



ANNO VICESIMO SECUNDO

ELIZABETHAE SECUNDAE REGINAE

No. 73 of 1973

An Act to amend the law relating to the custody and investment of money paid into the Supreme Court, to provide for the custody and investment of money paid into a District Court, to provide for the security and management of money and effects of suitors in those Courts and for related purposes

[ASSENTED TO 19TH DECEMBER, 1973]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. **Short title.** This Act may be cited as the *Court Funds Act 1973*.
2. **Commencement.** This Act shall commence on a date appointed by Proclamation.

3. Repeals and savings. (1) *The Supreme Court Funds Acts 1895 to 1958* are repealed.

(2) Section 104 of the *District Courts Act 1967-1972* and the heading to that section are repealed.

(3) All money and securities that, at the commencement of this Act, are vested in the Treasurer for and on behalf of the Court shall continue to be so vested and shall be held by the Treasurer subject to this Act and to the Rules of the Supreme Court and, subject thereto, in accordance with the orders of the Court duly made with respect thereto.

4. Interpretation. In this Act, save where a contrary intention appears—

“ Court ” means the Supreme Court or a District Court, as the case requires;

“ interest ” includes dividends or periodical income, and when used in an order of the Court or a Judge thereof means the interest, dividends and other periodical produce on all money referred to in the order;

“ money in Court ” means any sum of money paid into the Court or placed to the credit of any cause, matter or account in the Court: the term includes dividends on securities in Court and interest on money lodged in the Court and invested under any Act or rules of the Court;

“ order ” means a judgment or order of the Court or a Judge thereof, and includes any order, report, certificate or direction of the Court or a Judge or any prescribed officer of the Court;

“ Registrar ” means—

(a) the Registrar of the Supreme Court at Brisbane, Rockhampton or Townsville and any registrar at a district registry of the Supreme Court and includes a deputy registrar; or

(b) a Registrar of a District Court,

as the case requires;

“ securities ” include debentures, stocks and shares;

“ securities in Court ” means securities standing or deposited in the name or to the credit of the Treasurer on behalf of the Court, or placed to the credit of a cause, matter or account in the Court;

“ Treasurer ” means the Treasurer of the State or other Minister of the Crown who, at the material time, is temporarily performing the duties of the Treasurer.

5. Supreme Court Suitors' Fund. (1) There shall be established and kept in the Treasury a Supreme Court Suitors' Fund:

(2) All money standing at credit to the Supreme Court Funds established and kept in the Treasury, at the commencement of this Act, shall be paid into the Supreme Court Suitors' Fund immediately after that date and thereupon the Supreme Court Funds shall be discontinued and closed.

(3) There shall be paid into the Supreme Court Suitors' Fund at the times and in the manner prescribed all money paid into the Supreme Court to the credit of any cause, matter or account in that Court.

(4) Payment, delivery and transfer of money out of the Supreme Court Suitors' Fund shall be made in accordance with and subject to this Act.

6. District Courts Suitors' Fund. (1) There shall be established and kept in the Treasury a District Courts Suitors' Fund.

(2) All money that has been paid into a District Court and is standing at credit in an account at a District Court at the commencement of this Act shall immediately after that date be paid into the District Courts Suitors' Fund in the manner prescribed.

(3) There shall be paid into the District Courts Suitors' Fund at the times and in the manner prescribed all money paid into a District Court to the credit of any cause, matter or account in that Court.

(4) Payment, delivery and transfer of money out of the District Courts Suitors' Fund shall be made in accordance with and subject to this Act.

7. Dealings with money in Court. (1) All money in Court shall be dealt with by the Treasurer and the Registrar in accordance with and subject to this Act and any rules of the Court.

(2) Subject to this Act, the provisions of the *Audit Act 1874-1968* and *The Treasury Funds Investment Acts 1958 to 1964* that relate to Trust and Special Funds shall apply to the Supreme Court Suitors' Fund and the District Courts Suitors' Fund.

8. Vesting of money and securities. All money and securities that, after the commencement of this Act, are transferred or paid into or deposited in the Court to the credit of any cause, matter or account shall vest in the Treasurer for and on behalf of the Court without any conveyance, assignment or transfer, and shall be held by the Treasurer subject to this Act and any rules of the Court and, subject thereto, in accordance with the orders of the Court duly made with respect thereto.

9. Interest on money in Funds. Subject to this Act,

(a) interest at the prescribed rate shall be paid by the Treasurer in the prescribed manner after the commencement of this Act, on all money paid into—

(i) the Supreme Court Suitors' Fund pursuant to subsection (2) of section 5;

(ii) the District Courts Suitors' Fund pursuant to subsection (2) of section 6;

(b) interest at the prescribed rate shall be paid by the Treasurer on all money in Court received after the commencement of this Act, from the date, for the time and in the manner prescribed.

10. Remittances to Treasurer. (1) On or before the fourth day of each month in every year, the Registrar shall cause to be remitted to the Treasurer the total amount of money in Court received by him during the last preceding month.

(2) Subject to subsection (1), the Registrar may at any time remit to the Treasurer any money in Court.

11. Investments under order of the Court. Money in Court paid in either before or after the commencement of this Act that, by or under any Act or rule of the Court or under any order of the Court, is required to be laid out in any particular investment shall, subject to this Act, be so laid out:

Provided that money in Court paid in after the commencement of this Act shall not be invested in any investment other than an investment authorized by section 21 of the *Trusts Act 1973*.

12. Appointment of holder of office to act for Treasurer. Any act, instrument or authority required or authorized to be done, signed, executed or exercised by the Treasurer for the purposes of this Act may be done, signed, executed or exercised by the holder of any office appointed by the Treasurer to act for him in that behalf.

13. Validity of acts duly done. All acts duly done by the Treasurer or the Registrar with reference to money and securities in Court pursuant to this Act or any rules of the Court shall be as valid and effectual as if they had been done pursuant to an order of the Court.

14. Remittances by post. Where pursuant to this Act the Registrar is authorized to make a payment of money to a person entitled thereto upon his request by transmitting by post to him, a crossed cheque or other document entitling him to obtain payment of the sum expressed therein, the posting of a letter containing such cheque or other document, and addressed to him at the address given by him in his request, shall be deemed to be delivery of the cheque or other document to the person himself.

15. Accounts and audit. (1) The Treasurer shall cause to be kept such accounts as are prescribed for the purposes of this Act (including accounts that are necessary for carrying into effect the orders of the Court) and, so far as not prescribed, as the Treasurer thinks fit.

(2) The Registrar shall cause to be kept for the purposes of this Act such accounts as are prescribed with respect to all money in Court.

(3) At least once in each year the Auditor-General or a person authorized by him in that behalf shall audit the accounts kept pursuant to this Act and the Auditor-General shall have with respect to the audit and accounts all the powers and authorities conferred upon him by the *Audit Act 1874-1968*.

The Auditor-General shall report thereon.

16. Regulations. The Governor in Council may make regulations not inconsistent with this Act for or with respect to—

- (a) the deposit, payment, delivery and transfer in, into and out of the Court of money and securities that belong to suitors or are otherwise capable of being deposited in or paid or transferred into the Court or into any bank or are under the custody of the Court, and the evidence of such deposit, payment, delivery or transfer;

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- (b) the investment of and other dealings with money and securities in Court in pursuance of the orders of the Court, and the execution of the orders of the Court;
 - (c) the powers and duties of the Treasurer and the Registrar with reference to money and securities in Court;
 - (d) the manner in which the Treasurer and the Registrar are to deal with money and securities in pursuance of orders of the Court;
 - (e) the manner in which effect is to be given to an order of the Court that is to be executed by or through the office of the Treasurer;
 - (f) the arrangements generally between the office of the Treasurer and the Court and the officers of the Court;
 - (g) the information to be given to and by the Treasurer with reference to Court business;
 - (h) the deposit, payment, sale, transfer and delivery with, to or by the Treasurer of money and securities in Court and the proceedings, evidence and duties of persons in relation thereto;
 - (i) regulation of the investment of money in Court in securities and the conversion into money of securities in Court;
 - (j) the determination of the manner of ascertaining the value of securities ordered to be purchased, sold or otherwise dealt with by the Treasurer;
 - (k) the payment and crediting of interest on money in Court;
 - (l) the determination of the smallest amount of money in Court that is to be invested in securities unless directed to be invested notwithstanding the smallness of the amount, and the smallest amount of money in Court on which interest in pursuance of this Act is to be credited to an account to which money in Court belongs;
 - (m) the determination of the time at which interest on money in Court is to begin and cease and the manner of computing such interest;
 - (n) dealing with interest on securities standing to the account of the Treasurer on behalf of the Court;
 - (o) dealing with accounts on which the balance of money and securities together is less than \$20, and providing for the periodical publication of a list of accounts not dealt with for a period of six years and dealing with those accounts;
 - (p) the manner of framing and expressing orders of the Court and proceedings relating to the business of the Treasurer pursuant to this Act;
 - (q) abrogation of any general orders of the Court in relation to matters pursuant to this Act;
 - (r) proof of the existence of an order of the Court and of the matters contained therein that shall be sufficient to authorize the transfer on sale or otherwise or the delivery out of securities or other things deposited with any bank or other person; the transfer or delivery out of securities or other things by an officer of any bank or other person upon production of such proof;

- (s) the forms to be used for the purposes of this Act and the particular purposes for which those forms shall respectively be used;
- (t) all matters required or permitted by this Act to be prescribed where the manner of prescription is not specified;
- (u) all matters that may be convenient for the administration of this Act or that may be necessary or expedient to achieve the objects and purposes of this Act.

17. Rules of Court. The Judges of the Supreme Court or a majority of them of whom the Chief Justice shall be one, or the District Court Judges or the majority of them with the approval of the Judges of the Supreme Court or two of them of whom the Chief Justice shall be one, as the case requires, may from time to time make rules of Court for regulating the procedure and practice of the Court for the purpose of carrying into effect this Act.