



# **LAWS OF MALAYSIA**

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**REPRINT**

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**Act 532**

## **PUBLIC TRUST CORPORATION ACT 1995**

*Incorporating all amendments up to 1 September 2010*

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# **LAWS OF MALAYSIA**

## **Act 532**

### **PUBLIC TRUST CORPORATION ACT 1995**

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## LAWS OF MALAYSIA

### Act 532

## PUBLIC TRUST CORPORATION ACT 1995

An Act to amend the laws relating to the Public Trustee and Official Administrator, to provide for the vesting of property, rights and liabilities of the Public Trustee and Official Administrator in a company, to regulate the exercise of functions and powers by the company and to provide for matters connected therewith and incidental thereto.

*[Whole Act: Peninsular Malaysia—1 August 1995;  
Sabah except ss. 17 & 18—1 August 1995;  
and Sarawak except ss. 15 to 18—1 August 1995,  
P.U. (B) 351/1995]*

**BE IT ENACTED** by the Seri Paduka Baginda Yang di-Pertuan Agong with the advice and consent of the Dewan Negara and Dewan Rakyat in Parliament assembled, and by the authority of the same, as follows:

### PART I

### PRELIMINARY

#### Short title and commencement

**1.** (1) This Act may be cited as the Public Trust Corporation Act 1995.

(2) This Act shall come into force on such date as the Minister may, by notification in the *Gazette*, appoint and the Minister may appoint different dates for the coming into force of all or different provisions of this Act in respect of different States or parts of Malaysia.

#### Interpretation

**2.** In this Act, unless the context otherwise requires—

“trust” includes an executorship or administratorship; and “trustee” shall be construed accordingly;

“rights” means all rights, powers, privileges and immunities, whether actual, contingent or prospective;

“property” includes all property, movable or immovable, and all estates, interests, easement and rights, whether equitable or legal in, to or out of property, chose in action, money and goodwill;

“trust property” includes all property in the possession or under the control, wholly or partly, of the Corporation by virtue of any trust;

“estate” means any property administered, held, managed or controlled by the Corporation whether as trustee or administrator or as guardian, receiver, receiver and manager, liquidator or attorney, or in any other capacity;

“Common Fund” means the Common Fund formed under section 25;

“Group Investment Fund” or “Fund” means a Group Investment Fund formed under section 30;

“liabilities” means liabilities, debts, charges, duties and obligations of every description (whether present or future, actual or contingent, and whether payable or to be observed or performed in Malaysia or elsewhere);

“Court” means the High Court or a Judge of such Court and includes, in cases where any of them is empowered to act, the Registrar, Deputy Registrars, Senior Assistant Registrars and Assistant Registrars of the High Court;

“Minister” means the Minister charged with the responsibility for the administration of trusts and estates;

\*“Official Administrator” means the Official Administrator, Malaysia, appointed under the Probate and Administration Act 1959 [Act 97];

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\*NOTE—All references to the term “Official Administrator” in the Probate and Administration Act 1959 [Act 97] has been replaced by the term “Corporation”—see sections 2 and 3 of Act A912 and also subsection 43(3) of this Act.



“Public Trustee” means the Public Trustee, Malaysia, appointed under the Public Trustee Act 1950 [*Act 247*];

“administrator” means a person to whom letters of administration is granted;

“administration” means the administration of the estate of a deceased person by an executor or administrator;

\*“Corporation” means the corporation under the name of Amanah Raya Berhad incorporated under the Companies Act 1965 [*Act 125*] pursuant to section 3;

“probate” means a grant under the seal of the Court authorizing the executor or executors named therein to administer the testator’s estate;

“letters of administration” means letters of administration of the estate and effects of a deceased person, whether general or with a will annexed;

“intestate” includes a person who leaves a will but dies intestate as to some beneficial interest in his property;

“appointed date” means the date or dates of coming into force of all or any of the provisions of this Act under subsection 1(2);

“vested”, in relation to property, includes rights to property which are future or contingent and rights in reversion and remainder;

“executor” means a person to whom the execution of the last will of a deceased person is, by the testator’s appointment, confided.

## PART II

### FORMATION AND OWNERSHIP OF THE CORPORATION AND VESTING PROVISIONS

#### **The Corporation**

**3.** There shall be a Corporation incorporated under the Companies Act 1965 under the name “Amanah Raya Berhad”.

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\*NOTE—“Corporation” was formerly known as “Official Administrator”—see sections 3 and subsection 43(3) of this Act.

**Vesting provisions**

4. (1) Subject to this Act, the Minister may, from time to time, by order published in the *Gazette*, appoint a vesting date and on such date all property, rights and liabilities of the Public Trustee and of the Government of Malaysia in respect of the administration of trusts and estates specified by the Minister in the order shall, by virtue of this Act, be transferred to and vested in the Corporation without any conveyance, assignment or transfer whatsoever.

(2) Every property vested in the Corporation by virtue of subsection (1) shall be so vested in the Corporation for the like title, estate or interest and on the like tenure as the same was vested or held immediately before the vesting date.

(3) Every chose in action vested in the Corporation by virtue of subsection (1) may, after the vesting date, be sued on, recovered or enforced by the Corporation in its own name and it shall not be necessary for the Corporation or the Public Trustee or the Government of Malaysia to give notice to the person bound by the chose in action of the vesting under subsection (1).

(4) Every right and liability vested in the Corporation by virtue of subsection (1) may, on and after the vesting date, be sued on, recovered or enforced by or against the Corporation in its own name and it shall not be necessary for the Corporation or the Public Trustee or the Government of Malaysia to give notice to the person whose right or liability is affected by the vesting under subsection (1).

(5) Any pending legal proceedings by or against the Public Trustee or the Government of Malaysia which relate to any property, right or liability transferred to and vested in the Corporation by virtue of subsection (1) may, on and after the vesting date, be continued by or against the Corporation.

(6) All property in the possession or under the control, wholly or partly, of the Public Trustee by virtue of any trust shall on the vesting date pass on to the Corporation with all the powers, rights, duties, liabilities and obligations attached thereto immediately before the vesting date to the extent that they are not inconsistent with this Act or any rules made under this Act.

(7) Any reference in any order of Court, deed, contract,

instrument or other document whatsoever to the Public Trustee or the Official Administrator shall be construed as a reference to the Corporation and all rights, powers, obligations and duties conferred, imposed on, undertaken or incurred by the Public Trustee or the Official Administrator under or by virtue of any such order of Court, deed, contract, instrument or other document shall be deemed to be conferred or imposed on or undertaken or incurred by the Corporation.

### **Initial Government holding in the Corporation**

**5.** (1) As a consequence of the vesting in the Corporation of the property, rights and liabilities under section 4, the Corporation shall issue such shares of the Corporation to the Minister of Finance as the Minister of Finance may, after consultation with the Minister, from time to time, direct.

(2) Shares required to be issued under this section shall be issued or allotted at such time and on such terms as to allotment as the Minister of Finance may, after consultation with the Minister, direct.

(3) Shares issued under this section—

(a) shall be of such nominal value as the Minister of Finance may direct; and

(b) shall be issued as fully paid and treated for the purposes of the Companies Act 1965 as if they had been paid up by virtue of the payment to the Corporation of their nominal value.

(4) Any dividends or other sums received by the Minister of Finance by virtue of this section shall be paid into the Consolidated Fund.

### **Government investment in further issues of shares of the Corporation**

**6.** (1) Further issues of the shares in the Corporation shall only be made as the Minister of Finance may, after consultation with the Minister, at any time, direct.

(2) Any expenses incurred by the Minister of Finance in consequence of the provisions of this section shall be treated as investments and be authorized under subparagraph 8(3)(a)(iv) of the Financial Procedure Act 1957 [*Act 61*].

(3) Any dividends or other sums received by the Minister of Finance under this section shall be paid into the Consolidated Fund.

(4) Stamp duty shall not be chargeable in respect of any increase in the capital of the Corporation which—

(a) is effected by the issue of shares; and

(b) is certified by the Treasury as having been effected by the issue of shares subscribed for by the Minister of Finance under subsection (1).

### **Staff**

7. (1) The Corporation shall accept into its employment, on a date to be appointed by the Minister by notification in the *Gazette*, every person who immediately before that date was a member of the staff of the Public Trustee or the Department of Official Administrator and who was given an option by the Government of Malaysia and has opted to serve as an employee of the Corporation.

(2) Every such person who opts under subsection (1) to serve as an employee of the Corporation shall be employed by the Corporation on terms and conditions of service not less favourable than the terms and conditions of service to which he was entitled immediately before the date appointed by the Minister under subsection (1).

### **Government of Malaysia to hold all shares in the Corporation**

8. (1) The Minister of Finance may, from time to time, on behalf of the Government of Malaysia, subscribe for or otherwise acquire all the shares in the Corporation.

(2) Shares in the Corporation held by the Minister of Finance shall be held by the Minister of Finance as incorporated under the Minister of Finance (Incorporation) Act 1957 [*Act 375*].

(3) Notwithstanding any other written law or rule of law, it shall not be necessary to complete or register a transfer of shares of the kind referred to in subsection (2) consequent upon a change in the person holding the office of the Minister of Finance.

(4) The Minister of Finance may exercise all the rights and powers attaching to the shares in the Corporation held by him.

(5) The Minister of Finance may, at any time, by written notice to the Company Secretary of the Corporation, authorize, on such terms and conditions as are specified in the notice, any person as he thinks fit to act as his representative at any or all of the meetings of shareholders of the Corporation or of any class of shareholders, and any person so authorized shall be entitled to exercise the same powers, on behalf of the Minister of Finance, as the Minister of Finance could exercise if present in person at the meeting or meetings.

### **Minister of Finance to hold shares**

**9.** (1) The Minister of Finance shall not—

- (a) sell or otherwise dispose of any shares in the Corporation held by him to any person; or
- (b) permit shares in the Corporation to be allotted to any person.

(2) Nothing in subsection (1) shall apply to redeemable preference shares that—

- (a) are not convertible into shares of any other class; and
- (b) do not confer any rights to vote at any general meeting of the Corporation.

## **PART III**

### **FUNCTIONS, POWERS AND DUTIES OF THE CORPORATION**

#### **Objectives**

**10.** The objectives of the Corporation are as follows:

- (a) to be an organization that exhibits a sense of social responsibility by having regard to the interests of the Malaysian community and by endeavouring to accommodate or encourage these when able to do so; and
- (b) to be as efficient and profitable as private trust companies.

### **Appointment of the Corporation**

**11.** (1) If a Court, the Government of Malaysia or a person within or outside Malaysia has power to appoint a trustee, executor, administrator, guardian, next friend, agent, attorney, receiver, receiver and manager or liquidator or make any other appointment of a fiduciary nature, the Corporation may be so appointed.

(2) The Corporation may act either alone or jointly with any person or body of persons in any capacity to which it may be appointed and shall have the same powers, duties and liabilities and be entitled to the same rights and immunities and be subject to the same control and orders of the Court as a private person acting in that capacity.

(3) The Corporation shall not decline to accept any appointment on the ground only of the small value of the property to which the appointment relates.

(4) Any person aggrieved by the decision of the Corporation to decline to accept any appointment may, within fourteen days of the decision, appeal to the Minister in writing and the decision of the Minister on such appeal shall be final.

### **Appointment of Corporation as trustee or executor**

**12.** (1) The Corporation may be appointed to be the trustee of any will or settlement or other instrument creating a trust or to perform any trust or duty belonging to a class which it is authorized to accept, and may be so appointed whether the will or settlement or other instrument creating the trust or duty was made or came into operation before or after the appointed date, and either as an original or as a new trustee, or as an additional trustee, in the same cases and in the same manner and by the same persons or Court as if it were a private person acting in that capacity.

(2) Notwithstanding the fact that any will, settlement or other instrument creating the trust or duty may provide for or direct or require the appointment of two or more trustees, the Corporation may be appointed and lawfully act as a sole trustee.

(3) Where the Corporation has been appointed a trustee of any trust, a co-trustee may retire from the trust under and in accordance with section 43 of the Trustee Act 1949 [*Act 208*], notwithstanding that there are not more than two trustees and without such consent as are required by that section.

(4) The Corporation shall not be appointed either as a new or additional trustee where the will, settlement or other instrument creating the trust or duty contains a direction to the contrary, unless the Court otherwise orders.

(5) Notice of any proposed appointment of the Corporation either as a new or additional trustee shall, where practicable, be given to all persons beneficially interested who are resident in Malaysia and whose addresses are known to the person proposing to make the appointment, or, if such beneficiaries are minors, to their guardians.

(6) If any person to whom such notice has been given applies to the Court within twenty-one days from the receipt of the notice, the Court may, if having regard to the interest of all the beneficiaries it considers it expedient to do so, make an order prohibiting the appointment being made:

Provided that a failure to give any such notice shall not invalidate any appointment made under this section.

### **Grant of probate and letters of administration to Corporation**

**13.** (1) The Corporation may, on its own application or on the application of any other person, be granted probates of will or letters of administration by the Court.

(2) The Court shall consider the Corporation as in law entitled equally with any other person or class of persons to obtain the grant of letters of administration, save that the consent or citation of the Corporation shall not be required for the grant of letters of administration to any other person and that as between

the Corporation and the widower, widow or next-of-kin of the deceased, the widower, widow or next-of-kin shall be preferred, unless for good cause shown to the contrary.

**Appointment of Corporation in place of executors, *etc.***

**14.** (1) The Court may, on the application of any person beneficially interested, appoint the Corporation, if sufficient cause is shown, in place of all or any existing executors, administrators or trustees.

(2) Any executor who has obtained probate or any administrator who has obtained letters of administration or any trustee may, with the sanction of the Court and after giving such notice to the persons beneficially interested as the Court may direct, and notwithstanding that he has acted in the administration of the deceased's estate or the trust property, transfer such estate or trust property to the Corporation for administration either solely or jointly with the continuing executors, administrators or trustees, if any.

(3) The order of the Court sanctioning such transfer shall, subject to this Act, give to the Corporation all the powers of the executor, administrator or trustee.

(4) The executor, administrator or trustee shall not be in any way liable in respect of any act or default in relation to such estate or trust property subsequent to the date of the order other than his own act or default or the act or default of persons other than himself for whose conduct he is in law responsible.

**Corporation may apply for grant on failure of grantee to extract letters of administration**

**15.** In the following cases, namely:

- (a) where any person who has received a grant of letters of administration neglects within three months of the date of the grant to furnish such security as he is lawfully required to furnish; or
- (b) where an administrator has failed to extract the grant of letters of administration within a reasonable time after an order has been made for a grant to issue,



the Corporation may apply to the Court to set aside the order for the grant and to grant letters of administration of the estate to itself.

### **Corporation may take possession of property**

**16.** (1) The Corporation may, as soon as it learns on such evidence as it deems sufficient that any person has died intestate leaving property in Malaysia, forthwith take possession thereof and provide for its safe custody until letters of administration are granted by the Court.

(2) Any person who without lawful authority or excuse removes or attempts to remove any portion of the property or destroys, conceals or refuses to yield up the same, on demand, to the Corporation, shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding five hundred ringgit or to imprisonment for a term not exceeding six months or to both.

(3) No suit shall be brought against the Corporation or any of its officers for anything done by the Corporation in relation to any such property under the authority or execution or intended execution of the powers vested in the Corporation by subsection (1); but any person who is aggrieved thereby may make application to the Court for redress.

### **Summary administration of movable property**

**17.** (1) Whenever any person dies, whether testate or intestate, leaving movable property in Malaysia and the Corporation is satisfied after such investigation as it deems sufficient—

- (a) that the total value of the property without deduction for debts, but not including the value of any property which the deceased possessed or was entitled to as trustee and not beneficially, does not exceed six hundred thousand ringgit; and
- (b) that no person is entitled to apply to the Court for grant of probate of will or no petition for letters of administration is pending,

the Corporation shall, upon the application of a person making a claim on the property and if it thinks fit to do so, by writing declare that it undertakes to administer the property, and thereupon the Corporation shall be empowered to administer the property as though letters of administration of the estate of the deceased person had been granted to the Corporation, and the Corporation's receipt shall be a sufficient discharge to any person who pays any money or delivers any property to the Corporation; and notice of every such declaration shall be filed in the proper Registry of the Court.

- (2) (a) When the Corporation is satisfied that the value of any property referred to in subsection (1) does not exceed fifty thousand ringgit, it may direct that the same or any part thereof be delivered to any person or persons on being satisfied as to the title of the claimant and value of the property by the oath or affirmation of the claimant or by such other evidence as the Corporation may require and the Corporation may in its discretion take such security as it thinks proper for the due administration of the property or the protection of the rights of any other person.
- (b) Nothing in this subsection shall affect the right of any person to recover the whole or any part of the property delivered under paragraph (a) from the person to whom it may have been delivered.
- (c) If the property is of no appreciable value or its value, in the opinion of the Corporation, is so small as to render impracticable the sale thereof, the Corporation may direct the property to be destroyed or otherwise disposed of as it thinks fit.

(3) The powers conferred on the Corporation by this section shall be without prejudice to the powers to deal, without a grant of probate of will or letters of administration, with property of a deceased person conferred upon any other person by any other written law:

Provided that every such person shall, on request, supply to the Corporation a full and true account of any such property dealt with by him and shall, if so required, pay or deliver to the Corporation any money or other property remaining under his control.

(4) At any time prior to the distribution of any part of the property among the beneficiaries thereof under this section, the Corporation may, if it thinks expedient to do so, notwithstanding any declaration made under subsection (1), decline to proceed with the administration of the property in its hands until a distribution order or a grant of probate or grant of letters of administration has been obtained in respect of the estate of the deceased.

(5) The proceeds of the sale of any property received by the Corporation in accordance with subsection 23(2) of the Police Act 1967 [*Act 344*] shall be dealt with in the same manner as the property is by this section ordered to be dealt with.

(6) This section shall not apply in the case of the property of the deceased to which Part III or IV of the Small Estates (Distribution) Act 1955 [*Act 98*] applies, but, subject as aforesaid, shall apply to all States.

### **Administration of estates of small value**

**18.** (1) Where—

- (a) the value of the property without deduction for debts, but not including the value of any property which the deceased possessed or was entitled to as trustee and not beneficially, does not exceed five thousand ringgit;
- (b) it appears to the Corporation that the persons beneficially entitled are persons of small means; and
- (c) the Corporation can administer the estate under section 17,

the Corporation shall administer the estate under section 17.

(2) Where proceedings have been instituted in any Court for the administration of an estate and by reason of the small value of the estate it appears to the Court that the estate can be more economically administered by the Corporation than by the Court or that for any other reason it is expedient that the estate should be administered by the Corporation instead of the Court, the Court may order that the estate shall be administered by the Corporation, and thereupon, subject to any directions by the Court, section 17 shall apply as if the administration of the estate had been undertaken by the Corporation under section 17.

**Payment of minor's maintenance**

**19.** (1) Where any property not exceeding twenty thousand ringgit in value is held by the Corporation, whether by virtue of a grant of letters of administration to the Corporation or by virtue of the powers conferred on the Corporation by this Act, and the property is held by the Corporation upon trust for any person for any interest whatsoever, whether vested or contingent, then, subject to any prior interest or charges affecting that property, the Corporation may at its sole discretion, during the minority of any such person, make payments of the whole or such part of the income and capital money of the property as may in all the circumstances be reasonable for that person's maintenance, education or benefit.

(2) Where the property so held exceeds forty thousand ringgit in value, the Corporation may make payments of capital money to the extent of twenty thousand ringgit.

(3) Payments under subsections (1) and (2) may be made to the parent or guardian of such person or otherwise as the Corporation may, in its discretion, determine and whether or not there is—

- (a) any other fund applicable for the same purpose; or
- (b) any person bound by law to provide for the person's maintenance or education.

**Undistributed funds**

**20.** Where, upon the conclusion of the administration of the estate of a person dying testate or intestate, there remains with the Corporation funds of which it is unable to dispose immediately by distribution in accordance with law by reason of the inability of the person entitled to give a discharge, through lack of legal capacity or otherwise, or by reason of any other cause which to the Corporation appears sufficient, the Corporation may apply the same for the benefit of that person and may for the purpose exercise all the powers under section 19.

**Corporation may represent minors**

**21.** (1) The Corporation may, on its own application or on the

application of any other person by summons, be appointed by the Court to act as next friend of any minor for the purpose of instituting any suit or proceeding in the name of the minor.

(2) If in any pending suit or proceeding it becomes necessary to add a minor as co-plaintiff, the Court may, on its own motion or on the application of the Corporation or any other person, appoint the Corporation to act as next friend of the minor in the suit or proceeding.

(3) In any suit or proceeding in which a minor is defendant or in which it becomes necessary to add a minor as co-defendant, the Court may, on its own motion or on the application of the Corporation or any other person, appoint the Corporation to act as guardian for the minor for the purposes of the suit or proceeding.

(4) The Court shall not make any order under this section unless the Corporation has had an opportunity of being heard and provision is made to the satisfaction of the Court for the payment of the Corporation's costs as between solicitor and client and for the payment of any cost which may be awarded against or directed to be paid by the Corporation.

(5) In any suit or proceeding in which the Corporation is appointed under this section to act for a minor, no costs shall be recoverable from the Corporation.

(6) In this section "suit" means an action or suit for the administration of the estate of any deceased person or of a trust, and "proceeding" means a proceeding under the Rules of the High Court 1980 [*P.U. (A) 50 of 1980*].

### **Agency**

**22.** It shall be lawful for the Corporation to act under any deed or instrument by which the Corporation is appointed agent or attorney for any person, and all the powers conferred upon the Corporation by any such deed or instrument may be exercised by such officer of the Corporation as the Corporation may appoint for that purpose:

Provided that nothing in this section shall be deemed to authorize any person to confer upon the Corporation any power which may not lawfully be delegated by him.

## PART IV

## FINANCIAL PROVISIONS

## DIVISION 1

*Bank Accounts and Power to Invest***Bank accounts**

**23.** (1) The Corporation may establish and keep in any bank in its name—

- (a) a general account in which trust funds may be kept temporarily pending their investment; and
- (b) as many special and trust accounts as are necessary to enable the Corporation to perform the duties and functions and exercise the powers of the Corporation.

(2) Any amount standing to the credit of the general accounts of the Public Trustee and the Official Administrator immediately before the appointed date shall be transferred to the general account established under paragraph (1)(a).

**Power to invest**

**24.** Subject as hereinafter provided, the Corporation may invest any money either—

- (a) on the separate account of the estate, trust, property or person to which or to whom the money belongs;
- (b) in the Common Fund; or
- (c) in any Group Investment Fund.

## DIVISION 2

*Common Fund***Formation of Common Fund**

**25.** (1) Subject as hereinafter provided, all capital moneys

available for investment which are held by the Corporation after the appointed date shall form one Common Fund and shall be invested in any investments permitted by law for the investment of trust funds.

(2) Any amount standing to the credit of the Common Fund established under section 10 of the Public Trustee Act 1950 as in force before the commencement of this Act shall on the appointed date be transferred to the Common Fund.

(3) Subject as hereinafter provided, any investment of capital moneys belonging to any estate which are held by the Corporation after the appointed date may be taken over and included in the investment account of the Common Fund.

(4) All investments taken over under subsection (3) shall be taken over at the market rate ruling at the date of the taking over, less any interest accrued at such date, and no such investment shall be taken over unless it is an investment permitted by law for the investment of trust funds and, in the opinion of the Corporation, is likely to continue to be readily realizable. For the purposes of this subsection, interest shall be deemed to accrue from day to day and shall be apportionable in respect of time accordingly.

(5) Any investment made on account of the Common Fund or included in its investment account shall not be made or held on account of or belong to any particular estate.

### **Exclusions from Common Fund**

**26.** The following shall not be included in or form part of the Common Fund:

- (a) moneys expressly or by necessary implication forbidden to be included in the Common Fund or directed to be invested in investments other than those permitted by law for the investment of trust funds;
- (b) investments held by the Corporation which have not been taken over under subsection 25(3);
- (c) moneys forming any of the estates administered by the Corporation or held by the Corporation as liquidator, receiver, receiver and manager, agent or in any other

fiduciary capacity, which in the opinion of the Corporation having regard to the circumstances in which it holds the moneys and the duration for which the moneys are available for investment, should not be invested in the Common Fund.

### **Interest payments on capital moneys in Common Fund**

**27.** (1) The interest payable in respect of the capital moneys which form part of the Common Fund shall be at such reasonable rate as the Corporation may, with the approval of the Minister, prescribe having regard to the distributable income of the Common Fund and the ability of the Common Fund and General Reserve Fund to meet all payments required to be paid.

(2) Such rate may be revised quarterly.

(3) Interest payable from the Common Fund shall be credited half yearly to the respective estates:

Provided that the Corporation may, at its discretion, credit such interest at such more frequent intervals as it may deem fit in the case of any particular estate.

### **Corporation's liability**

**28.** (1) The Corporation shall be liable to make good any lawful claims on the Common Fund which cannot be met therefrom or from the General Reserve Fund whether such claims relate to capital moneys or income.

(2) The capital moneys claimable by any estate shall include the moneys from such estate included in the Common Fund and where investments have been taken over under subsection 25(3) they shall also include the value of such investments as ascertained in accordance with subsection 25(4).

### **General Reserve Fund**

**29.** (1) Any amount standing to the credit of the reserve fund established under subsection 14(4) of the Public Trustee Act 1950



as in force before the commencement of this Act shall on the appointed date be transferred to the credit of the General Reserve Fund.

(2) The Corporation may direct such part of the balance standing to the credit of the income account of the Common Fund at the end of the preceding year (after deducting the interest payable to the beneficiaries and other lawful charges) to be carried to the credit of the General Reserve Fund.

(3) The General Reserve Fund shall be used for—

- (a) meeting losses arising on the disposal of the investment of the Common Fund;
- (b) maintaining reasonable rates of interest payments or payment of prescribed interest on capital moneys in the Common Fund;
- (c) carrying out the general purposes of the Common Fund; or
- (d) such other purposes as the Minister may by rules prescribe.

(4) The General Reserve Fund may be invested by the Corporation in such investments as are permitted by law for the investment of trust funds or may be deposited in any bank.

### DIVISION 3

#### *Group Investment Fund*

#### **Formation of Group Investment Fund**

**30.** (1) The Corporation may, from time to time, with the approval of the Minister of Finance and the Minister, establish and keep, in addition to and separately from the Common Fund, one or more funds each of which shall be called a Group Investment Fund. Where more than one Group Investment Fund is so established, each such Fund shall be given an appropriate distinguishing name or number.

(2) All moneys forming part of any Group Investment Fund shall be invested in such class or classes of investments as the Corporation determines at the time when the Fund is established,

being investments authorized by the instrument or other authority by which the moneys are held or any investment permitted by law for the investment of trust funds.

(3) Subject to this section, where moneys of any estate is in its possession and is available for investment but is not invested in the Common Fund, the Corporation may invest that money in any of its Group Investment Funds in which the money might lawfully be invested if the money is not directed to be invested in some other specified manner and investment in a Group Investment Fund is not inconsistent with the terms of the trust instrument (if any) or other authority governing the money.

(4) Investments made from moneys forming part of a Group Investment Fund shall not be made on account of or belong to any particular estate.

### **Directions**

**31.** The Minister of Finance and the Minister may, in approving a Group Investment Fund, consider and give directions to the Corporation with respect to any of the following matters:

- (a) the liquidity of the Group Investment Fund;
- (b) payment or allocation of income from the Group Investment Fund;
- (c) the holding of the capital of the Group Investment Fund;
- (d) the capital valuation of the Group Investment Fund;
- (e) winding up of the Group Investment Fund; and
- (f) any other matter which the Minister of Finance and the Minister consider necessary for the protection of the investors of the Group Investment Fund.

### **Group Investment Fund not a partnership, etc.**

**32.** A Group Investment Fund shall not be regarded—

- (a) as a partnership between persons entitled to interests in a Group Investment Fund; or

- (b) as a scheme issuing interests within the meaning of Division V of Part IV of the Companies Act 1965.

#### DIVISION 4

##### *Fees*

#### **Fees charged by the Corporation**

**33.** (1) There shall be charged in respect of the duties of the Corporation such fees, whether by way of percentage or otherwise, as the Corporation with the approval of the Minister prescribes.

(2) Any expense which might in law be retained or paid out of the trust property by a trustee shall be so retained or paid, and the fees shall be retained or paid in the like manner as and in addition to such expenses.

(3) The incidence of the fees and expenses under this section as between capital and income shall be determined by the Corporation.

#### PART V

#### GENERAL

#### **Exemption from giving security**

**34.** Where any bond or security would be required from a private person upon the grant to him of letters of administration or upon his appointment to act in any capacity, the Corporation, if granted letters of administration or appointed to act in any such capacity, shall not be required to give such bond or security but shall be subject to the same liabilities and duties as if it had given such bond or security.

#### **Exemption from giving notice of distribution of property**

**35.** Where the total value of any property (without deduction for debts, but not including the value of any property which the deceased possessed or was entitled to as trustee and not

beneficially) administered by the Corporation, whether pursuant to any trust instrument or will or by virtue of a grant of letters of administration to the Corporation or by virtue of the powers conferred on the Corporation by this Act, does not exceed six hundred thousand ringgit, it shall not be necessary for the Corporation to give notice of its intention to distribute the estate or require any person interested to send in particulars of his claim against the estate, but the Corporation may proceed forthwith to convey or distribute the estate or any part thereof to or among the persons entitled thereto, having regard only to the claims, whether formal or not, of which the Corporation then had notice, and the Corporation shall not, as respect the property so conveyed or distributed, be liable to any person of whose claim the Corporation has not had notice at the time of conveyance or distribution; but nothing in this section shall—

- (a) prejudice the right of any person to follow the property representing the same, into the hands of any person, other than a purchaser, who may have received it; or
- (b) free the Corporation from any obligation to make searches similar to those which an intending purchaser would be advised to make or obtain.

### **Registration of the Corporation not notice of trust**

**36.** Neither the application by the Corporation for registration as a member or shareholder in the books of any company nor the entry of the name of the Corporation in the books of any company shall constitute notice of a trust, and no company shall be entitled to object to the entry of the name of the Corporation on its books by reason only that the Corporation may be or is a trustee, and, in dealings with property, the fact that the person or one of the persons dealt with is the Corporation shall not of itself constitute notice of a trust.

### **Annual accounts, etc.**

**37.** (1) The Corporation shall furnish the Minister with the annual audited accounts of each financial year within such time and in such form as the Minister may prescribe.

- (2) The Corporation shall furnish the Minister with all such

returns, reports, accounts and information with respect to its property, investments and activities as the Minister may from time to time require.

### **Application to Court**

**38.** (1) The Corporation may apply to the Court for direction upon any matter arising out of the performance of any function or duty or the exercise of any power of the Corporation under sections 15 to 21.

(2) The performance of any function or duty or the exercise of any power of the Corporation under sections 15 to 21 shall be judicially reviewable.

### **Legal proceedings**

**39.** Notwithstanding the provisions of any written law, in any proceeding involving the Corporation, any officer of the Corporation approved by the Minister by notification in the *Gazette* may, on behalf of the Corporation, institute, appear in and conduct such proceeding and may make and do all appearances, acts and applications in respect of such proceedings.

### **Power to make rules**

**40.** (1) The Minister may make rules in respect of—

- (a) any matters for which rules are expressly permitted to be made under this Act;
- (b) the performance of the functions and duties or the exercise of the powers of the Corporation under sections 15 to 21;
- (c) procedures and proceedings in respect of any matter under sections 15 to 21;
- (d) any matter relating to the Group Investment Fund for which directions may be given under section 31; and
- (e) any other matter generally to give effect to the objectives of this Act.

(2) Before making any rules, the Minister shall—

(a) have regard to Part III; and

(b) consult the Corporation as to the matters to be dealt with in the rules.

(3) The Minister may make such rules as he considers necessary or expedient for the purpose of removing any difficulty occasioned by the coming into force of this Act, and any such rules may be so made as to have effect from the commencement of this Act.

### **Power to give directions**

**41.** Subject to the provisions of this Act, the Minister may, from time to time, give directions of a general character not inconsistent with the provisions of this Act as to the performance of the functions or duties and the exercise of the powers of the Corporation.

### **Corporation to investigate upon direction**

**42.** Without prejudice to the Minister's power to give directions under section 41, the Minister shall also have the power to direct the Corporation to investigate into any complaint made by any member of the public against the Corporation or any of its officers.

### **Repeal and savings**

**43.** (1) The Public Trustee Act 1950 and all rules made thereunder are repealed.

(2) The Public Trustee, being a corporation sole established under the Public Trustee Act 1950 and the Official Administrator being a statutory office established under the Probate and Administration Act 1959 shall cease to exist on the appointed date.

(3) Subject to the provisions of this Act, all written laws affecting the Public Trustee and the Official Administrator and in force immediately before the appointed date, shall, until amended or revoked, continue in force on and after the appointed date and be construed as if this Act had not been passed:

Provided that any references therein to the Public Trustee and the Official Administrator shall, unless the context otherwise requires, be construed as references to the Corporation, and expressions importing such references shall be construed accordingly.

(4) All orders, appointments and notifications made under the Public Trustee Act 1950 and in force immediately before the appointed date shall, insofar as they are not inconsistent with this Act, be deemed to have been made under this Act and shall continue in force until other provisions are made under this Act or until the date upon which they expire.

(5) It is hereby declared that the repeal of the Public Trustee Act 1950 and any repeal of the provisions or amendment of the Probate and Administration Act 1959 shall not affect any document made or anything whatsoever done under the provision so repealed or amended, and every such document or thing, so far as it is subsisting or in force at the time of the repeal or amendment and could have been made or done under this Act, shall continue and have effect as if it had been made or done under the corresponding provision of this Act and as if that provision had been in force when the document was made or the thing was done.

(6) Subject to the provisions of this Act, neither the repeal of the Public Trustee Act 1950 nor anything contained in this Act shall affect any person's right to be compensated from the Consolidated Fund and which right has arisen under the repealed Act before the appointed date.

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**LAWS OF MALAYSIA**

**Act 532**

**PUBLIC TRUST CORPORATION ACT 1995**

**LIST OF AMENDMENTS**

Amending law	Short title	In force from
	– NIL –	

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**LAWS OF MALAYSIA****Act 532****PUBLIC TRUST CORPORATION ACT 1995****LIST OF SECTIONS AMENDED**

Section	Amending authority	In force from
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– NIL –

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