



New South Wales

Trustee Regulation 2000

under the

Trustee Act 1925

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Trustee Act 1925*.

JEFFREY SHAW, Q.C., M.L.C.,
Attorney General

Explanatory note

The object of this Regulation is to repeal and remake, with no changes in substance, the *Trustee Regulation 1995*.

The new Regulation:

- (a) provides guidance to trustees with respect to the investment of trust funds where the value of the funds subject to the trust does not exceed \$50,000 (clause 4), and
- (b) prescribes certain bodies as approved insurers for the purposes of insuring repayment of loans secured by property (clause 5), and
- (c) prescribes certain persons as agents for receiving payments and giving receipts in connection with the execution of trusts and the administration of estates (clause 6), and
- (d) deals with other matters of a machinery nature (clauses 1, 2, 3 and 7).

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Explanatory note

This Regulation is made under the *Trustee Act 1925*, in particular sections 104A (the general regulation-making power) and sections 14DB (Guidelines for trustees), 18 (Ratio of loan to value) and 53 (Employment of agents).

This Regulation is made in connection with the staged repeal of statutory rules under the *Subordinate Legislation Act 1989*.

This Regulation comprises matters of a machinery nature and matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

Trustee Regulation 2000

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Trustee Regulation 2000

1 Name of Regulation

This Regulation is the *Trustee Regulation 2000*.

2 Commencement

This Regulation commences on 1 May 2000.

3 Definitions

(1) In this Regulation:

the Act means the *Trustee Act 1925*.

(2) The explanatory note, table of contents and notes in the text of this Regulation do not form part of this Regulation.

4 Guidelines for trustees

(1) The object of this clause is to provide guidance to trustees with respect to the investment of trust funds where the value of the funds subject to the trust does not exceed \$50,000.

(2) The following investments are investments that a trustee might reasonably consider appropriate for the investment of trust funds:

(a) any public funds or Government stock or Government securities of the Commonwealth or any State,

(b) any debentures or securities guaranteed by the Government of New South Wales,

(c) any debentures or securities:

(i) issued by a public or local authority, or a statutory body representing the Crown, constituted by or under any law of the Commonwealth, or of any State or Territory, and

(ii) guaranteed by the Commonwealth, any State or the Northern Territory,

(d) any debentures or securities issued by the Northern Territory and guaranteed by the Commonwealth,

- (e) interest-bearing deposits in a bank,
- (f) any deposit with, withdrawable shares in, or loan of money to, an authorised deposit-taking institution.

Note. The obligations of a trustee are set out in section 14A of the Act, in other sections of the Act and in other rules and principles of law and equity. A trustee does not comply with the requirements of section 14A of the Act merely by investing trust funds in accordance with the guidelines set out in this clause. See, in particular, section 14DB (2) of the Act.

5 Prescribed insurers

For the purposes of section 18 (3) of the Act, the following corporations are prescribed insurers:

A.F.G. Insurances Limited
Australian Mortgage Insurance Corporation Limited
Beneficial Insurance Company Limited
GIO Australia Pty. Limited
Guaranty Finance Insurance Pty. Limited
Home Owners Mortgage Equity Pty. Limited
Housing Loans Insurance Corporation Limited
MGICA Ltd.
Sun Alliance Mortgage Insurance Limited

Note. A trustee is not chargeable with a breach of trust arising from loans made on the security of property so long as the requirements of section 18 are complied with. One of the requirements is that the amount of a loan must not exceed two-thirds of the valuation of the property unless repayment of the loan is insured by a prescribed insurer. The effect of this clause is to prescribe insurers for that purpose.

6 Prescribed agents for receipts and payments

For the purposes of section 53 (4) of the Act, the following are prescribed persons and classes of persons:

Austraclear Limited
Museum of Contemporary Art Limited
Public Trustee
trustee companies

Note. The effect of this clause is to enable trustees to employ specified persons to act on their behalf in the receipt and payment of money. Under section 53 (4) of the Act, banks, solicitors, stockbrokers and real estate agents may also be employed for that purpose.

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Clause 7 Trustee Regulation 2000

7 Repeal and savings

- (1) The *Trustee Regulation 1995* is repealed.
- (2) Any act, matter or thing that had effect under the *Trustee Regulation 1995*, immediately before its repeal, is taken to have effect under this Regulation.

BY AUTHORITY
