

Public Trustee Rules

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Legislative History

PUBLIC TRUSTEE ACT
(CHAPTER 260, SECTION 23(1))

PUBLIC TRUSTEE RULES

R 1

REVISED EDITION 1990

(25th March 1992)

[15th April 1935]

Citation

1. These Rules may be cited as the Public Trustee Rules.

Definitions

2. In these Rules, unless the context otherwise requires —

“Court” means the Supreme Court;

“trust” includes any trust duty or office which the Public Trustee is authorised by the Act or these Rules to accept; and the expression “trustee” shall be construed accordingly;

“trust instrument” includes any instrument, Act or order of Court by which a trust is created or declared;

“trust property” includes all property subject to a trust, or comprised in an estate, which is proposed to be administered by the Public Trustee;

“Registrar of the Supreme Court” includes a Deputy or Assistant Registrar of the Supreme Court.

Authorised trusts and duties

3. Subject to the Act and these Rules, the Public Trustee is authorised —

- (a) to accept any trust created or declared by any trust instrument or arising upon an intestacy;
- (b) to accept any duty incident to, and to act in, any of the following offices:
 - (i) as incident to the office of the trustee of any trust accepted by him, the office of guardian of any infant beneficiary; and

- (ii) the office (where the execution of any trust is involved therein) of agent or attorney for any person; and
- (c) to accept, by the name of the Public Trustee, probate or letters of administration of any kind and either as principal or as agent for any person:

Provided that he shall not accept the trusts of any instrument made solely by way of security for money.

Trusts involving management or carrying on of any business

4. The Public Trustee may if he thinks fit accept as ordinary trustee, under exceptional circumstances, a trust which involves the management or carrying on of any business, but upon the conditions that, except with the consent of the Minister, he shall only carry on the business —

- (a) for a period not exceeding 18 months;
- (b) with a view of sale, disposition or winding-up; and
- (c) if satisfied that the business can be carried on without risk of loss.

Appointment under any testamentary instrument

5.—(1) A testator may appoint the Public Trustee to be trustee under any testamentary instrument without previously applying to him for his consent to act as trustee.

(2) No such appointment by a testator shall have effect, and no appointment of the Public Trustee to be trustee shall be made except by a testator, unless the consent of the Public Trustee to act as such trustee shall have been obtained in accordance with these Rules:

Provided that in the case of any such appointment by a testator the Public Trustee shall at any time after the fact of his appointment shall have come to his knowledge be at liberty to act as if an application for his consent had been received by him.

(3) It shall be the duty of any person appointed by a testator to be co-trustee with the Public Trustee, and not renouncing or disclaiming the trust, to give to the Public Trustee notice in writing of such appointment as soon as practicable after the appointment has come to his knowledge.

Particulars to be given to Public Trustee

6. Upon receiving an application for his consent to act as trustee, the Public Trustee

may require to be produced to him the trust instrument (if any), and may require to be supplied to him a copy of that instrument, and of any other document affecting the trust, and such particulars as to the nature and value of any trust property, and the liabilities (if any) attaching to that property, or the holder thereof, and the names and places of abode of any beneficiaries and trustees under the trust, and such other information relating to the trust as he may consider it desirable to obtain in any particular case.

Evidence to be considered by Public Trustee

7. As soon as may be after receiving any such application, the Public Trustee shall take into consideration upon such evidence as may appear to him sufficient —

- (a) the gross capital value of the trust property;
- (b) the mode of investment and the condition of the trust property;
- (c) the situation, tenure and character of any land comprised in the trust property;
- (d) any liabilities attaching to the trust property or the holder thereof;
- (e) the duties incident to the office of trustee of the trust;
- (f) the places of abode and circumstances of any beneficiaries; and
- (g) all the circumstances of the case,

and shall decide whether the application ought to be accepted or refused, and shall give notice to the applicant of the acceptance or refusal, and in case of acceptance shall, in writing under his official seal, signify his consent to act in the trust.

Administration of small estates

8. Upon receiving an application under section 6(1) of the Act, the Public Trustee shall require to be supplied to him such evidence as to the value of the estate, and the circumstances of the persons beneficially entitled, and such other information relating thereto as he may consider it desirable to obtain in any particular case.

Estate less than \$5,000

9.—(1) If it is not proved to the satisfaction of the Public Trustee that the gross capital value of the estate is less than \$5,000, or if it does not appear to him that the persons beneficially entitled are persons of small means, or if he sees any other good reason for refusing the application, he shall refuse the application, and shall forthwith give notice to the applicant of such refusal.

(2) In any other case the Public Trustee shall make in respect of the estate the declaration mentioned in section 6(2) of the Act and shall give notice to the applicant