

Bill No. 39 of 1946.

A BILL TO AMEND THE TRUSTEE ACT

NOTE.

Section 47 of *The Trustee Act* provides for the distribution by the executor or administrator of the assets of an estate after secured claims are paid *pro rata* among the creditors where there are not sufficient assets to pay the claims in full. Sometimes an executor, through a misapprehension as to the value of the assets, pays some creditors in full where the assets do not warrant it and it has been held by the Courts of some of the Provinces that in such a case the executor or administrator must pay all creditors in full. The purpose of the new subsection added to section 47 is to protect an executor or administrator in such cases. A similar amendment was made to *The Trustee Act* of Ontario in 1944.

Section 2 of the Bill amends section 60 of the Act. Section 60 deals with the interest in the Common Fund held and invested by the Official Guardian, the Administrator of the Estates of the Mentally Incompetent, and Public Administrators. Subsection (2) of the section now provides that interest shall be credited to the different estates at the prescribed rate half-yearly and the words proposed to be added by the amendment provide that the interest shall be calculated on the monthly minimum balance. By subsection (10) of section 60 as it now stands, a limit of one thousand dollars a year is placed on the amount which may be paid out of the Special Reserve Fund into General Revenue to be applied on the cost of administration of the two funds. The amendment authorizes the Official Guardian, the Administrator of Estates of the Mentally Incompetent and the Deputy Provincial Treasurer to fix the amount which, however, must not exceed the annual interest earned by the Special Reserve Fund.

W. S. GRAY,
Legislative Counsel.

(This note does not form any part of the Bill but is offered in explanation of its provisions.)

BILL

No. 39 of 1946.

An Act to amend The Trustee Act.

(Assented to _____, 1946.)

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

1. *The Trustee Act*, being chapter 215 of the Revised Statutes of Alberta, 1942, is hereby amended as to section 47 by adding immediately at the end thereof the following new subsection:

“(2) Where an executor or administrator pays more to a creditor or claimant than the amount to which he is entitled under the provisions of subsection (1), such overpayment shall not entitle any other creditor or claimant to recover more than the amount to which he would be entitled if such overpayment had not been made.”

2. The said Act is further amended as to section 60,—

- (a) by adding immediately at the end of subsection (2) thereof the words “and shall be calculated upon the minimum monthly balances of the moneys which form the Common Fund”;
- (b) by striking out the words “a sum not exceeding one thousand dollars annually”, where the same occur in subsection (10) thereof, and by substituting therefor the words “such annual sum as may be determined by them, but not exceeding the annual interest earned in respect of the securities held in the Special Reserve Fund”.

3. This Act shall come into force on the day upon which it is assented to.

THIRD SESSION
TENTH LEGISLATURE
10 GEORGE VI
1946

BILL
An Act to amend The Trustee Act.

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. MAYNARD.

EDMONTON:
A. Shnitka, King's Printer.
1946