

Bill 8

BILL 8

2006

TRUSTEE AMENDMENT ACT, 2006

(Assented to , 2006)

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

Amends RSA 2000 cT-8

1 The *Trustee Act* is amended by this Act.

2 Section 2 is repealed and the following is substituted:

Application

2(1) Sections 3 to 8 are subject to a contrary intention expressed in the instrument creating a trust.

(2) Sections 3 to 8 apply to a trust regardless of whether the trust was created before or after this section came into force.

3 Section 9 is repealed.

4 The Schedule is repealed.

5(1) The *Agricultural Societies Act* is amended by this section.

(2) Section 28(3) is repealed.

(3) Section 29(3) is repealed and the following is substituted:

(3) The directors are authorized to invest the funds of the society that are not immediately required only in accordance with the *Trustee Act*.

6(1) The *Cemeteries Act* is amended by this section.

(2) Section 36(1) is amended by striking out “in investments in which a trustee may invest trust money under the Schedule to the *Trustee Act*” **and substituting** “in accordance with the regulations”.

(3) Section 45(4)(b) is amended by striking out “in investments in which a trustee may invest trust money under the Schedule to the *Trustee Act*” **and substituting** “in accordance with the regulations”.

7 The *Condominium Property Act* is amended in section 43(1) by striking out “in investments in which a trustee may invest trust money under the Schedule to the *Trustee Act*” **and substituting** “in accordance with the regulations”.

8(1) The *Dependent Adults Act* is amended by this section.

(2) Section 39(b) and (c) are repealed and the following is substituted:

(b) invest and deposit any money in accordance with the regulations;

(3) Section 40(i) is amended by striking out “the Schedule to the *Trustee Act*” **and substituting** “the regulations”.

(4) Section 89(2) is amended by adding the following after clause (l):

(m) respecting the investing and depositing of money for the purpose of section 39(b).

9 The *Financial Administration Amendment Act, 2004* is amended in section 19(11) by repealing the new section 30(2)(a) and substituting the following:

- (a) invest the levies it receives and any interest earned on the levies in accordance with the *Trustee Act*, or

10(1) The *Funeral Services Act* is amended by this section.

(2) Section 8(3)(b) is amended by striking out “in investments in which a trustee may invest trust money under the Schedule to the *Trustee Act*” **and substituting** “in accordance with the regulations”.

11 The *Historical Resources Act* is amended by repealing section 41(g) and substituting the following:

- (g) to invest its funds in accordance with the *Trustee Act*;

12 The *Interpretation Act* is amended by repealing section 28(1)(c).

13 The *Livestock and Livestock Products Act* is amended by repealing section 30(2)(a) and substituting the following:

- (a) subject to the regulations, in accordance with the *Trustee Act*, or

14 The *Opticians Act* is amended by repealing section 3(2) and substituting the following:

- (2) Notwithstanding subsection (1) and subject to the regulations, the Association may invest any portion of its funds not required for its immediate purposes only in accordance with the *Trustee Act*.

15 The *Podiatry Act* is amended by repealing section 3(2) and substituting the following:

(2) Subject to the regulations, the Association may invest any of the funds of the Association that are not required for the immediate purposes of the Association only in accordance with the *Trustee Act*.

16 The *Real Estate Act* is amended by repealing section 58(1) and substituting the following:

Investment and insurance

58(1) Subject to the regulations, the Council may invest any part of the Fund not currently required for disposition only in accordance with the *Trustee Act*.

17 The *Safety Codes Act* is amended by repealing section 21(3) and substituting the following:

(3) Any money that is derived from donations that is not immediately required for the operation of the Council may, subject to the regulations, be invested only in accordance with the *Trustee Act*.

18(1) The *School Act* is amended by this section.

(2) Section 60(2)(d) is repealed and the following is substituted:

(d) invest only in accordance with the regulations made under section 79;

(3) Section 79 is amended by adding the following after clause (b):

(c) respecting the investment of money for the purpose of section 60(2)(d).

19 This Act comes into force on Proclamation.

Explanatory Notes

1 Amends chapter T-8 of the Revised Statutes of Alberta 2000.

2 Section 2 presently reads:

2(1) Sections 3 to 9 are subject to a contrary intention expressed in the instrument creating a trust.

(2) Subject to section 9, sections 3 to 8 apply to a trust regardless of whether the trust was created before or after this section came into force.

3 Section 9 presently reads:

9(1) An instrument that creates a trust that is in effect on the coming into force of section 2 of the Trustee Amendment Act, 2001 and that defines the investment powers of the trustee by express reference to this Act is to be read as defining those powers by reference to the Schedule to this Act.

(2) The Court of Queen's Bench on application may, on any terms and conditions that it considers appropriate, authorize the trustee of a trust referred to in subsection (1) to invest trust funds in accordance with sections 3 to 8.

(3) On an application under subsection (2) there is a presumption in favour of authorizing a trustee to invest trust funds in accordance with sections 3 to 8 if the court is satisfied that the trustee is willing and able to invest the trust funds in accordance with the standard of prudent investment set out in those sections, having regard to

- (a) *the trustee's experience or expertise in investment matters,*
- (b) *any proposal by the trustee to obtain and consider investment advice, and*
- (c) *any other information that the court considers relevant.*

(4) Where a provision of another enactment that is in force on the coming into force of section 2 of the Trustee Amendment Act, 2001 defines the investment powers of a person or body by express reference to this Act, the provision is to be read as defining those powers by reference to the Schedule to this Act, until such time as the other enactment is amended to provide otherwise.

4 The Schedule contains a “legal list” of authorized investment vehicles in which a trustee may invest trust money.

5 Amends chapter A-11 of the Revised Statutes of Alberta 2000. Sections 28 and 29 presently read in part:

28(3) Subject to the regulations, the directors are authorized to invest the funds of the society that are not immediately required only in investments in which a trustee may invest trust money under the Schedule to the Trustee Act.

29(3) The directors are authorized to invest the funds of the society that are not immediately required in any investment in which a trustee may invest trust money under the Trustee Act.

6 Amends chapter C-3 of the Revised Statutes of Alberta 2000. Sections 36(1) and 45(4)(b) presently read:

36(1) Subject to section 37 and the regulations, the authorized trustee shall invest, on behalf of the owner, all perpetual care funds received by the trustee from an owner only in investments in which a trustee may invest trust money under the Schedule to the Trustee Act.

45(4) The authorized trustee

- (b) may, subject to the regulations, invest the money only in investments in which a trustee may invest trust money under the Schedule to the Trustee Act.*

7 Amends chapter C-22 of the Revised Statutes of Alberta. Section 43(1) presently reads:

43(1) Subject to section 37(3) and the regulations, a corporation may invest any funds not immediately required by it only in investments in which a trustee may invest trust money under the Schedule to the Trustee Act.

8 Amends chapter D-11 of the Revised Statutes of Alberta 2000. Sections 39, 40 and 89 presently read in part:

39 Subject to any restriction or condition imposed by the Court, a trustee may, in respect of the estate of the dependent adult under the trustee's trusteeship and without obtaining the authority or direction of the Court, do all or any of the following:

- (b) invest any money in investments in which trustees are authorized to invest trust money under the Schedule to the Trustee Act;*
- (c) deposit any money in the manner in which trust money can be deposited under the Schedule to the Trustee Act;*

40 The Court may on any terms and conditions it considers appropriate, authorize a trustee to do all

or any of the following in respect of the estate of a dependent adult under the trustee's trusteeship:

- (i) notwithstanding the Schedule to the Trustee Act, invest funds in any securities and assets that the Court approves;*

89(2) The Lieutenant Governor in Council may make regulations

- (a) prescribing forms necessary for the purposes of this Act and the regulations;*
- (b) designating places as facilities for the purposes of this Act and the regulations;*
- (c) designating establishments or classes of establishments as institutions for the purposes of this Act and the regulations;*
- (d) designating the person in charge of a facility for the purposes of this Act and the regulations;*
- (e) prescribing the fair market value of personal property for the purpose of section 39(i);*
- (f) approving jurisdictions outside Canada for the purposes of section 66;*
- (g) prescribing the remuneration and travelling and living expenses payable to the chair and other members of appeal panels;*
- (h) designating the places of care in which dependent adults may be confined pursuant to a compulsory care order or a compulsory care certificate;*
- (i) governing the procedure and criteria to be used in determining in which place of care a dependent adult is to be confined pursuant to a compulsory care order;*
- (j) governing procedures respecting applications under this Act;*

- (k) *respecting the awarding of costs against the Crown in right of Alberta;*
- (l) *respecting the manner of service of documents.*

9 Amends chapter 7 of the Statutes of Alberta, 2004. Section 19(11) presently reads:

(11) The Livestock and Livestock Products Act is amended by repealing section 30(2) and substituting the following:

(2) The Tribunal may

- (a) invest the levies it receives and any interest earned on the levies, subject to the regulations, in investments in which a trustee may invest trust money under the Schedule to the Trustee Act, or*
- (b) be a participant under section 40 of the Financial Administration Act.*

10 Amends chapter F-29 of the Revised Statutes of Alberta 2000. Section 8(3) presently reads:

(3) An authorized trustee

- (a) shall deposit money received under subsection (1) in a special fund provided by the authorized trustee by agreement with the licensee, and*
- (b) may, subject to the regulations, invest the money only in investments in which a trustee may invest trust money under the Schedule to the Trustee Act.*

11 Amends chapter H-9 of the Revised Statutes of Alberta 2000. Section 41 presently reads in part:

41 In furtherance of its objects, the Foundation has power

- (g) to invest its funds in the classes of securities trustees are permitted to invest in under the Schedule to the Trustee Act;*

12 Amends chapter I-8 of the Revised Statutes of Alberta 2000. Section 28(1)(c) presently reads:

28(1) In an enactment,

- (c) “authorized trustee investment” means an investment authorized under the Schedule to the Trustee Act;*

13 Amends chapter L-18 of the Revised Statutes of Alberta 2000. Section 30 presently reads in part:

(2) The Tribunal may invest the levies it receives and any interest earned on the levies

- (a) subject to the regulations, in investments in which a trustee may invest trust money under the Schedule to the Trustee Act, or*

14 Amends chapter O-9 of the Revised Statutes of Alberta 2000. Section 3 presently reads in part:

(2) Notwithstanding subsection (1) and subject to the regulations, the Association may invest any portion of its funds not required for its immediate purposes only in investments in which a trustee may invest trust money under the Schedule to the Trustee Act.

15 Amends chapter P-16 of the Revised Statutes of Alberta 2000. Section 3 presently reads in part:

(2) Subject to the regulations, the Association may invest any of the funds of the Association that are not

required for the immediate purposes of the Association only in investments in which a trustee may invest trust money under the Schedule to the Trustee Act.

16 Amends chapter R-5 of the Revised Statutes of Alberta 2000. Section 58(1) presently reads:

58(1) Subject to the regulations, the Council may invest any part of the Fund not currently required for disposition only in investments in which a trustee may invest trust money under the Schedule to the Trustee Act.

17 Amends chapter S-1 of the Revised Statutes of Alberta 2000. Section 21 presently reads in part:

(3) Any money that is derived from donations that is not immediately required for the operation of the Council may, subject to the regulations, be invested only in investments in which a trustee may invest trust money under the Schedule to the Trustee Act.

18 Amends chapter S-3 of the Revised Statutes of Alberta 2000. Sections 60(2)(d) and 79 presently read:

(2) A board may

(d) invest only in any investments in which a trustee may invest trust money under the Schedule to the Trustee Act or as otherwise permitted by the Minister;

79 The Minister may make regulations

(a) governing the requirement of boards to

(i) acquire insurance, or

(ii) take part in schemes or arrangements to protect the board and its teachers and other employees with respect to loss or legal liability;

(b) respecting the collection, use, disclosure, disposal and destruction of personal information within the meaning of the Freedom of Information and Protection of Privacy Act by the Minister, a board or an operator of a charter school.

19 Coming into force.