

# Trustee Regulation 2010

[2010-454]



New South Wales

## Status Information

### Currency of version

Repealed version for 10 February 2012 to 31 August 2015 (accessed 1 December 2024 at 17:53)

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—

- **Repeal**

The Regulation was repealed by sec 10 (2) of the [Subordinate Legislation Act 1989 No 146](#) with effect from 1.9.2015.

### 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 1 September 2015

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# Trustee Regulation 2010



New South Wales

## 1 Name of Regulation

This Regulation is the *Trustee Regulation 2010*.

## 2 Commencement

This Regulation commences on 1 September 2010 and is required to be published on the NSW legislation website.

### Note—

This Regulation replaces the *Trustee Regulation 2005* which is repealed on 1 September 2010 by section 10 (2) of the *Subordinate Legislation Act 1989*.

## 3 Definition

(1) In this Regulation:

**the Act** means the *Trustee Act 1925*.

(2) Notes included in this Regulation do not form part of this Regulation.

## 4 Guidelines for trustees

(1) For the purposes of section 14DB (1) of the Act, this clause sets out guidelines with respect to the investment of trust funds by trustees 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 of the Act, an insurer is a prescribed insurer, in respect of the insurance of the repayment of a loan, if the insurer:

- (a) is authorised under section 12 of the *Insurance Act 1973* of the Commonwealth (**the Commonwealth Act**) to provide the insurance concerned, or
- (b) is a Lloyd's underwriter who is authorised under Part VII of the Commonwealth Act to provide the insurance concerned, or
- (c) is a person (whether or not a Lloyd's underwriter) in respect of whom a determination is in force under section 7 (1) of the Commonwealth Act and the effect of the determination is to exempt the insurer from being required to be authorised under that Act to provide the insurance concerned.

**Note—**

A trustee lending money on the security of property is not chargeable with a breach of trust by reason only of the ratio of the loan to the value of the property so long as the trustee complies with the requirements of section 18 of the Act. One of those requirements is that the amount of the loan must not exceed two-thirds of the value of the property unless repayment of the loan is insured by a prescribed insurer, in which case the amount of the loan must not exceed 95 per cent of that value. This clause prescribes 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 (ACN 002 060 773)

Museum of Contemporary Art Limited (ACN 003 765 517)

NSW Trustee and Guardian

## 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.

### **7 Savings**

Any act, matter or thing that, immediately before the repeal of the *Trustee Regulation 2005*, had effect under that Regulation continues to have effect under this Regulation.