

Dormant Funds Act 1942 No 25

[1942-25]



New South Wales

Status Information

Currency of version

Historical version for 17 July 2001 to 30 June 2009 (accessed 13 December 2024 at 18:19)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Notes—

- **Does not include amendments by**
[NSW Trustee and Guardian Act 2009 No 49](#) (not commenced)

Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

File last modified 26 June 2009

Dormant Funds Act 1942 No 25



New South Wales

Contents

Long title	4
Part 1 Preliminary	4
1 Name of Act and commencement	4
2 Definitions	4
3 Certain Acts not affected	5
Part 2 Administration	5
4 Commissioner of Dormant Funds	5
5 Charity Referees	5
Part 3 Functions of Commissioner	6
5A Commissioner may determine fund to be dormant	6
6 Returns as to funds	7
7 Power to require accounts and statements	8
8 Power to require attendance of trustees and persons	8
9 Notice of requirement under sec 7 or sec 8	9
10 Certificate as to value of dormant fund	9
11 Proposals for application of dormant fund	9
12 Proposals—dormant fund not exceeding \$10,000	10
13 Proposals—dormant fund exceeding \$10,000	10
14 Supplementary order as assurance, transfer etc	12
15 Effect of order	12
15A Register of orders to be kept	13

Part 4 Functions of Charity Referees	13
15B Appeals to Charity Referees	13
16 Procedure of Charity Referees	14
16A Matter can be dealt with in the absence of Charity Referee in certain cases	15
Part 5 Miscellaneous	16
17 Commissioner and Charity Referees not bound by laws of evidence	16
18 Commissioner and Charity Referees not bound to follow Cy-pres principle.....	16
19 Regulations.....	16
20 Savings and transitional provisions	17
Schedule 1 Savings and transitional provisions	17

Dormant Funds Act 1942 No 25



New South Wales

An Act to make provision for and in relation to certain funds donated, collected or acquired for charitable and other public purposes; to provide for the appointment of a Commissioner of Dormant Funds and of Charity Referees; and for purposes connected therewith.

Part 1 Preliminary

1 Name of Act and commencement

- (1) This Act may be cited as the *Dormant Funds Act 1942*.
- (2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

2 Definitions

- (1) In this Act unless the context or subject matter otherwise indicates or requires:

Charitable purpose includes any benevolent or philanthropic or patriotic purpose.

Commissioner means the Commissioner of Dormant Funds.

Dormant fund means a fund determined under section 5A to be a dormant fund.

Fund means any property, real or personal, which has been donated to or collected or otherwise acquired by trustees for any charitable purpose or any purpose of a public character, and, in the case of a fund that has been partly used for the purposes for which it was donated, collected or otherwise acquired, means the residue of the fund.

Prescribed means prescribed by this Act or by regulations made under this Act.

Purpose of a public character means any purpose (not being a charitable purpose) which is directed to the benefit of the public or a section of the public; and without prejudice to the generality of the foregoing provisions of this definition includes any of the following purposes:

- (a) the provision of any war memorial or other public memorial whether such provision is to be made by the erection, extension or alteration of any structure or building or by the furnishing of moneys or in any other way whatsoever,

- (b) the granting of relief or assistance or comforts to persons (whether resident in New South Wales or elsewhere) adversely affected by circumstances arising out of the existence of a state of war or arising in any other way whatsoever,
- (c) the provision of parks, gardens and the like,
- (d) the establishment, provision, conducting or carrying on of an institution as defined in the *Trustees of Schools of Arts Enabling Act 1902*.

(2)-(6) (Repealed)

3 Certain Acts not affected

(1) Nothing in this Act shall affect the operation of the *Unclaimed Money Act 1995*.

(2)

- (a) The jurisdiction and powers of the Supreme Court shall not be exercisable in relation to any matter or thing in respect of which powers, authorities, duties or functions are conferred or imposed on the Commissioner or the Charity Referees by this Act:

Provided that any action, proceeding or thing which is pending or uncompleted in the Supreme Court at the commencement of this Act, in relation to the establishment of a scheme for the administration of a charity, may be carried on and completed as if this paragraph had not been enacted.

- (b) Except to the extent provided in paragraph (a) nothing in this Act shall affect the jurisdiction and powers of the Supreme Court.

Part 2 Administration

4 Commissioner of Dormant Funds

- (1) There shall be a Commissioner of Dormant Funds who shall have and may exercise and discharge all the powers, authorities, duties and functions conferred and imposed on the Commissioner by or under this Act.
- (2) The person for the time being holding the office of Public Trustee shall be the Commissioner of Dormant Funds.

5 Charity Referees

- (1) The Charity Referees shall be constituted as provided in this section from four persons appointed for the purpose by the Governor.
- (2) One of such persons shall be a judge of the Supreme Court who shall be appointed on the nomination of the Chief Justice.

The person so appointed shall be the chairperson of the Charity Referees.

- (3) One other of such persons shall be appointed on the nomination of the State Executive of The Returned Services League of Australia (New South Wales Branch) or, if no such nomination is received within the time prescribed, the Governor may appoint any person to be the representative of The Returned Services League of Australia (New South Wales Branch).
- (4)
 - (a) One other of such persons shall be an officer of the Public Service who shall be appointed on the nomination of the Attorney-General.
 - (b) One other of such persons shall be an officer of the Public Service who shall be appointed on the nomination of the Minister for Education and Training.
- (5) For the purpose of exercising or discharging any power, authority, duty or function conferred or imposed on the Charity Referees by this Act, the Charity Referees shall be constituted by three of the persons appointed under this section, of whom one shall be the chairperson, one other shall be the member referred to in subsection (3) and the third shall be:
 - (a) where the matter arising before the Charity Referees relates to a dormant fund in respect of an institution as defined in the *Trustees of Schools of Arts Enabling Act 1902*—the person referred to in paragraph (b) of subsection (4),
 - (b) in every other case—the person referred to in paragraph (a) of subsection (4).
- (6) The decision of the chairperson upon any question of law or procedure which may arise in any matter before the Charity Referees shall be the decision of the Charity Referees.
- (7) Where the Charity Referees are divided in opinion as to the decision to be given on any question (not being a question to which subsection (6) relates), the question shall be decided according to the opinion of the majority.
- (8) This section is subject to section 16A (Matter can be dealt with in the absence of Charity Referee in certain cases).

Part 3 Functions of Commissioner

5A Commissioner may determine fund to be dormant

- (1) The Commissioner may determine a fund to be a dormant fund if satisfied that:
 - (a) for at least the immediately preceding 6 years, the trustees have not used the fund genuinely for the purposes for which it was donated, collected or otherwise acquired, or

- (b) it is not practicable to use the fund for those purposes, or
- (c) it is unlikely that those purposes will be achieved within a reasonable time, or
- (d) the trusts, or the objects of the trusts or the purposes, for which the fund was donated, collected or otherwise acquired are uncertain or cannot be ascertained, or
- (e) if the fund is held for an institution within the meaning of the *Trustees of Schools of Arts Enabling Act 1902*—the institution is not functioning as such an institution.

A fund is not to be regarded as having been used as referred to in paragraph (a) merely because the fund is invested or merely because the proceeds of investment have been placed on deposit or have been added to the fund.

- (2) The Commissioner may revoke a determination under this section if, after making the determination, the Commissioner decides that the determination was based on inadequate, misleading or incorrect information. However, such a determination is not revocable after the Commissioner has made an order under this Act in respect of the fund to which the determination relates.
- (3) The revocation of a determination under this section does not prevent the Commissioner from making a further determination under this section with respect to the fund.
- (4) Subject to any appeal under section 15B, a determination or decision of the Commissioner under this section cannot for any reason be challenged before, or be reviewed, quashed or called into question by, any court. No proceedings, whether for an order in the nature of prohibition, certiorari or mandamus or for a declaration or injunction or for any other relief, lie in respect of any determination or decision of the Commissioner under this section.

6 Returns as to funds

- (1) The Commissioner may require the trustees or other persons by whom any fund is held or in whom any fund is vested to furnish or cause to be furnished within the time specified in the requirement a return setting forth such particulars relating to the fund or to the trustees of the fund as may be specified in the requirement.

Any such requirement may be made in relation to all funds or funds of a specified class or description or all funds other than funds of a specified class or description.

Any such requirement may be made by notice published in one or more newspapers, or may be made by notice in writing served personally or by post on the trustee or person concerned.

- (2) Any trustee or person who, without reasonable cause, neglects or fails to furnish such

return within the time so specified or who furnishes a return which is false or misleading in any material particular shall be guilty of an offence and shall be liable to a penalty not exceeding 0.5 penalty unit.

7 Power to require accounts and statements

- (1) The Commissioner may require written accounts and statements and answers to inquiries relating to any dormant fund to be rendered or made to the Commissioner by any of the following persons, that is to say:
 - (a) the trustees or other persons by whom the dormant fund is held or in whom the dormant fund is vested,
 - (b) agents of any such trustees or persons,
 - (c) depositories of any funds, securities or moneys comprising or forming part of the dormant fund,
 - (d) persons having the possession or control of any documents concerning or relating to the dormant fund or the trusts thereof or the purposes for which the dormant fund was to be utilised or applied.
- (2) The Commissioner may require the trustees or persons rendering or making any such account, statement or answer to verify the same by statutory declaration.
- (3) Nothing in this section shall extend to give the Commissioner any power of requiring from any person holding or claiming to hold any property adversely to the trustees of the dormant fund or free or discharged from the trusts attaching to the dormant fund, any information or the production of any deed or document whatsoever in relation to the property so held or claimed adversely or any trusts alleged to affect the same.

8 Power to require attendance of trustees and persons

- (1) The Commissioner may require all or any such trustees and persons as are referred to in section 7 to attend before the Commissioner, or before an officer appointed by the Commissioner for the purpose, at such times and places as may reasonably be appointed, for the purpose of being examined in relation to the dormant fund, the trusts thereof, the purposes for which the dormant fund was to be utilised or applied, and to produce on such examination all books and documents in their custody and control relating to the dormant fund.
- (2) For the purposes of any examination under this section the Commissioner or the officer appointed to conduct the examination shall have the powers, authorities, protections and immunities conferred on a commissioner by Division 1 of Part 2 of the [Royal Commissions Act 1923](#), and shall be deemed to be a sole commissioner within the meaning of that Division.

The provisions of the [Royal Commissions Act 1923](#), with the exception of section 13

and Division 2 of Part 2, shall, mutatis mutandis, apply to the examination and to any witness or person summoned by or appearing before the Commissioner or the officer conducting the examination.

9 Notice of requirement under sec 7 or sec 8

- (1) Any requirement of the Commissioner under section 7 or section 8 may be made by notice in writing served personally or by post on the trustee or person concerned.
- (2) Any trustee or person who refuses or neglects or fails to comply with any requirement of the Commissioner under section 7 or section 8 within the time specified in the notice shall be guilty of an offence and shall be liable to a penalty not exceeding 2 penalty units.

10 Certificate as to value of dormant fund

- (1) The Commissioner shall as soon as practicable after the Commissioner has completed his or her investigations in relation to any dormant fund issue a certificate as to the value of the property comprised in the dormant fund.
- (2) Such certificate shall be filed in the office of the Commissioner and shall be available for inspection by any person interested in the dormant fund or in the trusts thereof or in the purposes for which the dormant fund was to be utilised or applied.
- (3) A certificate of the Commissioner issued under this section shall, for all purposes of this Act, be conclusive evidence of the value of the property comprised in the dormant fund.

11 Proposals for application of dormant fund

- (1) Where the Commissioner considers it reasonable so to do the Commissioner may formulate proposals for the utilisation or application of any dormant fund.
- (2) Such proposals shall be in the form of a draft order:
 - (a) authorising the trustees of the dormant fund to apply the same or the income thereof or the proceeds of the realisation thereof for some or one of the trusts thereof or of the purposes for which the same was to be utilised or applied exclusively of the other or others of such trusts or purposes, or
 - (b) for the establishment of a scheme for the administration of the dormant fund, the appointment of trustees for that purpose and the vesting of the dormant fund in such trustees, or
 - (c) directing the transfer of the dormant fund to such trustees as may be specified in the order and authorising such trustees to apply the dormant fund or the income thereof or the proceeds of the realisation thereof as if it were part of the trust property of which such trustees are the trustees.

The Public Trustee and any existing trustee of the dormant fund shall be eligible for appointment as trustee under paragraph (b).

- (3) Before formulating proposals under this section the Commissioner shall give due consideration to any representations or suggestions made by the trustees or other persons interested in the dormant fund, or in the trusts thereof or in the purposes for which the dormant fund was to be utilised or applied.

12 Proposals—dormant fund not exceeding \$10,000

- (1) Where the Commissioner has formulated proposals under section 11 in relation to a dormant fund the value of which does not exceed \$10,000 the Commissioner shall forward a copy of such proposals to the Attorney-General.
- (2) The Attorney-General may approve or disapprove of any proposals forwarded under this section or may refer them back to the Commissioner for further consideration.
- (3) Where the Attorney-General disapproves of proposals the Commissioner may formulate further proposals a copy of which shall thereupon be forwarded to the Attorney-General.
- (4) Where the Attorney-General refers proposals back to the Commissioner for further consideration the Commissioner may vary or modify such proposals or formulate other proposals, and a copy of the proposals as so varied or modified or formulated shall thereupon be forwarded to the Attorney-General.
- (5) Where the Attorney-General has approved of any proposals forwarded under this section, the Commissioner shall sign the draft order which shall thereupon have effect as an order made under this Act.

13 Proposals—dormant fund exceeding \$10,000

- (1) If the Commissioner has formulated proposals under section 11 in relation to a dormant fund the value of which exceeds \$10,000, the Commissioner must publish in the Gazette and in at least one newspaper a notice that:
 - (a) indicates that proposals have been formulated under this Act in relation to the dormant fund, and
 - (b) specifies a place where the proposals can be inspected, and
 - (c) fixes a date (being not earlier than 30 days after the date of publication of the notice in the Gazette) on or before which any person interested in the administration, utilisation or application of the fund may lodge with the Commissioner a request in writing that the Commissioner refer the proposals to the Charity Referees, and
 - (d) specifies an address at which any such request can be lodged.

- (1A) However, if the value of the dormant fund does not exceed \$50,000 and the Commissioner considers that the proposals so formulated are clearly appropriate, the Commissioner may dispense with the publication of the notice in a newspaper. If the Commissioner does so, the Commissioner must send a copy of the notice to the persons who are or were formerly the trustees of the fund (but only in so far as they are still alive and their whereabouts are known to the Commissioner).
- (1B) For the purposes of subsection (1), a notice may be published in any newspaper circulating throughout the State or, if the dormant fund was established and operated in a particular area of the State only, in any newspaper circulating throughout the State or that area.
- (2)
- (a) If within the time limited in the notice any such request is received by the Commissioner the Commissioner shall refer the proposals to the Charity Referees, and shall forward to the Attorney-General a copy of the request.
- (b) Where proposals are referred to the Charity Referees under this section the Charity Referees may consider the proposals and any representations made to them by or on behalf of the person making the request, or the Commissioner or the Attorney-General, and may thereupon approve the proposals or vary or amend the proposals or formulate new proposals.
- (c) The proposals as finally approved by the Charity Referees shall be in the form of a draft order which may make provision for any of the matters referred to in subsection (2) of section 11, and which, upon being signed by the Charity Referees, shall have effect as an order made under this Act.
- (2A) A person who has made a request that a proposal be referred to the Charity Referees may, at any time before the Charity Referees have completed their consideration of the proposal, deliver or send to the Commissioner a request in writing to have the reference withdrawn.
- (2B) If a reference is withdrawn, the proposal shall be dealt with as if no request has been received within the time limited in the notice.
- (3)
- (a) If within the time limited in the notice no such request is received by the Commissioner the Commissioner shall forward a copy of the proposals to the Attorney-General.
- (b) The Attorney-General may approve of the proposals or may refer them back to the Commissioner for further consideration or may request the Commissioner to refer the proposals to the Charity Referees.

- (c) Where the Attorney-General has approved of the proposals (whether as originally submitted or after they have been referred back for further consideration by the Commissioner), the Commissioner shall sign the draft order which shall thereupon have effect as an order made under this Act.
- (d) Where the Attorney-General requests that the proposals be referred to the Charity Referees the Commissioner shall refer the proposals accordingly, and thereupon the provisions of paragraphs (b) and (c) of subsection (2) shall apply.

14 Supplementary order as assurance, transfer etc

- (1) Where an order under this Act is made by the Commissioner or by the Charity Referees the authority making such order may, by the same order, or the Commissioner may, by a subsequent order, give such directions as to the Commissioner or the Charity Referees seem fit for the assurance, transfer, payment or vesting of any real or personal property comprising or forming part of the dormant fund.
- (2) Any person who refuses or neglects to comply with the directions in any such order shall be guilty of an offence and shall be liable to a penalty not exceeding 1 penalty unit and to a further penalty not exceeding 0.1 penalty unit for every day during which the offence continues.
- (3) Where any person directed by any such order to execute or make any assurance, transfer, payment or vesting of property, has refused or neglected to do so for a period of twenty-eight days, the Commissioner or the Charity Referees, as the case may be, may appoint any other person to execute or make such assurance, transfer, payment or vesting in the name of such first-mentioned person and to do all acts necessary to give validity and operation thereto.
- (4) The execution or making of such assurance, transfer, payment or vesting, and the assurance, transfer, payment or vesting so executed or made by the person so appointed shall, in all respects, have the same force or validity as if the same had been executed or made by the person directed by the order to execute or make the same.

15 Effect of order

- (1) Every order made under this Act shall be binding upon and shall be complied with and carried into effect by the trustees or persons named or described therein.
- (2) Every such order shall be a complete indemnity to all bankers or other depositories of any funds, securities or moneys comprising or forming part of the dormant fund, and to all trustees or persons named or described in the order for any act done pursuant to the order.
- (3) No person named or described in the order shall be concerned to inquire as to the

necessity for or propriety of such order or as to the authority of the Commissioner or of the Charity Referees to make the order.

- (4) The making of an order under this Act shall, in favour of all trustees and other persons named or described in the order, and of any person deriving title through or under such trustees or persons, or by operation of the order, be conclusive evidence that all conditions precedent to the making of the order have been duly complied with and that the Commissioner or the Charity Referees, as the case may be, had jurisdiction to make such order.
- (5)
 - (a) Any order under this Act which provides for the appointment of trustees shall have the effect of an order made by the Supreme Court in its equitable jurisdiction, pursuant to section 70 of the *Trustee Act 1925*.
 - (b) Any order under this Act for the vesting of the dormant fund in trustees so appointed shall have the like effect as is provided in section 78 of the *Trustee Act 1925* in the case of a vesting order made by the Supreme Court in its equitable jurisdiction.
- (6) All orders under this Act made by the Commissioner or by the Charity Referees shall be filed in the office of the Commissioner.
- (7), (8) (Repealed)

15A Register of orders to be kept

- (1) The Commissioner must establish and keep a register of all orders made under this Act.
- (2) The Commissioner must keep available for inspection at the Commissioner's office the register and the orders made under this Act. Any person who calls at the Commissioner's office during ordinary office hours and asks to do so is entitled, without charge, to inspect the register or any order made under this Act.
- (3) The regulations may make provision for or with respect to the keeping and inspection of the register and orders made under this Act.

Part 4 Functions of Charity Referees

15B Appeals to Charity Referees

- (1) Any person who is dissatisfied with a determination under section 5A, or the decision of the Commissioner revoking a determination under that section, may appeal to the Charity Referees against the determination or decision. An appeal must be lodged within the period prescribed by the regulations.

- (2) An appeal is to be dealt with by way of a new hearing. Fresh evidence, or evidence in addition to or substitution for the evidence on which the determination or decision appealed from was based, may, with the leave of the Charity Referees, be given at the hearing of an appeal.
- (3) A person who has lodged an appeal may withdraw the appeal at any time before the Charity Referees have decided it.
- (4) In deciding an appeal, the Charity Referees may:
 - (a) confirm the determination or decision appealed from, or
 - (b) quash that determination or decision and, in the case of a determination, substitute such other determination as the Commissioner could have made on the matter to which the appeal relates, or
 - (c) remit the matter to the Commissioner to be dealt with as ordered by the Charity Referees.

The quashing of a decision made under section 5A has the effect of reinstating the determination to which the decision relates.

- (5) The decision of the Charity Referees on an appeal made under this section is final.
- (6) A decision of the Charity Referees under this section cannot for any reason be challenged before, or reviewed, quashed or called into question by, any court. No proceedings, whether for an order in the nature of prohibition, certiorari or mandamus or for a declaration or injunction or for any other relief, lie in respect of any decision of the Charity Referees under this section.

16 Procedure of Charity Referees

- (1) The Charity Referees shall deal with any matter arising before them under this Act at public sittings.
- (2) The Charity Referees may, for the purpose of:
 - (a) hearing an appeal under section 15B, require any trustee or other person referred to in section 7, or
 - (b) considering a proposal referred to them under section 13, require any person interested in the administration, utilisation or application of the dormant fund concerned or in the proposal,

to attend before the Charity Referees, at such times and places as may be reasonably appointed, for the purpose of being examined in relation to any matter arising out of the appeal or reference and to produce on such examination all books and documents in his or her custody or control relating to the dormant fund.

- (3) For the purposes of any such examination the Charity Referees and the chairperson of the Charity Referees shall have the powers, authorities, protections and immunities conferred on commissioners and on the chairperson of a commission respectively, by Division 1 of Part 2 of the *Royal Commissions Act 1923*.

The provisions of the *Royal Commissions Act 1923*, with the exception of section 13 and Division 2 of Part 2, shall, mutatis mutandis, apply to the examination and to any witness or person summoned by or appearing before the Charity Referees.

- (4) The costs of and incidental to:

- (a) an appeal under section 15B, and
- (b) a request under section 13 to refer a proposal to the Charity Referees and of the proceedings on such a reference,

are to be in the discretion of the Charity Referees who may determine by whom and to what extent costs are to be paid.

- (5) The Charity Referees may determine that those costs are to be paid out of the fund concerned.
- (6) The Charity Referees may, in determining the costs of and incidental to a successful appeal under section 15B against a determination of the Commissioner, order the trustees of the fund concerned in the appeal to pay out of the fund the costs incurred by the Commissioner prior to the appeal in making the determination.
- (7) Costs payable out of a fund pursuant to an order under subsection (6) must not exceed 1 per cent of the value of the fund, as determined by the Charity Referees.
- (8) The costs shall be subject to taxation by the taxing officers of the Supreme Court on the application of either party, but that taxation shall be subject to review by a judge of the Supreme Court.
- (9) The amount of the costs as taxed and allowed may be recovered as a debt in any court of competent jurisdiction.

16A Matter can be dealt with in the absence of Charity Referee in certain cases

- (1) If, while the Charity Referees are dealing with a matter arising under this Act, one of the persons constituting those Referees (other than the chairperson) ceases to hold office or for any reason becomes unable to continue with the matter, the matter may, if the chairperson so decides, continue to be dealt with by the remaining 2 persons who constitute the Charity Referees.
- (2) If, while the Charity Referees are dealing with a matter arising under this Act, the chairperson ceases to hold office or for any reason becomes unable to continue with the matter, the remaining persons who constitute those Referees may adjourn the

matter.

- (3) A decision of the Charity Referees is not invalid only because, at the time they pronounce the decision, they are constituted differently from the way they were constituted when the decision was made.

Part 5 Miscellaneous

17 Commissioner and Charity Referees not bound by laws of evidence

In exercising and discharging any powers, authorities, duties and functions under this Act the Commissioner and the Charity Referees shall act according to equity, good conscience and the substantial merits of the case, without regard to technicalities or legal forms, and shall not be bound by any rules of evidence but may inform their minds on any matter in such manner as shall appear just.

18 Commissioner and Charity Referees not bound to follow Cy-pres principle

In formulating proposals under this Act the Commissioner and the Charity Referees shall give due consideration to the trusts of the dormant fund or the purposes for which the dormant fund may be utilised or applied but shall not be bound to comply with the principle known as the "Cy-pres principle".

19 Regulations

- (1) The Governor may make regulations not inconsistent with this Act prescribing all matters which are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) Without prejudice to the generality of subsection (1) the regulations may:
 - (a) prescribe a scale of fees in respect of proceedings in relation to dormant funds before the Commissioner or the Charity Referees; and such scale may vary according to the amount or value of the dormant fund, the nature of the proceedings or according to any other circumstances which the Governor may consider relevant,
 - (b) provide for the payment of travelling and sustenance expenses of the Charity Referees,
 - (c) provide for the payment to the person referred to in subsection (3) of section 5, of a fee for each meeting of the Charity Referees at which the person is present,
 - (d) prescribe the practice and procedure for proceedings held by the Commissioner and by the Charity Referees.
- (3) (Repealed)

20 Savings and transitional provisions

Schedule 1 has effect.

Schedule 1 Savings and transitional provisions

(Section 20)

Part 1 Preliminary

1 Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the *Dormant Funds Amendment Act 1995*.
- (2) A provision referred to in subclause (1) may, if the regulations so provide, take effect from the date of assent to that Act or from a later date.
- (3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than its date of publication in the Gazette, the provision does not operate so as:
 - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of publication, or
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of publication.

Part 2 Provisions consequent on enactment of *Dormant Funds Amendment Act 1995*

2 Determinations of Commissioner

A determination of the Commissioner in force under section 2 (2) immediately before the commencement of section 5A is taken to be a determination in force under section 5A.

3 Appeals to Charity Referees

An appeal to the Charity Referees made under section 2 (3) before the commencement of section 15B and not determined before that commencement is taken to be an appeal made under section 15B.

4 Proposals—dormant fund exceeding \$2,000

- (1) Section 13 of this Act (as in force immediately before it was amended by Schedule 1 [12] to the *Dormant Funds Amendment Act 1995*) continues to apply to proposals formulated under section 11 of this Act before the commencement of that amendment

as if that amendment had not commenced.

- (2) Section 13 of this Act (as in force immediately before it was amended by Schedule 1 [12] to the *Dormant Funds Amendment Act 1995*) continues to apply to notices published under that section before the commencement of that amendment as if that amendment had not commenced.

5 Index of orders

The index of orders kept under section 15 of this Act (as in force immediately before the commencement of Schedule 1 [14] to the *Dormant Funds Amendment Act 1995*) is taken to form part of the register established under section 15A of this Act.

6 Matters pending before the Charity Referees

Section 16A of this Act extends to matters that the Charity Referees were dealing with at the commencement of that section.