

Act 1993 No. 18

## TRUSTEE (AMENDMENT) BILL 1993

NEW SOUTH WALES



### EXPLANATORY NOTE

**(This Explanatory Note relates to this Bill as introduced into Parliament)**

A trustee may invest trust funds in securities authorised by the trust deed creating the trust or as authorised by section 14A of the Trustee Act 1925, which lists securities in which a trustee is authorised to invest unless expressly forbidden by the trust deed.

The object of this Bill is to mend the Act to enable a trustee to make use of the Reserve Bank Information and Transfer System (RITS) to hold or invest in securities which the trustee is authorised to hold or invest in.

The RITS system provides a means of transferring and settling transactions in securities. Currently the system applies only to Commonwealth Government securities. A trustee wishing to invest in securities using the RITS system may be prevented from doing so because the actual securities are vested in the Reserve Bank while they are held in the system and the trustee obtains only a right (a chose in action) to securities of the same description.

The Bill inserts a new section into the Act which will equate a chose in action under the RITS system with a security of the description to which the trustee is entitled under the chose in action. A trustee who holds or acquires such a chose in action will be regarded as having invested in the underlying security.

The amendment will not increase the range of securities in which trustees are authorised to invest. It merely permits a different means of investing in securities that are authorised investments.

The new provision will apply to existing trusts as well as new trusts. It will not apply to a trust to the extent that the trust instrument expressly forbids it.

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**Clause 1** specifies the short title of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a day to be appointed by proclamation.

**Clause 3** contains the amendment to the Trustee Act 1925.

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