

## TRUSTEE COMPANIES AMENDMENT BILL

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### EXPLANATORY NOTE

THIS Bill amends the Trustee Companies Act 1967.

*Clause 1* relates to the Short Title.

*Clause 2* substitutes a new section 18 in the principal Act, which relates to remuneration of trustee companies.

Under the new section 18 a trustee company may charge for work done or services rendered by it such remuneration by way of commission or otherwise as may be fixed by the company's board of directors. However, in the case of the administration of an estate or trust, the remuneration shall not exceed the greater of—

- (a) Five percent of the total of the income and the value of the assets of the estate or trust; or
- (b) \$100 (or such greater amount as is prescribed by Order in Council),— unless unusual or special work is done.

The new section 18 replaces provisions relating to remuneration in the various private Acts of the trustee companies, and differs from these provisions and the present section 18 in that—

- (a) It enables the trustee companies to charge on a commission basis or on the basis of work done, rather than on a commission basis only;
- (b) It provides for the minimum remuneration of \$100 mentioned above;
- (c) It authorises the trustee companies to charge an additional fee for unusual or special work done in the course of administration of an estate or trust.

*Clause 3* makes consequential repeals and amendments to the various private Acts of the trustee companies.

*Clauses 4 and 5* extend the power of trustee companies to administer estates under sections 36 and 37 of the Trustee Companies Act 1967 without grants of administration, so that in future estates not exceeding \$15,000 may be so administered. Corresponding amendments to the Public Trust Office Act 1957 were made by the Public Trust Office Amendment Act 1978.

*Hon. Mr McLay*

## TRUSTEE COMPANIES AMENDMENT

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### ANALYSIS

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2. Remuneration		
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		5. Elections in respect of unadministered balance of an estate

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### A BILL INTITULED

#### An Act to amend the Trustee Companies Act 1967

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

**1. Short Title**—This Act may be cited as the Trustee Companies Amendment Act 1979, and shall be read together with and deemed part of the Trustee Companies Act 1967\* (hereinafter referred to as the principal Act).

- 10 **2. Remuneration**—The principal Act is hereby amended by repealing section 18, and substituting the following section:  
“18. (1) Subject to subsection (2) of this section, it shall be lawful for a trustee company to charge, demand, and receive for work done and services rendered by it such

\*1967, No. 35

Amendments: 1968, No. 111; 1972, No. 28; 1975, No. 107

remuneration by way of commission or otherwise as may from time to time be fixed by the board of directors of the trustee company.

“(2) Remuneration charged, demanded, or received by a trustee company pursuant to subsection (1) of this section for the administration or management of an estate or trust shall not exceed the greater of the following amounts: 5

“(a) An amount equal to 5 percent of the total of the value of the assets of the estate or trust and the income received by the company in respect of the estate or trust: 10

“(b) \$100 (or such greater amount as is from time to time prescribed by the Governor-General by Order in Council).

“(3) In addition to the remuneration authorised by subsections (1) and (2) of this section, it shall be lawful for a trustee company to charge, demand, and receive a reasonable fee or other remuneration for work done or services rendered by it in respect of any of the following matters that arise in the course of administration or management of an estate or trust: 15 20

“(a) The preparation and lodging of returns for the purpose of, or in connection with, the assessment of any duties or taxes, other than estate duty:

“(b) The management of property, including the arranging of tenancies and leases and renewals and assignments thereof, and the arranging and supervising of repairs, maintenance, renovations, or extensions of or to the property: 25

“(c) The tracing of missing beneficiaries: 30

“(d) The attempted realisation of assets that are ultimately transferred or delivered in kind to the beneficiaries:

“(e) The carrying on of a business pending realisation:

“(f) Any other matter of an unusual or special nature.” 35

**3. Repeals and amendments consequential upon section 2—**

(1) The following enactments are hereby consequentially repealed:

- 5 (a) Section 8 of The Trustees, Executors, and Agency Company Act, 1882:
- (b) Section 8 of The Guardian, Trust, and Executors Company Act, 1883:
- (c) Section 9 of The Perpetual Trustees, Estate, and Agency Company Act, 1884:
- 10 (d) Section 13 of the East Coast Permanent Trustees Limited Act 1962.

(2) The New Zealand Insurance Company Trust Act, 1916 is hereby amended by repealing section 11, and substituting the following section:

- 15 “11. The company shall be entitled to transact the insurance business in connection with any estate it may for the time being be administering, and receive in respect thereof all premiums properly chargeable therefor, in the same manner as it would have been entitled to do if it had not
- 20 been a trustee of such estate.”

(3) The Pyne, Gould, Guinness (Limited) Trust Act, 1934 is hereby amended by repealing section 10, and substituting the following section:

- 25 “10. Nothing in this Act or the Trustee Companies Act 1967 shall prevent the company from acting as agent in selling, letting, or disposing of the property belonging to any estate committed to its charge and held upon trust, and charging for its services in any such capacity upon the usual scale in all cases where it is expressly authorised to do so
- 30 by the will, deed, or other instrument creating or evidencing the trust.”

**4. Powers of trustee companies to elect to administer small estates without grant of administration—**

(1) Section 36 of the principal Act (as amended by section 3 of the Trustee Companies Amendment Act 1972) is hereby further amended—

- (a) By omitting from subsection (1) the expression “\$7,500”, and substituting the expression “\$15,000”:
- 40 (b) By omitting from subsection (7) the expression “\$10,000”, and substituting the expression “\$20,000”.

(2) Paragraphs (b) and (c) of section 3 of the Trustee Companies Amendment Act 1972 are hereby consequentially repealed.

**5. Elections in respect of unadministered balance of an estate—**(1) Section 37 of the principal Act (as amended by section 4 of the Trustee Companies Amendment Act 1972) is hereby further amended— 5

- (a) By omitting from subsection (1) the expression “\$7,500”, and substituting the expression “\$15,000”:
- (b) By omitting from subsection (4) the expression “\$10,000”, and substituting the expression “\$20,000”. 10

(2) Section 4 of the Trustee Companies Amendment Act 1972 is hereby consequentially repealed.