

House of Representatives

Supplementary Order Paper

Tuesday, 13 October 2001



Public Trust Bill

Proposed amendments

Hon Jim Anderton, in Committee, to move the following amendments:

Clause 2

To omit subclauses (1) and (2) (lines 7 to 12 on page 4), and substitute the following subclauses:

- (1) This Act, except for **section 165**, comes into force on a day to be fixed by the Governor-General by Order in Council.
- (2) The Order in Council, or a separate Order in Council, may fix a different date for the commencement of **section 70**.

Clause 8

To add after line 34 on page 9 the following subclauses:

- (2) Any request by the Minister and agreement by Public Trust under **subsection (1)(c)**, and any determination of Public Trust and approval of the Minister under **subsection (1)(d)**, must be in writing.
- (3) As soon as practicable after any such request or determination is made and is agreed or approved, the Minister must—
 - (a) publish a copy of the request or determination in the *Gazette*; and
 - (b) present a copy of it to the House of Representatives.

Clause 20

To omit paragraph (f) (at lines 6 and 7 on page 15).

Clause 28

To insert, after line 26 on page 16, the following subclauses:

- (1A) A delegation may be to any named person or to any person who is for the time being a member of the class of employees appropriately specified in the delegation.
- (1B) If a delegation is to a class of employees, it applies, subject to any express terms of the delegation, to the members of the class for the time being, irrespective of any change in the membership of the class.

Clause 69(1)

To insert at line 25 on page 34, before the word “administration”, the words “management or”.

Clause 70(2)

To insert after paragraph (a) (after line 6 on page 35), the following paragraph:

- (aa) regulations made under this Act dispense with the requirement for initial disclosure; or

Clause 139

To insert in line 11 on page 76, after the words “representative of Public Trust,”, the words “and no member of a committee appointed under **section 17,**”.

Clause 146(2)

To add to paragraph (a), after the word “fund” (at line 37 on page 79), the words “or investor”.

Clause 165

To omit subclause (1) (lines 25 to 28 on page 87), and substitute the following subclause:

- (1) The Minister of Finance may, with the agreement of the Minister, determine the amount of any reserves of the Public Trust Office that the Public Trustee must pay into the Crown Bank Account, and must notify that determination in the *Gazette* as soon as practicable.

Part 10 heading

To omit from line 10 on page 88 the word “**provision**”, and substitute the word “**provisions**”.

New clause 170

To add after line 29 on page 89 the following clause:

170 Financial statement and report on operations for period commencing 1 July 2001

- (1) As soon as possible after the day on which this Act comes into force under **section 2(1)**, Public Trust must prepare a balance sheet, profit and loss account, and profit and loss appropriation account relating to the operations of the Public Trust Office for the period commencing on 1 July 2001 and ending with the close of the day preceding that on which this Act comes into force (the **broken period**), as if—

- (a) section 22 of the Public Trust Office Act 1957 were still in force; and
 - (b) Public Trust were the Public Trustee; and
 - (c) the broken period were a financial year.
- (2) The balance sheet and accounts referred to in **subsection (1)** must be provided by Public Trust to the Controller and Auditor-General who, after auditing them, must transmit them and any report on them to the Minister.
 - (3) As soon as possible after the day on which this Act comes into force under **section 2(1)**, the Minister must cause to be prepared a report on the operations of the Public Trust Office during the broken period.
 - (4) The Minister must, within 12 sitting days after receiving them, present to the House of Representatives copies of—
 - (a) the audited balance sheet and accounts referred to in **subsection (1)**, and any report on them by the Controller and Auditor-General; and
 - (b) the report on the operations of the Public Trust Office referred to in **subsection (3)**.

Schedule 1

To insert after line 4 on page 96 the following clause:

8A Effect of non-compliance

If a member fails to comply with the disclosure requirements in **clause 8**, the validity of the transaction or proposed transaction or other matter relating to Public Trust is not affected.

To omit clause 11 (lines 3 and 4 on page 97), and substitute the following clause:

11 Notification of appointment

As soon as practicable after appointing a member, the Minister must notify the appointment in the *Gazette*.

Explanatory note

This Supplementary Order Paper, which replaces Supplementary Order Paper 169,—

- changes the general commencement date for the Bill from 1 July 2001 to a date to be fixed by Order in Council (*clause 2*):
- requires an “annual” report on the operations of the Public Trust Office during the period 1 July 2001 to the day preceding the commencement date, and a balance sheet and accounts, as if that period were a separate financial year (*new clause 170*):
- requires notification, in the *Gazette* and to the House of Representatives, of any functions that are requested by the Minister under *clause 8(c)* or other business determined by Public Trust under *clause 8(d)*:

- removes the ban on delegation by the board of Public Trust of its power to fix or agree rates of interest payable on the common fund or on overdrafts or advances (*clause 20(f)*):
 - amends *clause 69* to insert words in the interests of drafting consistency, and *clause 70* to allow for the case where regulations dispense with the requirement for initial disclosure:
 - makes specific provision for class as well as individual delegations by the chief executive of Public Trust, mirroring the equivalent provisions for board delegations (*clause 28*):
 - extends the protection of *clause 139* to non-board members of committees appointed under *clause 17*:
 - clarifies that different disclosure requirements may be prescribed for different classes of investor (*clause 146*):
 - amends *clause 165*, which relates to the amount of the reserves of the Public Trust Office that are to be paid into the Crown Bank Account, to separate out the determination of the amount of those reserves and the notification of that determination in the *Gazette*:
 - reinstates the former *clause 6* of *Schedule 1* as to the effect of non-compliance with disclosure requirements, and substitutes a new *clause 11* that separates out the appointment of a member of the board of Public Trust from the notification of that appointment in the *Gazette*.
-