



Public Trustee Act 1978

Public Trustee Regulation 2012

Reprinted as in force on 1 November 2012

Reprint No. 1A

This reprint is prepared by
the Office of the Queensland Parliamentary Counsel
Warning—This reprint is not an authorised copy

Information about this reprint

This regulation is reprinted as at 1 November 2012. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes. Also see list of legislation for any uncommenced amendments.

This page is specific to this reprint. See previous reprint for information about earlier changes made under the Reprints Act 1992. A table of reprints is included in the endnotes.

Also see endnotes for information about when provisions commenced.

Spelling

The spelling of certain words or phrases may be inconsistent in this reprint or with other reprints because of changes made in various editions of the Macquarie Dictionary (for example, in the dictionary, ‘lodgement’ has replaced ‘lodgment’). Variations of spelling will be updated in the next authorised reprint.

Dates shown on reprints

Reprints dated at last amendment All reprints produced on or after 1 July 2002, authorised (that is, hard copy) and unauthorised (that is, electronic), are dated as at the last date of amendment. Previously reprints were dated as at the date of publication. If an authorised reprint is dated earlier than an unauthorised version published before 1 July 2002, it means the legislation was not further amended and the reprint date is the commencement of the last amendment.

If the date of an authorised reprint is the same as the date shown for an unauthorised version previously published, it merely means that the unauthorised version was published before the authorised version. Also, any revised edition of the previously published unauthorised version will have the same date as that version.

Replacement reprint date If the date of an authorised reprint is the same as the date shown on another authorised reprint it means that one is the replacement of the other.



Queensland

Public Trustee Regulation 2012

Contents

		Page
Part 1	Preliminary	
1	Short title	3
2	Commencement	3
3	Definitions	3
Part 2	Interest and investments	
4	Interest payable on amounts in common fund—Act, s 19(1)(c) . .	3
5	Prescribed investments for unclaimed moneys—Act, s 25(3)(b) .	4
Part 3	Fees and remuneration	
6	Remuneration of advisory trustees—Act, s 41(8)	4
7	Fees for legal services by official solicitor—Act, s 142(2)(h)	5
8	Power to remit fees—Act, s 142(2)(ha)	5
Part 4	Miscellaneous financial matters	
9	Application of the Act, pt 8 to unclaimed superannuation benefits—Act, s 97B	6
10	Preparing accounts—Act, s 142(2)(e)	7
Part 5	General	
11	Seal—Act, s 142(2)(a)	7
12	Execution of documents—Act, s 142(2)(a)	7
13	Provision of legal assistance—Act, s 142(2)(j)	8
Part 6	Repeal	
14	Repeal of Public Trustee Regulation 2001	8
Schedule 1	Interest payable on amounts in common fund	9
Schedule 2	Dictionary	10
 Endnotes		
1	Index to endnotes	12
2	Date to which amendments incorporated	12

Contents

3	Key	12
4	Table of reprints	13
5	List of legislation	13
6	List of annotations	13

Public Trustee Regulation 2012

[as amended by all amendments that commenced on or before 1 November 2012]

Part 1 Preliminary

1 Short title

This regulation may be cited as the *Public Trustee Regulation 2012*.

2 Commencement

This regulation commences on 31 August 2012.

3 Definitions

The dictionary in schedule 2 defines particular words used in this regulation.

Part 2 Interest and investments

4 Interest payable on amounts in common fund—Act, s 19(1)(c)

- (1) For the Act, section 19(1)(c), the annual rate of interest payable to an estate having an amount held in the common fund is stated in schedule 1.
- (2) However, for a term deposit amount for an estate, the annual rate of interest payable under the Act, section 19(1)(c) to the estate for the term deposit amount is—

[s 5]

- (a) if the term deposit amount is less than \$500000—3.05%; or
 - (b) if the term deposit amount is \$500000 or more but less than \$1000000—3.30%; or
 - (c) if the term deposit amount is \$1000000 or more—3.60%.
- (3) Also, if a term deposit amount for an estate is a class 2 amount and the rate agreed under schedule 1, item 2(a) or the rate allowed by order of a court is more than the rate mentioned in subsection (2) for the term deposit amount, the annual rate of interest payable under the Act, section 19(1)(c) to the estate for the term deposit amount is the rate agreed or allowed.
- (4) Interest payable to an estate under the Act, section 19(1)(c) is calculated on the daily balance of the amount held for the estate.
- (5) In this section—
- term deposit amount*, for an estate, means the part of the amount received by the public trustee for the estate and held in the common fund that the public trustee considers is not required at call or to meet short term or unforeseen liabilities of the estate.

5 Prescribed investments for unclaimed moneys—Act, s 25(3)(b)

For the Act, section 25(3)(b), the investments mentioned in the Act, section 19(1)(d) are prescribed.

Part 3 Fees and remuneration

6 Remuneration of advisory trustees—Act, s 41(8)

- (1) The remuneration of an advisory trustee out of an estate is the remuneration agreed by the public trustee and the advisory

trustee.

- (2) Subsection (1) applies subject to the provisions of any relevant trust instrument or court order.

7 Fees for legal services by official solicitor—Act, s 142(2)(h)

- (1) The public trustee may set a scale of fees for legal services provided by the official solicitor for the public trustee.
- (2) In setting the amount of a fee for a legal service, the public trustee must set an amount that gives a fair and reasonable level of remuneration for the service having regard to—
 - (a) the nature and complexity of the service; and
 - (b) the number, type and importance of documents perused or prepared for the service; and
 - (c) the care, skill and specialised knowledge required, and the responsibility carried out, in providing the service; and
 - (d) the time spent in providing the service.
- (3) Fees for legal services provided by the official solicitor must be paid into the common fund.
- (4) In this section—
legal services includes conveyancing services.

8 Power to remit fees—Act, s 142(2)(ha)

- (1) The public trustee may remit all or part of a fee otherwise payable under the Act.
- (2) Subsection (1) does not apply to a fee if the Minister directs the public trustee that the fee may not be remitted.

Part 4 Miscellaneous financial matters

9 Application of the Act, pt 8 to unclaimed superannuation benefits—Act, s 97B

- (1) The Act, part 8 applies to an unclaimed superannuation benefit if each accountable person holding the benefit—
 - (a) is a corporation within the meaning of the Corporations Act that is taken to be registered in Queensland under that Act; or
 - (b) is an individual whose principal place of carrying on business as a holder of benefits in an approved deposit fund or regulated superannuation fund is in Queensland.
- (2) The Act, part 8 also applies to an unclaimed superannuation benefit if—
 - (a) more than 2 accountable persons hold the benefit; and
 - (b) 1 or more, but not all, of the accountable persons are persons mentioned in subsection (1)(a) or (b); and
 - (c) the principal place where the fund in which the benefit is held is administered in Queensland.
- (3) The application of the Act, part 8 under this section extends to the following things and persons—
 - (a) an unclaimed superannuation benefit situated outside Queensland, whether or not in Australia;
 - (b) anything done, entered into or happening outside Queensland in relation to an unclaimed superannuation benefit, whether or not in Australia;
 - (c) an accountable person, a member of a fund or a beneficiary situated or residing outside Queensland, whether or not in Australia.

10 Preparing accounts—Act, s 142(2)(e)

- (1) The public trustee must, at times the public trustee considers appropriate, prepare an account (a *regular account*) for every estate, trust or matter in the Public Trust Office.
- (2) The public trustee may—
 - (a) give an interested person a free copy of the regular account; and
 - (b) at the request of the interested person and on payment of the appropriate fee, give the interested person—
 - (i) extra copies of the regular account; or
 - (ii) a copy of an account, other than a regular account, prepared by the public trustee.
- (3) In this section—

appropriate fee, for a document, means a fee decided by the public trustee that is not more than the reasonable cost to the public trustee of providing a copy of the document.

interested person means a person the public trustee considers has a right to, or an interest in, a regular account.

Part 5 General

11 Seal—Act, s 142(2)(a)

The design of the corporation's seal may be decided by the public trustee.

12 Execution of documents—Act, s 142(2)(a)

Transfers, mortgages, leases, agreements and other documents executed by the public trustee must be executed in a way showing the appointment or authority under which the public trustee acts.

[s 13]

13 Provision of legal assistance—Act, s 142(2)(j)

- (1) The public trustee may give aid to a person for civil proceedings by or against the person if—
 - (a) the person—
 - (i) does not meet the criteria for legal assistance under the *Legal Aid Queensland Act 1997*, section 11; or
 - (ii) is refused legal assistance under the *Legal Aid Queensland Act 1997*; and
 - (b) the Minister has given approval for the public trustee to give aid to the person.
- (2) For giving aid to a person, the public trustee may—
 - (a) engage a lawyer to represent the person; and
 - (b) pay the lawyer the fees the public trustee considers reasonable.

Part 6 Repeal

14 Repeal of Public Trustee Regulation 2001

The Public Trustee Regulation 2001, SL No. 152 is repealed.

Schedule 1 Interest payable on amounts in common fund

section 4

- 1 For a class 1 amount—
 - (a) held for a child or a person under a legal disability—3.00%; or
 - (b) held for a beneficiary, other than a child or a person under a legal disability, who has no right to payment at call—3.00%; or
 - (c) payable in the ordinary course of administration or at call—0.3%.
- 2 For a class 2 amount—
 - (a) a rate agreed on by the public trustee and the person paying the amount to the public trustee; or
 - (b) a rate allowed by order of a court; or
 - (c) if paragraphs (a) and (b) do not apply—a rate not less than 3.00% decided by the public trustee having regard to—
 - (i) the amount held; and
 - (ii) the period for which the amount is held; and
 - (iii) the purpose for which the amount is held.
- 3 For a class 3 amount—3.00%.
- 4 For a class 4 amount—the 90 day bank accepted bill rate for the relevant day for a quarter.
- 5 For a class 5 amount—0.3%.

Schedule 2 Dictionary

section 3

90 day bank accepted bill rate, for the relevant day for a quarter, means the 90 day bank accepted bill rate published by the Reserve Bank of Australia on its website for the relevant day for the quarter.

Editor's note—

90 day bank accepted bill rates may be viewed on the Reserve Bank of Australia's website at www.rba.gov.au/statistics/tables/index.html#interest_rates.

class 1 amount means an amount received by the public trustee for an estate under—

- (a) the Act, part 3, other than a class 2 amount; or
- (b) the Act, section 59.

class 2 amount means an amount received by the public trustee for an estate as agent, attorney, liquidator, receiver or manager.

class 3 amount means an amount received by the public trustee for an estate—

- (a) as manager of the estate under the Act, part 6; or
- (b) as manager of the estate under the Act, part 7; or
- (c) as administrator for a financial matter under the *Guardianship and Administration Act 2000*.

class 4 amount means an amount credited for an estate to the unclaimed moneys fund.

class 5 amount means an amount received by the public trustee for an estate under any Act that is not a class 1 amount, class 2 amount, class 3 amount or class 4 amount.

estate means an estate under administration.

quarter means any of the following periods—

- (a) 1 September to 30 November;
- (b) 1 December to the last day in February;
- (c) 1 March to 31 May;
- (d) 1 June to 31 August.

relevant day, for a quarter, means—

- (a) for the quarter beginning on 1 September—the last business day in August; or
- (b) for the quarter beginning on 1 December—the last business day in November; or
- (c) for the quarter beginning on 1 March—the last business day in February; or
- (d) for the quarter beginning on 1 June—the last business day in May.

Endnotes

1 Index to endnotes

	Page
2 Date to which amendments incorporated	12
3 Key	12
4 Table of reprints	13
5 List of legislation	13
6 List of annotations	13

2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 1 November 2012. Future amendments of the Public Trustee Regulation 2012 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No. [X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
num	= numbered	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2002
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments included	Effective	Notes
1	none	31 August 2012	
1A	2012 SL No. 185	1 November 2012	

5 List of legislation

Regulatory impact statements

For subordinate legislation that has a regulatory impact statement, specific reference to the statement is included in this list.

Explanatory notes

All subordinate legislation made on or after 1 January 2011 has an explanatory note.

Public Trustee Regulation 2012 SL No. 145

made by the Governor in Council on 30 August 2012

notfd gaz 31 August 2012 pp 1097–9

ss 1–2 commenced on date of notification

remaining provisions commenced 31 August 2012 (see s 2)

exp 1 September 2022 (see SIA s 54)

Note—The expiry date may have changed since this reprint was published. See the latest reprint of the SIR for any change.

amending legislation—

Public Trustee Amendment Regulation (No. 5) 2012 SL No. 185

notfd gaz 26 October 2012 pp 264–6

ss 1–2 commenced on date of notification

remaining provisions commenced 1 November 2012 (see s 2)

6 List of annotations

Interest payable on amounts in common fund—Act, s 19(1)(c)

s 4 amd 2012 SL No. 185 s 4