour Board Loan and Empowering Act 1967: Section 7
- 1968, No. 24—The Trustee Amendment Act 1968: Section 4. (R.S. Vol. 15, p. 719.)

FOURTH SCHEDULE—*continued*ENACTMENTS REPEALED—*continued*

- 1968, No. 43—The Public Trust Office Amendment Act 1968: Section 3.
- 1968, No. 10 (Local)—The Tauranga Harbour Board Loan and Empowering Act 1968: Section 7.
- 1969, No. 61—The Electric Power Boards Amendment Act 1969: Section 11 (1) and (2). (Reprinted 1976, Vol. 4, p. 3563.)
- 1969, No. 110—The Trustee Amendment Act 1969. (R.S. Vol. 15, p. 721.)
- 1970, No. 5 (Local)—The Bay of Plenty Harbour Board Act 1970: Section 2 (4).
- 1971, No. 14—The Public Trust Office Amendment Act 1971: Section 3.
- 1974, No. 3—The Rural Banking and Finance Corporation Act 1974: Section 32.
- 1974, No. 15—The Trustee Amendment Act 1974: Sections 2 to 10. (R.S. Vol. 15, p. 721.)
- 1974, No. 19—The Housing Corporation Act 1974: Section 32.
- 1974, No. 8 (Local)—The Hawke's Bay Harbour Board Act 1974: Section 2 (4).
- 1975, No. 27—The Public Trust Office Amendment Act 1975: Sections 3 and 5.
- 1976, No. 28—The National Provident Fund Amendment Act 1976: Section 3 (3). (R.S. Vol. 3, p. 795.)
- 1977, No. 122—The Local Government Amendment Act (No. 3) 1977: So much of Part II of the Third Schedule as relates to the Trustee Act 1956. (R.S. Vol. 5, p. 644.)
- 1977, No. 179—The Trustee Amendment Act (No. 2) 1977. (R.S. Vol. 15, p. 723.)
- 1979, No. 34—The Bank of New Zealand Act 1979: Section 8C (as enacted by section 5 of the Bank of New Zealand Amendment Act 1986).
- 1980, No. 10—The Veterinary Services Amendment Act 1980: Section 9. (R.S. Vol. 11, p. 778.)
- 1981, No. 100—The Unit Titles Amendment Act 1981: Section 3.
- 1982, No. 106—The Trustee Amendment Act (No. 2) 1982. (R.S. Vol. 15, p. 724.)
- 1983, No. 116—The Trustee Banks Act 1983: So much of the First Schedule as relates to the Trustee Act 1956.
- 1983, No. 153—The Auckland Harbour Bridge Authority Dissolution Act 1983: Section 16.
- 1986, No. 18—The Fire Service Amendment Act 1986: Section 3 (1).
- 1986, No. 129—The Development Finance Corporation of New Zealand Act 1986: Section 18.
- 1987, No. 4—The Patriotic and Canteen Funds Amendment Act 1987: So much of the First Schedule as relates to section 38 (3) of the Patriotic and Canteen Funds Act 1947.
- 1987, No. 135—The Development Finance Corporation of New Zealand Amendment Act 1987: Section 3.
- 1987, No. 175—The Building Societies Amendment Act 1987: Section 40.
-

FIFTH SCHEDULE
ORDERS REVOKED

Section 16 (2)

Title	Statutory Regulations Serial Number
The Trustee Investments Order 1974	1974/109
The Building Societies (Trustees' Deposits) Order 1982	1982/245
The Auckland Regional Authority (Investment Powers) Order 1987	1987/279