SAMOA LAW REFORM COMMISSION

"Tali atu i suiga e ala i tulafono toefuata'i"

REVIEW OF THE PUBLIC TRUST OFFICE ACT 1975

April 2026

DISCUSSION PAPER - DP30/26

SAMOA LAW REFORM COMMISSION

The Samoa Law Reform Commission (the Commission) was established in 2008 by the Law Reform Commission Act 2008 as an independent body corporate to undertake the review, reform and development of the laws in Samoa. Its purpose is to facilitate law reform in Samoa by providing pragmatic recommendations based on high quality research, analysis and effective consultation.

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This Paper may be cited as SLRC [DP30/26].

This Discussion Paper is also available on the Commission's website: www.samoalawreform.gov.ws

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1 - INTRODUCTION

The Need for Change - The Public Trust Office Act 1975

1.1. The Public Trust Office (PTO) in a letter of 5 March 2024 sought the assistance of the Samoa Law Reform Commission (Commission) to review and reform the Public Trust Office Act 1975 (PTO Act 1975).

1.2. The PTO Act 1975 establishes the PTO of Samoa and provides the legal framework for the PTO's core functions, which include managing estates and trusts, overseeing trust funds, and preparing Wills.[1]

1.3. Since the enactment of the PTO Act 1975 some 50 years ago, the nature and application of trust law in Samoa has evolved considerably as legislation and society continue to change. Discussions with the Public Trust Office (PTO) have made clear that many provisions of the current Act are outdated and require comprehensive reform, particularly with respect to the functions and responsibilities of the PTO in administering estate matters. The practical experience of the PTO revealed significant legislative gaps that must be addressed to enable the PTO to carry out its mandate effectively and efficiently, and to better serve the interests of beneficiaries.

1.4. The Commission recognizes that the legislation is outdated, with processes and functions that are more challenging than helpful for the PTO in fulfilling its mandate.

1.5. The PTO highlighted two key areas needing the Commission's assistance in review:

- ***review the Act's provisions*** to assess the needed reforms to reflect the PTO's current vision and mission, as well as the broader legal and social context of Samoa today; and
- ***compare the PTO Act with supposed related legislation****,* particularly the Accident Compensation Act 1989, and National Provident Fund Act 1972 - to determine whether provisions in those Acts relating to benefits and proceeds for deceased persons and minors would be better administered by PTO, given its established role in estate management.

1.6. While a complete overhaul is ultimately needed, this Review takes a targeted approach — focusing its research, analysis and recommendations on the specific issues identified by the PTO through preliminary discussions. This ensures that the scope of the review is properly defined, allowing the Commission to focus on and address the immediate and pressing operational and functional concerns raised and identified.

1.7. The key issues and challenges faced by the PTO in the implementation of the Public Trust Office Act 1975 were raised in the PTO and the Commission's first meeting on 18 September 2024. These issues have persisted over time and remain unresolved, underscoring the need for review and reform of the Act.

[1] PTO letter dated 5 March 2024, requesting a *Review of the Public Trust Office Act 1975*.

Summary of key issues discussed

a) Functions of the PTO

1.8. PTO referred to several other government institutions, notably the National Provident Fund (NPF) and the Accident Compensation Corporation (ACC), and the Samoa Life Assurance Corporation (SLAC) that also perform functions that touch on the administration of estates and trusts to varying degrees. This overlap raises the need for a clear delineation of roles and responsibilities across these agencies.

1.9. A key question for the Review to consider is whether all estate and trust-related matters should be consolidated under the exclusive jurisdiction of the PTO, or whether the current practice of shared responsibility among multiple agencies should be retained, refined, or otherwise restructured.

b) Beneficiaries

1.10. Inconsistent practices have been observed across the PTO and other institutions in the disbursement of estate and trust funds to beneficiaries. This inconsistency points to a broader need for legislative clarity and uniformity in defining who constitutes a legally recognised beneficiary for the purposes of estate and trust administration. This is of particular importance in matters involving married spouses and de facto relationships, where differing institutional approaches have the potential to produce inequitable outcomes.

1.11. The Review should therefore consider how the relevant laws can be harmonised to ensure consistent and legally sound treatment of all beneficiaries across all administering institutions.

c) Applications to the court

1.12. There are two ways the PTO may administer an estate – either by election to administer or by order to administer. There is a need to clarify and update these processes to suit the current context and need in Samoa.

d) Funeral Payments

1.13. The current legislation makes no provision for a designated portion of an estate to be set aside for the purpose of meeting funeral expenses. This silence in the law leaves the PTO without clear authority or guidance in this area, thereby constraining its ability to administer estates in a timely and comprehensive manner and potentially delaying relief to beneficiaries at an already difficult time.

1.14. The Review should consider whether Samoa's trust legislation ought to be amended to expressly provide for such a provision, establishing a clear and consistent framework that empowers the PTO to address funeral-related costs as part of its estate administration functions, to the ultimate benefit of those it serves.

e) Limitation Period

1.15. The current legislation does not prescribe a defined timeframe within which persons with a potential interest in estate must lodge their applications with the PTO. This legislative gap presents a significant practical challenge, as the PTO may receive applications from additional claimants mid-way through processing earlier ones, making it difficult to bring matters to a timely conclusion and distribute estate property to those already identified. Without a statutory limitation period, the PTO has no clear legal basis to bar late applications or to declare an estate closed, leaving it exposed to ongoing and potentially indefinite claims.

1.16. The Review should therefore consider whether the legislation ought to be amended to introduce a prescribed application period, providing the PTO with the legal certainty and authority it needs to achieve finality in estate matters and to administer trust property with greater efficiency and fairness to all beneficiaries.

f) Powers of the PTO regarding estate money

1.17. During preliminary consultations, the investment of estate funds held by the PTO was raised as a matter warranting further examination. Concerns have been expressed regarding the disposition of income generated from such investments — specifically, whether that income flows to the beneficiaries of the estate or is retained by the PTO. These concerns point to a broader need for legislative clarity around the authority and accountability of the PTO in its capacity as trustee.

1.18. The Review should consider whether the legislation ought to expressly define and regulate the PTO's powers to invest, lend, or mortgage estate funds, including clear provisions governing how any returns or income derived from such activities are to be managed and distributed. In the absence of such clarity, the PTO's actions in this area may lack a firm legal basis and risk undermining the confidence of beneficiaries in the integrity of the estate administration process.

g) Unclaimed property

1.19. Under the current legislation, the PTO may apply to be appointed as administrator of unclaimed property, and the Court is empowered to make such an appointment where the gross value of the property does not exceed $4,000 and the appointment is considered to be in the best interests of the owner. However, the legislation is silent on how any earnings or proceeds derived from the sale of unclaimed property by the PTO are to be allocated and utilised, creating an accountability gap analogous to that identified in relation to investment and lending income. The Review should consider whether express provisions ought to be introduced to govern the treatment of such proceeds, ensuring transparency and consistency in the PTO's management of unclaimed property. Additionally, the legislation does not prescribe a defined period during which property must remain unclaimed before the PTO is entitled to initiate sale proceedings. The absence of such a timeframe leaves the process without clear legal boundaries, potentially exposing the PTO to challenge and undermining the rights of owners who may come forward at a later stage.

1.20. The Review should therefore examine whether a statutory waiting period ought to be established to provide the PTO with a clear and defensible basis upon which to proceed with the sale of unclaimed property.

h) Transfer of land under Trust

1.21. One of the challenges faced by PTO is where PTO needs to transfer land under an estate but the land to be transferred is registered under a deceased owner. The current process of MNRE requires that a land transferred must be from a surviving person. There is therefore a need to identify how this could be resolved to enable the required transfers of lands under estates where the owner has passed away.

1.22. The Review should examine how this procedural conflict between estate administration law and land registration requirements can be resolved, with a view to establishing a clear and workable mechanism that enables the lawful transfer of land within an estate where the registered owner has passed away. This may require legislative amendment, inter-agency coordination, or both, and should be considered as a matter of priority given its direct impact on the rights and interests of beneficiaries.

i) Categorization of PTO

1.23. The PTO is currently classified as a Public Trading Body (PTB) under the Public Bodies (Performance and Accountability) Act 2001. The PTO has expressed concern that this classification carries with it an implicit expectation that it generate revenue for the Government of Samoa — an expectation that sits in tension with its core mandate of administering estates and trusts for the benefit of beneficiaries.

1.24. This classification has, to some degree, influenced the PTO's operational priorities and is understood to have been a contributing factor in the decision to increase the fees it charges for its services. From the PTO's perspective, these increased fees have had an unintended consequence: contributing to delays in the administration of matters, as clients may be unable to meet fee obligations in a timely manner, thereby stalling the progression of their cases. There is therefore a fundamental question as to whether the PTO's current classification remains appropriate, given that its primary function is one of public service and fiduciary responsibility rather than revenue generation.

1.25. The Review should consider whether reclassifying the PTO under a more suitable category would better reflect the nature of its operations, restore its focus on its core mandate, and alleviate the practical burden that the current fee structure places on those it is established to serve.

1.26. Outside of the above issues raised and discussed, there is room to consider any other issues which may arise throughout the period of this Review, provided they ultimately come within the scope of the TOR.

The Terms of Reference

1.27. Following the initial discussions, the Commission developed a Draft TOR for this Review based on the key issues and challenges raised and discussed.

1.28. The Draft TOR was referred to the PTO in a letter of 21 November 2024 for their consideration and agreement before obtaining formal endorsement and referral of the TOR to the Commission pursuant to section 6(a) of the Law Reform Commission Act 2008, to officially commence this Review.

1.29. The PTO confirmed the Draft TOR in its letter of 24 January 2025. Unfortunately, due to differing interpretation and understanding of the prescribed law reform process under section 6(a) of the LRC Act 2008, particularly in the approval and referral of a TOR to the Commission, there was a significant delay in the endorsement of the agreed TOR.

1.30. After some further discussions with the former Honourable Minister for the Samoa Law Reform Commission, the Office of the Attorney General, and the PTO, the agreed TOR was finally submitted to Cabinet through the Honourable Minister for the PTO, seeking referral of the Review to the Commission pursuant to section 6(a) of the Law Reform Commission Act 2008.

1.31. The agreed TOR which requires the Commission to:

1) Undertake research and analysis of the PTO Act 1975 to clarify the functions and operations of the Public Trust Office; and
2) Identify any other relevant legislation in the fabric of laws of Samoa that needs to be considered in this Review; and
3) Carry out comparative research and analysis into some overseas jurisdiction trust laws and best practices which may be applicable to Samoa's needs and context; and
4) Recommend necessary legislative reforms to update and clarify the functions and operations of the Public Trust Office.

1.32. Almost 12 years later, the TOR was endorsed by Cabinet in its Directive (FK(25)47 dated 11 December 2025 and the Review of the PTO Act 1975 officially commenced.

2 – THE PUBLIC TRUST OFFICE ACT 1975

2.1. The PTO Act 1975 is an Act to consolidate and amend the enactments relating to the Public Trustee and the Public Trust Office of Samoa. It commenced on 23 December 1975.

2.2. Since the enactment of the PTO Act 1975, it has only been amended 7 times according to the Office of the Legislative Assembly's Updated list of Acts and Ordinances & Statutory Regulations (as at 31 December 2022). There are 2 Regulations and 1 Order recorded to have been made under the PTO Act 1975:

(i) Public Trust Office Regulations 1978;
(ii) Public Trust Office Amendment Regulations 2007; and
(iii) Public Trust (Common Fund Interest Rates) Order 2014.

2.3. The PTO Act 1975 contains a total of 131 provisions under 7 Parts. These Parts are briefly summarized below.

Part 1 Preliminary

2.4. Part 1 of the Public Trust Office Act 1975 (PTO Act 1975 contains standard provisions of an Act providing the Short Title2 and the Interpretation3 provision which contains a total of 21 terms and their respective interpretation.

Part 2 Constitution and Organisation

2.5. Part 2 governs the Constitution and Organisation of the PTO, and comprises 12 provisions across 3 Divisions.

2.6. The opening provisions establish the framework for appointing the Public Trustee who is responsible for administering the PTO. These provisions set out the eligibility criteria and appointment procedure, duration of appointment, and basis on which salary and allowances are to be determined, as well as the preparation of the employment contract.[4] There is reference to general responsibility of the Public Trustee to the Minister and the Investment Board in relation to the PTO's operations.[5] There are also provisions on the appointment of Assistant Public Trustees,[6] other offers, employees and agents[7] of the PTO, delegation by PT.[8]

2.7. Division 1 provides briefly on the process of and recognition of certain 'Contracts' entered into by the Public Trustee as if made and exercised by a private person.[9]

2.8. Division 2 establishes the Public Trust Office Investment Board, consisting of no fewer than three and no more than five directors. The Board is constituted with the authority to oversee and control the investment of funds held from time to time in the PTO's Common Fund that are available for investment.[10] The Division further provides for the passing of Board resolutions by entry into the minute book,[11] and for the delegation of the Board's powers with respect to making and managing investments.[12]

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[2] Section 1 (Short Title), Public Trust Office Act 1975.
[3] Section 2 (Interpretation), Public Trust Office Act 1975.
[4] Section 4 (Public Trustee), Public Trust Office Act 1975.
[5] Sections 4A (General responsibilities of the Public Trustee, Public Trust Office Act 1975.
[6] Section 4B (Appointment of Assistant Public Trustees, Public Trust Office Act 1975.
[7] Section 5 (Appointment of other officers, employees and agents), Public Trust Office Act 1975.
[8] Section 6 (Delegation by Public Trustee), Public Trust Office Act 1975.
[9] Section 8 (Contracts by the Public Trustee), Public Trust Office Act 1975.
[10] Section 9 (Constitution and powers of Investment Board), Public Trust Office Act 1975.
[11] Section 10 (Passing of resolutions of Investment Board by entries in minute book), Public Trust Office Act 1975.
[12] Section 11 (Investment Board may delegate powers of making and controlling investments), Public Trust Office Act 1975.

2.9. Division 3 addresses confidentiality obligations relating to estates under the PTO's administration. It requires all PTO staff, agents of the Public Trustee, and members of the Investment Board to maintain strict secrecy with respect to any information that comes to their attention in connection with the affairs of any estate administered by the PTO. Any person who willfully breaches this obligation commits an offence and is liable to the fines or imprisonment penalties prescribed under the Act.[13]

Part 3 Accounts and Investments

2.10. Part 3 sets out how the Public Trust Office manages money including how its accounts are set up, how salaries and expenses are paid, how profits or losses are handled, the establishment of the Common Fund and how estate money is invested and how the Public Trustee can lend money to estates and beneficiaries. There are 5 Divisions under this Part namely, Division 1: Accounts (ss13 – 23), Division 2: Investments (ss 24 – 31), Division 3: Advance to Estates (s32), Division 5: Advances treated as mortgages (s34) and Division 6: Renewals of Mortgages (s35).

2.11. Under the Division dealing with Accounts, provisions set out the requirements as to how the Public Trust Office manages its own accounts and the estate accounts of those it administers. Among these requirements, the Public Trustee must also prepare key documents annually such as the Balance Sheet, Profit and Loss Account as well as a Profit and Loss Appropriation Account.[14] In addition to this, an Annual Report must be prepared and submitted to the Minister who tables such in Parliament, in line with the Act.

2.12. In relation to estate money, the Public Trustee is authorized in the Act to pool money together into a Common Fund and use this Fund to invest in government approved investment types under the Act as well as guaranteed protection of the Common Fund.

2.13. The Public Trustee is also empowered under the Act to give loans to estates for the purpose of paying costs for the estates where there are assets under the estate although not enough money to pay for such costs. Such loans cannot exceed the value of the estate’s assets, and the loan becomes a secure charge over the estate.[15]

2.14. In addition to loans being issued and approved, the Public Trust Office can also make advances to a beneficiary of up to two-thirds of the value of their expected share. Such advance becomes an automatic first charge over their share held in each estate. Such advances can also be recovered through the sale or mortgage of such share if needed.[16]

2.15. Where the estate or beneficiary has land, such advances made are treated as a registered mortgage and a certificate under seal of the PTO is accepted as proof of debt.[17] The renewal of mortgages apply in these cases whereby the PT can extend or renew even if the new terms would

[13] Section 12 (Officers to make declaration of fidelity and secrecy), Public Trust Office Act 1975.
[14] Section 17 (Balance Sheet, etc), Public Trust Office Act 1975.
[15] Section 32 (Advances to estates), Public Trust Office Act 1975.
[16] Section 33 (Advances to beneficiaries), Public Trust Office Act 1975.
[17] Section 34 (Where land is affected advances to be treated as mortgages), Public Trust Office Act 1975.

not normally be authorized under investment rules. Such act allows for flexibility to protect estate investments as stipulated under the Act.[18]

Part 4 Acquisition of Rights to Administer Estates

2.16. Part 4 – Acquisition of Right to Administer Estates comprises sections 36 to 64 of the Public Trust Office Act. It establishes the law governing the circumstances in which the Public Trustee may be appointed, or may assume authority, to administer estates, trusts, and related matters in Samoa. Part 4 outlines the mechanisms for appointment, the scope of roles the Public Trustee may undertake, and the legal effects of such appointments.

2.17. Part 4 provides that the Public Trustee may be appointed to a wide range of fiduciary roles, including executor, administrator, trustee, guardian, agent, receiver, or representative in legal proceedings,[19] where such appointment is permitted and the Public Trustee consents. The Act sets out several pathways by which appointments may occur. These include appointment by the Court, as well as appointment by authorised persons, such as existing executors, administrators, or trustees, in some cases with the approval of the Court.[20] As a general rule, the Public Trustee acts as sole appointee and does not accept joint appointments, except limited advisory or custodial capacities.[21]

2.18. The Act also gives the Public Trustee a preferential right to administer certain estates. In cases of intestacy, the Public Trustee may apply for, and is generally entitled to, a grant of administration, subject to the Court's discretion where another eligible person applies.[22] Similarly, where no application for probate or administration is made within a prescribed period of 3 months, the Public Trustee may apply to administer the estate with the will annexed.[23]

2.19. Provision is also made for the Public Trustee to exercise interim powers in relation to a deceased estate prior to the grant of probate or administration.[24] These powers are primarily directed at the preservation and protection of estate property, but may extend to broader administrative actions, subject to specified limitations, including requirements for notice and in some cases, Court approval.

2.20. Once appointed, the Public Trustee assumes all rights, powers, duties, and liabilities equivalent to those of a private executor, administrator, or trustee.[25] Property and associated rights vest

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[18] Section 35 (Public Trustee may arrange extensions or renewals of Common Fund Investments, PTO Act 1975.
[19] Sections 36 (Duties for which Public Trustee may be appointed), 46 (Public Trustee may be appointed guardian or next friend of infant), 48 (Public Trustee may be appointed receiver), 49 (Public Trustee may be appointed to represent parties in legal proceedings), 50 (Public Trustee may act as arbitrator or umpire), Public Trust Office Act 1975.
[20] Sections 37 (Appointment of Public Trustee by executors, administrators and trustees), 39 (Public Trustee may be appointed sole trustee where appointment of 2 or more trustee provided for), 40 (Judge may consent to Public Trustee's appointment if any person whose consent is required, refuses or is unable to consent), Public Trust Office Act 1975.
[21] Section 41 (Public Trustee not to accept joint appointment), Public Trust Office Act 1975.
[22] Section 38 (Public Trustee entitled on application to administration of intestate estates), Public Trust Office Act 1975.
[23] Section 44 (Power of Public Trustee to administer if no application made for probate or administration), Public Trust Office Act 1975.
[24] Sections 54 (Powers exercisable by Public Trustee pending grant of probate or administration) and 55 (Notice to person entitled to obtain probate or letters of administration), Public Trust Office Act 1975.
[25] Section 42 (Public Trustee on appointment to have same rights, etc., as a private person), Public Trust Office Act 1975.

automatically in the Public Trustee without the need for further conveyance.[26] The Act also simplifies evidentiary requirements in applications for grant of administration of a will by the Public Trustee, allowing death and testamentary status to be proved by affidavit based on inquiries rather than strict formal proof.[27] Part 4 also enables the Public Trustee to undertake other roles, including as guardian for minors, agent for resealing foreign grants, receiver, or arbitrator.[28]

2.21. Part 4 contains specific provisions aimed at protecting vulnerable persons, particularly infants and persons under disability.[29] These include requirements that funds or damages awarded to such persons be paid to and administered by the Public Trustee, as well as provisions allowing trustees to transfer interests on behalf of infants. The Public Trustee may also administer benefit funds raised for individuals or classes of persons, subject to Court-approved schemes or, for funds not exceeding $4000, an internally settled scheme by the Public Trustee.[30]

2.22. Further procedural and administrative provisions are included, such as the ability of the Public Trustee to oppose applications for administration where appropriate, particularly where beneficiaries may be unrepresented,[31] and the delegation of trustee powers to the Public Trustee.[32] Safeguards are also provided to validate actions taken by the Public Trustee in good faith.[33]

Part 5 Elections to Administer and Certificates of Administration

2.23. This part discusses the elections to administer small estates and certificates of administration by the Public Trustee. It outlines the conditions under which the Public Trustee can administer small estates without formal grants if their value is under $75,000 and details the requirements for filing an election in the Supreme Court. Additionally, it specifies that for estates previously granted administration, the Public Trustee can file an election for unadministered balances not exceeding $3,000. The text clarifies that property overseas is excluded from these provisions but is subject to similar election processes. It also covers the revocation of incorrectly filed elections upon discovering a will and establishes that court fees for elections are governed by regulations. Lastly, it mandates that the Public Trustee can issue a certificate under seal to confirm their legal status, which is accepted as sufficient evidence for administrative rights without further documentation.

Part 6 Unclaimed Property

2.24. Unclaimed Property comprises sections 71 to 86 of the Public Trust Office Act. In the current consolidation of laws (as at 31 December 2024), section 82 does not appear, resulting in a total of 15 operative sections under this Part. The Act does not expressly define "unclaimed property", nor

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[26] Section 43 (Property, rights, etc., to vest in Public Trustee on appointment), Public Trust Office Act 1975.
[27] Section 45 (Provisions relating to applications for grants of administration), Public Trust Office Act 1975.
[28] Sections 46 (Public Trustee may be appointed guardian or next friend of infant), 47 (Public Trustee may act as agent for resealing in Samoa), 48 (Public Trustee may be appointed receiver) and 50 (Public Trustee may act as arbitrator or umpire), Public Trust Office Act 1975.
[29] Section 46 (Public Trustee may be appointed guardian or next friend of infant), 58 (Payment of legacies of infants to Public Trustee), and 59 (Money or damages to which infants and others entitled to be paid to Public Trustee), Public Trust Office Act 1975.
[30] Section 60 (Administration by Public Trustee of benefit funds), Public Trust Office Act 1975.
[31] Section 56 (Public Trustee may oppose application for administration), Public Trust Office Act 1975.
[32] Section 53 (Trustee may delegate powers to Public Trustee), Public Trust Office Act 1975.
[33] Section 57 (Validity of acts by Public Trustee under administration granted in error), Public Trust Office Act 1975.

is it defined in related legislation, as discussed in Part 3.1. However, unclaimed property is understood to refer to property in Samoa where the owner is unknown, cannot be located, or is deceased, and no agent or administrator is known to exist to manage the property.[34] Part 6 does not apply to customary land or certain categories of public land.[35]

2.25. Part 6 establishes the legal framework governing the management, administration, and eventual disposition of unclaimed properties by the Public Trustee. It sets out when the Public Trustee may be appointed to manage unclaimed property, the scope of their powers, and the processes for protecting and dealing with property in circumstances where no owner is available to do so.

2.26. The Public Trustee may be appointed to manage property where the owner is unknown, cannot be located, or is deceased and there is no identifiable agent or administrator in Samoa.[36] Appointment is generally made by the Court where it is considered to be in the best interests of the owner or other relevant persons, or to ensure the proper use or development of the property.[37] However, where the value of the property is relatively low (under $4,000), the Public Trustee may elect to manage the property without a Court order.[38] In all cases, notice of the appointment must be publicly notified.

2.27. Once appointed, the Public Trustee is granted wide powers to manage and deal with the property. These include recovering possession, collecting income, paying debts and liabilities, maintaining or improving the property, and, where appropriate, selling or transferring it.[39] The Public Trustee may also apply funds for the benefit of the owner's dependents[40] and may exercise powers equivalent to those of a trustee under relevant law.[41] Importantly, any money received in the course of management forms part of the Public Trustee's common fund,[42] and all expenses and remuneration are charged against the property, with provision for recovery from public funds where there is a shortfall.[43]

2.28. Part 6 also emphasizes the discretionary nature of the Public Trustee's role. The Public Trustee is not obliged to act in any particular case and retains full discretion in exercising their powers, subject to any directions of the Court.[44] The Public Trustee may also apply ex parté to the Court for guidance at any stage.[45] Actions taken in good faith are protected from liability, even where outcomes may be unfavourable. At all times, property and any associated income must ultimately be held for the benefit of the rightful owner, after deduction of authorised expenses.[46]

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[34] Section 71(1) (Appointment of Public Trustee as manager of unclaimed property), Public Trust Office Office Act 1975.
[35] Section 71(2) (Appointment of Public Trustee as manager of unclaimed property), Public Trust Office Office Act 1975.
[36] Section 71(1) (Appointment of Public Trustee as manager of unclaimed property), Public Trust Office Act 1975.
[37] Section 72(1) (Mode of appointment), Public Trust Office Act 1975.
[38] Section 72(2) (Mode of appointment), Public Trust Office Act 1975.
[39] Section 73(1) (Powers of Public Trustee), Public Trust Office Act 1975.
[40] Section 73(1)(b) (Powers of Public Trustee), Public Trust Office Act 1975.
[41] Section 73(1)(k) (Powers of Public Trustee), Public Trust Office Act 1975.
[42] Section 78 (Money to form part of common fund), Public Trust Office Act 1975.
[43] Section 79 (Remuneration and expenses of Public Trustee), Public Trust Office Act 1975.
[44] Section 76 (Public Trustee to have discretion as to exercise of powers), Public Trust Office Act 1975.
[45] Section 77 (Public Trustee may apply to Court for directions), Public Trust Office Act 1975.
[46] Section 80 (Property of which Public Trustee takes possession to be held for owner), Public Trust Office Act 1975.

2.29. Provision is also made for the termination of the Public Trustee's management, which may occur by Cout order, public notice, or upon transfer of the property back to the owner or their representative. Termination does not affect any actions already taken or any outstanding charges, which must be satisfied before the Public Trustee is released from their role.[47] Part 6 also includes practical provisions dealing with matters such as compensation for improvements, sale or transfer to occupiers or entitled persons, re-registration of property and reissue of lost title documents, and the validity of actions taken despite mistakes of fact.[48]

2.30. A key feature of this Part is the eventual disposition of unclaimed property to the State. Where no claim is made, or no claimant can be identified, land will vest in the State after 20 years, while other property will vest after 7 years, with any proceeds paid into the Treasury Fund.[49] In effect, these provisions ensure that the property does not remain indefinitely unadministered, while still allowing a reasonable period for rightful owners or claimants to come forward.

Part 7 Miscellaneous

2.31. Part 7 of the PTO Act 1975 contains 46 provisions (sections 87 – 129) covering a variety of matters.

2.32. The majority of the provisions under Part 7 set out other powers, responsibilities and functions of the Public Trustee. These may be compiled under a specific Part at the completion of this Review.

2.33. The various powers, functions and duties of the Public Trustee include some of the following few.

i. Powers of the Public Trustee

(a) Special Powers[50]

2.34. The Public Trustee is given special powers when acting as executor, administrator, trustee, guardian, or in any other authorized capacity over an estate. In brief, the Public Trustee has powers to raise money by mortgage, *pay and discharge all debts* and associated costs and liabilities, *honour or vary contracts* that existed before their appointment, offset debts by deducting money owed to an estate by various parties, regardless of timing, *granting powers of attorney to others* (locally or overseas,) *taking or defending legal action* when needed, *initiating insolvency proceedings, pursuing criminal proceedings* relating to estate property, which is presumed to belong to and be in the possession of the PT unless proven otherwise, and *hiring and paying advisors or assistants* (inside or outside the PTO) to help manage the estate. These powers apply unless the Act or a relevant legal instrument states otherwise.

[47] Section 81 (Termination of managership), Public Trust Office Act 1975.
[48] Sections 74 (Power of Public Trustee to pay for improvements), 75 (Sale or transfer of land to occupier or person entitled thereto), 84 (Provision in cases of lost title) and 85 (Order or notice not affected by mistake of fact), Public Trust Office Act 1975.
[49] Section 83 (Transfer of unclaimed property to State), Public Trust Office Act 1975.
[50] Section 87 (Special powers that may be exercised by the Public Trustee), Public Trust Office Act 1975.

(b) Public Trustee to act on written statements[51]

2.35. The Public Trustee may, act on credible information (though less than legal evidence), and may allow claims made before him upon affidavit, declaration or statement of claim. If the PT acts in good faith, the PT is protected from being held liable for accepting as correct any written statement or statutory declaration by any person in or out of Samoa, on any matter upon which the title of to any estate or part may depend.

(c) Require Inspection of property[52]

2.36. The Public Trustee may require an officer of the PTO to inspect land or property in any estate administered by PT or for which the PT is a mortgagee, and provide a report as to the state and condition of the land and performance by an occupier, lessee, mortgagor or other person.

(d) Public Trustee may charge for collection of rent[53]

2.37. When the PT is exercising mortgagee powers in possession, the PT may charge for the collection of rents as may be prescribed by regulations. The charge constitutes a debt due y the mortgagor to the Public Trustee.

(e) Public Trustee's power to give priority in distribution of assets[54]

2.38. If the assets of a testate estate under the PT's administration are insufficient to pay liabilities in full, the PT has the power to decide and give priority, in the distribution of assets to the costs and expenses of administration, funeral expenses, medical and hospital expenses and priority claims under other laws.

(f) Duty of Public Trustee as to shares of infants[55]

2.39. Where there is testate or intestate estate and the PT is the administrator, the PT shall hold the shares of infants in the estate, trust or settlement as trustee for the infants until infancy ceases. In the meantime, shares are dealt with by PT.

(g) Power of PT to make small payments without order

2.40. If the PT is directed to make any payment upon an order of the Court, to any person entitled thereto, the PT may make payment without such an order if the amount is less than $500. Any such payment is taken under the law as valid as if properly authorized by an order of the Court or Judge.

(h) Payment of money without grant of administration

2.41. Where a person to whom any sum of money (less than $500) is payable by the PT, upon the death of such person, the Public Trustee may pay the sum or any part or parts thereof to any person or persons whom the Public Trustee may consider entitled thereto without requiring administration

[51] Section 88 (Public Trustee may act on written statement, etc.), Public Trust Office Act 1975.
[52] Section 89 (Powers of inspection of property), Public Trust Office Act 1975.
[53] Section 90 (Public Trustee as mortgagee in possession may charge for collection on rents), Public Trust Office Act 1975.
[54] Section 95 (Payment of claims when assets insufficient), Public Trust Office 1975.
[55] Section 97 (Duty of Public Trustee as to shares of infants), Public Trust Office 1975.

to be taken out in the estate of the deceased person. Any payment made in good faith is valid against all persons and the PT is completely discharged from liability for the money so paid.

ii. Dealing with estate / property

2.42. Apart from some powers, functions and duties of the PT, there are also some general provisions on how the PT may deal with some property or estate under different circumstances. These include provisions which:

(a) clarify that where a lease or tenancy has been terminated, the acceptance of any rent payment by the Public Trustee after such notice, does not invalidate the issued notice to end tenancy. The PT may still collect rent and expect the termination of tenancy to be honoured;

(b) protect purchasers, vendor, mortgagee or lessee in any sale, exchange, purchase or mortgage to be made;

(c) protects the title of any tenant or lessee of the PT if the person acted in good faith, from being prejudiced or affected by reason of non-compliance on the part of the PT;

(d) clarify that when dealing with property, the involvement of the Public Trustee does not in itself constitute notice of a trust;

(e) prohibit the charging of any borrower any money from the PT, any procuration fee;

(f) set out that certain restrictive covenants in mortgages are declared void when the PT is entitled to administer the estate, the estate is coming into the hands of the PTO, or any other covenant or condition to affect the mortgagor adversely, the PT becomes entitled to administer the estate of the mortgagor.

iii. General provisions to be retained in an updated Part on Miscellaneous

2.43. Out of the 46 provisions under Part 7, 6 of these provisions cover general matters and can be retained in an updated law. These include provision on the services of notices by the Public Trustee, relationship between the PTO Act 1975 and other Acts and instruments, Regulations making power, Rules of the Court and the repeals under this Act. This Review is an opportunity to review and update these provisions accordingly.[56]

3 – THE KEY ISSUES

3.1. In preliminary discussions with the Public Trust Office, a number of key issues were highlighted where the PTO consider legislative reforms would resolve challenges they have encountered in implementing the provisions of the PTO Act 1975. The key issues are discussed under the relevant Parts of the Act.

[56] Sections 121 (Reciprocity of administration with Public Trustees of Commonwealth countries), Section 125 (Services of notices by Public Trustee), Section 126 (Relationship between this Act and other Acts and instruments), Section 127 (Regulations, Section 128 (Rules of Court) and Section 129 (Repeal), Public Trust Office Act 1975.

3.1 Part 2 – Constitution and Organization

Functions & Roles of the Public Trust Office

3.2. In preliminary discussions with the PTO, a key concern raised was the absence of specific and detailed provisions outlining the functions and roles of the PTO under Part 2 of the PTO Act 1975. This legislative gap has resulted in a lack of clarity and adequate guidance for the PTO in understanding and carrying out its statutory functions and roles.

3.3. Part 2, specifically section 4A of the PTO Act, sets out the general responsibilities of the Public Trustee (PT) to ensure the effective and efficient management of the PTO. While this Part contains provisions governing the appointment of the Public Trustee,[57] Assistant Public Trustees,[58] officers, employees, and agents,[59] as well as delegation by the Public Trustee[60] and certain contracting powers of the PT, [61] it does not expressly define or enumerate the specific functions and roles of either the PT or the PTO.

3.4. The PTO has indicated that this absence of detailed legislative provisions creates operational challenges and, at times, uncertainty when the PTO carries out its functions in relation to the administration and management of estates.

3.5. It is further noted that various provisions concerning the powers and duties of the PT are currently located in Part 7 (Miscellaneous) of the PTO Act, which is a separate and latter part of the legislation. Consideration will therefore be given to whether these provisions should be consolidated and relocated under a dedicated Part specifically addressing the functions and roles of the PT and PTO, in order to provide greater legislative coherence and clarity.

Discussion Questions

1) What are the primary functions and roles of the Public Trustee (PT)?
2) What are the primary functions and roles of the Public Trustee's Office (PTO)?
3) Should the governing legislation expressly set out the functions and roles of the PT and PTO?

Overlapping functions of the Public Trust Office

3.6. It has been identified by PTO that several other government institutions, notably the National Provident Fund (NPF) and the Accident Compensation Corporation (ACC), and the Samoa Life Assurance Corporation (SLAC) also perform functions that touch on the administration of estates and trusts to varying degrees.

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[57] Section 4 (Public Trustee), Public Trust Office Act 1975.
[58] Section 4B (Appointment of Assistant Public Trustees0, Public Trust Office Act 1975.
[59] Section 5 (Appointment of other officers, employees and agents), Public Trust Office Act 1975.
[60] Section 6 (Delegation by Public Trustee), Public Trust Office Act 1975.
[61] Section 8 (Contracts by the Public Trustee), Public Trust Office Act 1975.

3.7. Samoa operates a centralised public trustee system, established under section 3 of the PTO Act 1975, whereby the PTO administers all intestate estates involving property situated in Samoa. Notwithstanding this centralised framework, uncertainty and potential confusion may arise where other statutory bodies also have a role in distributing a deceased person's funds following their death, in accordance with their own governing legislation and procedures.

3.8. The main institutions with similar functions are discussed below.

1) Accident Compensation Corporation (ACC)

3.9. Under the Accident Compensation Act 1989 (AC Act 1989), the ACC administers a compulsory workplace levy scheme, collecting contributions from both employers and employees. Specifically, employers are required to pay a levy of 1 sene for every complete tālā of wages paid to their workers, and employees are likewise required to contribute 1 sene for every complete tālā of wages received.[62] The levies received are pooled and used to pay compensation provided for under the AC Act 1989.[63]

3.10. The payment of compensation in case of death is calculated as follows.[64]

Type		Lump Sum payment	Weely payment	Funeral Grant
Worker at time of death	Dependents	20,000	70% of deceased's monthly earnings, with a maximum limit of $1,000. - For 5 years from the date of the accident.	$4,000
	Partial dependents, if no dependents	Up to $16,000	Amount 'reasonable and proportionate to the loss,' maximum of 70% of deceased's monthly earnings or $1000. - For 5 years from the date of the accident. Amount may be varied by ACC at any time.	$4,000
Non-Worker at time of death	Dependents	$20,000	No	$4,000
	Partial dependents, if no dependents	Up to $16,000	No	$4,000

ACC Entitlements and the Administration of Deceased Estates

3.11. Where a worker dies in any of the circumstances within the purposes of the Accident Compensation Act 1989 (AC Act 1989), and compensation is due to be paid accordingly, questions

[62] Section 52 (Payment of levies by employers), Accident Compensation Act 1989.
[63] Section 48 (Sources and application of funds), Accident Compensation Act 1989.
[64] Section 26 (Compensation in the case of death0, Accident Compensation Act 1989.

may arise as to whether a deceased person's compensation under ACC form part of the deceased's estate and, consequently, whether those amounts fall within the Public Trustee's Office's (PTO) jurisdiction to administer.

3.12. The Commission's preliminary research into the AC Act 1989 indicates that they do not. The ACC scheme operates as a pooled compensation fund rather than an individualised savings or entitlement scheme. Once an employee pays the 1% income levy, those funds cease to be the property of the individual and are consolidated into the general ACC fund. No separate account is maintained on a per-employee basis.

3.13. Compensation is only calculated and paid out of the ACC fund upon the occurrence of an injury or accident that falls within the scope of the AC Act 1989. Critically, any compensation payable following a worker's death is not paid into the deceased's estate. Instead, it is paid directly to eligible dependents in accordance with the criteria and conditions prescribed by the legislation.

3.14. For these reasons, ACC entitlements do not form part of the deceased's estate and therefore fall outside the PTO's role in estate administration.

2) Samoa National Provident Fund (SNPF)

3.15. The SNPF operates as a compulsory savings scheme for Samoan workers. It collects 16% of a member's gross income, invests those contributions, and returns the accumulated funds to the member upon retirement. Unlike the ACC levies, which are pooled and cease to be the property of the individual contributor, each member's SNPF contributions are held in their own individual account and remain their personal property. Members may withdraw their funds upon meeting the prescribed conditions, including reading the age of 5.

Nominated Beneficiaries

3.16. Under section 43 of the NPF Act 1972, a member may nominate any person as the beneficiary of their SNPF funds upon death. Where a valid nomination exists, the funds are paid directly to the nominated beneficiary and do not form part of the deceased member's estate.

3.17. However, if the nominated beneficiary dies after the member but before payment is made, the sum payable no longer passes directly to that beneficiary. Instead, it forms part of the beneficiary's own estate and is distributed in accordance with the law applicable to that estate.

Where No Nomination is Made

3.18. Where a member dies without having made a nomination, the NPF Act provides that the funds pass to the deceased member's spouse. However, the legislation does not address the order of priority between the spouse and the PTO where the estate is being administered by the PTO. This is a gap in the legislative framework that warrants further consideration.

3.19. Where the PTO administers a deceased member's estate and no nomination has been made, the member's SNPF account balance would form part of the estate and be distributed accordingly.

3.20. In light of the above, PTO’s jurisdiction to handle any portion of a person’s NPF contributions as part of their estate is not automatic upon death of the member. The PTO may get involved where there is no named beneficiary in the member’s scheme, and in the absence of an eligible spouse and contribution is referred to PTO for distribution as necessary.

3) 3. Samoa Life Assurance Corporation (SLAC)

3.21. The Samoa Life Assurance Corporation (SLAC), established under the Samoa Life Assurance Corporation Act 1976 offers whole-of-life life insurance. The Corporation is a state-owned and it is voluntary to become a member. Members pay premiums every year and upon their death, a fixed amount of compensation is paid to their chosen beneficiaries tax-free. The establishing Act does not provide details on the premiums members pay or how the compensation is paid out to beneficiaries. This is a matter which may be confirmed and further clarified through consultations with SLAC at a later stage of this review. It is presumed that the payment conditions and process may be contained in the contract between each member and the SLAC.

3.22. Overall, the 3 institutions with supposed overlapping functions to those of the PTO, have their own specific purposes and processes of dealing with deceased persons asset, particularly money under their own laws.

3.23. Preliminary research and analysis indicates that:

- ACC entitlements do not form part of the deceased's estate and therefore fall outside the PTO's role in estate administration;
- a person’s NPF contributions do not automatically fall under jurisdiction of PTO upon death of a member, rather the PTO may get involved where there contribution is referred as part of an estate to be administered by PTO in the absence of a named beneficiary in the member’s scheme, and in the absence of an eligible spouse;
- SLAC’s insurance policies compensation are assumed to be distributed according to a signed agreement between a member and SLAC as to who the relevant recipient is of the insurance payment upon the member’s death.

3.24. The above discussed overlap raises the need for a clear delineation of roles and responsibilities across these agencies.

Discussion Questions

4. Are there overlaps in the performance of functions of the PTO and other institutions?
5. If so, should the law be reformed to require these institutions to refer all compensations and entitlements under their respective laws to PTO for distribution or not?
6. Should all estate and trust-related matters be consolidated under the exclusive jurisdiction of the PTO, or whether the current practice of shared responsibility among multiple agencies should be retained, refined, or otherwise restructured.

3.2 Part 3 – Accounts and Investment

- What are the current powers of the PT/PTO?
- What can the PT do with estate funds?
- Should these powers remain?

3.25. During discussions with the Public Trust Office, there were a few issues raised relating to the operation of some matters raised under this Part.

3.26. In the course of its work, there have been concerns raised by some beneficiaries to estates administered by the Public Trust Office, regarding the authority of the PTO to invest monies of the estate, and where the interest from such money invested is directed subsequently, either to the beneficiaries or to the PTO.[65] Discussions with the PTO highlighted the need to clarify its authority to invest, loan, lend or mortgage estate money (if at all).

(a) Authority of the PTO to invest estate money and distribute profits payable:

3.27. Under Part 3 of the Act, the Public Trustee is empowered to pool together capital money (held on behalf of each estate it administers) together into one Fund called "Common Fund" and invest them in accordance with the requirements of the Act,[66] unless expressly prohibited for such money to be invested. It is important to note that investments made from the Common Fund do not belong to any specific estate.67 Despite the estate money being pooled into the Common Fund, the Public Trustee can still use the money when in need to exercise any power or authority conferred under the Act or by law, will, deed, court order or other instrument.[68]

3.28. Section 26 of the Act confers a statutory authority on the how the Public Trustee can invest the money in the Common Fund. These modes include:

(a) Government securities – money can be invested in bonds, debentures, stock or securities of Samoa, NZ, UK, any state of Australia;
(b) First mortgages over freehold land in Samoa – money may be lent by first mortgage only (top priority), and up to 90% of the land approved value, using a valuation approved by the Investment Board;
(c) Deposits in ANZ or Post Office Savings Bank;
(d) Development Bank deposits;
(e) Mortgages on Government securities – money can be lent by mortgage over government securities in paragraph (a) and up to 90% of their value and on terms set by the Public Trustee, with the approved valuation by the Investment Board; and
(f) Payments under section 27 or by way of loans to estates or beneficiaries (sections 32 & 33).[69]

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[65] Samoa Law Reform Commission letter addressed to the Public Trustee, "*Review of the Public Trust Office Act 1975 – (i) Issues Discussed & (ii) Draft Terms of Reference*", dated 21 November 2024.
[66] Section 24 (Common Fund), Public Trust Office Act 1975.
[67] Ibid.
[68] Section 24(3) (Common Fund), Public Trust Office Act 1975.
[69] Section 26(1)(a)-(f) (Investments of the Common Fund), Public Trust Office Act 1975.

3.29. As such, the PTO can lawfully invest, loan, lend and mortgage estate money in the Common Fund. Where money from the Common Fund is lent or advanced in accordance with this section, the Public Trustee can order repayments (principal and interest) by way of either regular instalments, over a period determined by the Public Trustee or on terms he or she considers appropriate. Where loans and advances made by the Public Trustee to any person do not comply with the modes allowed under subsection (1), they should still be treated as if it were a registered mortgage over land or securities owned (legally or beneficially) by the burrower. With regards to the payout of interest as raised by some beneficiaries, section 24(4) addresses this issue. The Act provides the rate of interest payable to respective estates is determined by the Head of State acting on the advice of Cabinet. The interest so determined must be credited to the respective estates whose money constitutes the Common Fund and to be credited normally twice a year (usually 30 June and on 31 December), or as to when the Public Trustee determines either in general or cases/class of cases.[70] Note that the Public Trustee is authorized to create separate accounts for each individual estates.[71]

3.30. Once interest is declared and calculated, it does **not remain in the Common Fund as pooled capital**. Instead, it is **credited to each individual estate**, becoming part of that estate's funds. The interest may then be applied or distributed in accordance with:

(a) the terms of the will or trust;
(b) statutory requirements; or
(c) directions of the court.

3.31. Section 24(5) allows regulations to govern whether interest is payable in cases and from what date, but it does not divert interest away from estates once it is allowed.

3.32. Considering the provisions above, it is clear the Public Trustee has a statutory mandate to pool capital money from estates into a Common Fund and to invest that pooled money in approved investments, subject only to express exclusions and statutory limits. The interests from the investments are allocated by the Public Trustee into the respective estates and depending on the terms of the will or trust or by law or a court order. Regulations can be made to govern how payments or non-payments of interest belonging to each estate and the periods such interest may be computed.

3.33. Consideration should be given to clarification of internal process for the PTO to inform beneficiaries of its process to avoid uncertainty and questions from their clients (beneficiaries).

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[70] Above n5.
[71] Section 15 (Estate accounts), Public Trust Office Act 1975.

Discussion Questions:

7. Should there be Regulations in place to clarify the process and timing for when the interests can be paid out?
8. What are some areas of the Public Trustee Office process that should be explicitly defined in order address any concerns raised by beneficiaries?
9. Should the PTO continue the practice of investing estate funds, and if so, under what guidelines or limitations and if these are in addition to the existing limitations?

(b) ***Authority of the PTO to make advances to estates and beneficiarie*s:**

3.34. The Commission has also looked at how the PTO can make advances to estates and beneficiaries and whether such process is provided for by the law. The Commission's review identified that sections 32 and 33 allow the Public Trustee to advance (lend) money from the Common Fund to:

(a) to an estate that has assets but doe not have enough money (Division 3); and

(b) to beneficiaries who are entitled to a share but need money before final distribution (Division 4).

3.35. Section 32 allows the Public Trustee with the approval of the Investment Board to advance money from the Common Fund to where the estate has property but insufficient cash to pay administration expenses,[72] to make payments from the estate[73] or exercise statutory powers or discretions.[74] The advance cannot exceed the value of the estate's real and personal property, as estimated by the Public Trustee and approved by the Investment Board. The advance (plus interest) becomes a charge against the estate's property. Such charge shall be ranked after existing mortgage or charges already on the property and accrue interest at a rate proposed by the Public Trustee.

3.36. Section 33 on the other hand allows the Public Trust to advance portions of the beneficiaries' entitlement to them, subject to safeguards. In the Act, a person who is entitled to inherit from an estate managed by the Public Trust Office can seek an advance from the Public Trust Office. The Public Trustee with the Investment Board approval grant an advance from the Common Fund (not directly from the estate), with a maximum of up to 2/3rd of the value of such share.[75] The advance plus interest automatically becomes a first charge on the beneficiary's share, and a certificate issued under seal by the Public Trustee (stating the amount owed, beneficiary involved and share charged) is taken as conclusive evidence unless proven otherwise.[76]

3.37. Section 33(4) provides instances where advances cannot be made if the beneficiaries interest is contingent or where the share is not indefeasibly vested. The Public Trustee may demand the advance at any time and to sue a beneficiary to recover the money advance, in the absence of any specific agreement. The amount owed includes the advance, interest and other related costs and

[72] Section 32(1)(a) (Advances to estates), Public Trust Office Act 1975.
[73] Section 32(1)(b) (Advances to estates), Public Trust Office Act 1975.
[74] Section 32(1)(c) (Advances to estates), Public Trust Office Act 1975.
[75] Section 33(1) (Advances to beneficiaries), Public Trust Office Act 1975.
[76] Sections 33(2) & (3) (Advances to beneficiaries), Public Trust Office Act 1975.

expenses.[77] The Public Trustee is also empowered under this same section to sell, mortgage, charge, or otherwise deal with the beneficiary's share to recover what is owed without notice.[78] Unless there is a specific agreement on the contrary, the advance can be demanded by the PT back at any time and the PT can sue to recover the money. Such amount owed includes the advance, interest and related costs and expenses.

3.38. The PT can without notice sell, mortgage, charge or otherwise deal with the beneficiary's share to recover what is owed. Where a beneficiary is entitled to multiple inheritances administered by the PTO, the PT can recover the advance from any or all of those shares.

3.39. Considering the above, it is expressly stated in the Act the authority of the Public Trustee to lend a beneficiary up to two-thirds of their guaranteed inheritance early, although on a secure basis, and repayable on demand, and enforceable across all the person's inheritances managed by the Public Trust.

3.40. Discussions with the PTO also noted that this practice is not carried out by the PTO at present. Due to some issues in implementation, the PTO has halted this process despite the Act authorising the advancement of such estate money?

Discussion Question

10. Should the PTO continue the practice of advancing estate funds to beneficiaries?

11. Is the monetary value currently prescribed in the Act still appropriate in today's economic and social context?

3.4 Part 4 – Acquisition of Right to Administer Estates

PTO's observations regarding operation of Part 4

3.41. In consultation with the PTO,79 a number of practical observations were identified in relation to the administration of estates under Part 4.

a) Locating beneficiaries

3.42. The PTO is managing a significant number of estate matters, including approximately 284 active cases, with around 40 estates dating back over 100 years since the date of death. It was noted that in some cases, new claims are received at a late stage of administration, requiring the process to be paused to verify entitlement and obtain supporting documentation from claimants.

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[77] Section 33(5) (Advances to beneficiaries), Public Trust Office Act 1975.
[78] Section 33(6) (Advances to beneficiaries), Public Trust Office Act 1975.
[79] Minutes of initial meeting with the Public Trust Office, 18 September 2024. Attendees included the Public Trustee, Assistant Public Trustee at the time and their Legal Consultant.

3.43. It was also noted that delays arise where beneficiaries are difficult to locate and contact, and where claims involved second, third, or fourth-generation descendants requiring the creation of sub-estates, which further prolongs administration.

3.44. The Public Trust Office referred to discussions with the Queensland Law Society, noting that Queensland provides a statutory timeframe for estate administration of 6 years from the appointment of the Public Trustee as administrator/executor, after which claims may no longer be accepted. Notably, Samoa's PTO Act 1975 does not provide a specific timeframe within which to identify and finalise beneficiaries. in practice, the PTO issues public notices for potential beneficiaries to come forward, and considers those who respond within the notice period. However, delays may still arise in obtaining supporting documentation.

Discussion Question

12. Should the Public Trust Office Act 1975 provide a specific timeframe for the identification and finalisation of beneficiaries in the administration of estates?
    If yes, what would be an appropriate timeframe?

    Please explain your answer.

b) ***Investments***

3.45. It was noted that concerns have been raised by clients regarding why estate funds are not invested under the name of the deceased, but instead are held and invested under the Public Trust Office once it is appointed as legal administrator/executor. Questions have also been raised as to whether the Public Trust Office 1975 should expressly regulate the investment of estate funds, and whether investment of estate funds should be left to client direction and consent.

3.46. However, the Act already authorises the Public Trustee to invest monies received in administration, including under section 59(3) (payment of damages to Public Trustee – infants and others), which allows investment in the Common Fund or other authorised investments.

3.47. The issue therefore relates to clarity, particularly where beneficiaries may expect funds to remain in the name of the deceased rather than within the PTO's investment framework, and whether such investment decisions should be subject to client direction and consent or remain within the statutory discretion of the Public Trustee.

Discussion Question

13. Should the Public Trust Office Act 1975 provide that the investment of estate funds by the Public Trustee be carried out in accordance with client direction and consent, or should this remain within the Public Trustee as empowered under the Act?

Please explain your reasoning.

3.5 Part 5 – Elections to Administer and Certificates of Administration

Election to administer

3.48. "Administration" is defined under the PTO Act as including probate of the will of a deceased persons, and letters of administration of the estate of a deceased person, granted with or without the will annexed, for general, special or limited purposes, and in the case of the Public Trustee includes an order to administer and an election to administer.[80]

3.49. Both are applications the Public Trustee can make to the Supreme Court allowing it to administer an estate. Orders to administer need to be approved by the Court before the PTO can begin administering the estate, while elections to administer simply need to be filed with the Court, not approved. Orders to administer are applicable when nobody else has applied to administer an estate within 3 months of the death.[81] Elections to administer are applicable when nobody has applied to administer an estate (or the administrator has died) and the estate is under a certain value.[82]

3.50. Section 38 of the PTO Act provides that the PTO can apply to the Supreme Court for an order of administration if a person dies intestate, leaving property situated in Samoa. Section 44 provides that if a person dies testate, and application for probate is not made within 3 months, the Public Trustee may apply for an order to administer with the will annexed, and the Court shall make the grant unless the person entitled to probate applies therefore. Section 45 provides that the Public Trustee may apply to the Supreme Court to approve an order to administer, probate for a will, or any other grant of administration. The evidence needed is an affidavit that the Public Trustee is satisfied that the person has died.

3.51. Part 5 of the PTO Act governs elections to administer. The Public Trustee can 'elect to administer' an estate without the need for a formal grant of administration from the court, under certain conditions. The Public Trustee files an election to administer with the Supreme Court and as soon as it is filed, the PTO is treated as executor of the estate. The filed election must include details of the deceased's identity and their property, as well as their will or a statement that they died intestate.

3.52. Conditions where the PTO can elect to administer an estate:

(a) Section 65: If the estate is valued at less than $75,000 and no person has obtained a grant of administration.

(b) Section 66: If the original administrator of the estate has died and the unadministered property is valued at less than $3,000.

[80] Section 2 (Interpretation), Public Trust Office Act 1975.

[81] Section 44 (Power of Public Trustee to administer if no application made for probate or administration), Public Trust Office Act 1975.

[82] Sections 65 (Power of Public Trustee to elect to administer small estates without grant of administration) and 66 (Election in respect of un administered balance of an estate), Public Trust Office Act 1975.

3.53. If the election is later found to be invalid (e.g. the discovery of a will), the Public Trustee must file a memorandum with the court explaining the invalidity and file a new election to administer.[83]

3.54. During consultation, PTO emphasized the need to increase the amount of $75,000.00 since most of the estates with them have increased significantly. SLRC noted that this is provided in section 65 where the Minister has the authority to adjust $75,000.00 threshold as needed based on the economic conditions.

Discussion Questions

14. Should the law be amended to increase the current monetary threshold, given that the value of most estates have risen over time?

15. What would be an appropriate revised amount to reflect these changes in estate values?

3.5 Part 6 - Unclaimed Property

PTO's observations regarding operation of Part 6

3.55. In consultation with the PTO,[84] a number of practical observations were made regarding the operation of Part 6: Unclaimed Property. In practice, the majority of unclaimed property administered by the Public Trustee is unclaimed monies, including compensation funds, as well as estate and trust funds held over a number of years.[85] These funds often arise where beneficiaries cannot be located, despite efforts such as notice and advertisement. Notably, due to the nature and compositions of these funds, the PTO engaged in discussions with the Treasury and has sought Cabinet endorsement to retain unclaimed monies for operational purposes, with further guidance being sought from the Attorney General.

3.56. Unclaimed property is not limited to money. The PTO also explained that there have been instances where land becomes bona vacantia where no person is able to meet the requirements to claim ownership. In such cases, the land may be sold by the Public Trustee, with the proceeds paid to the Government, consistent section 83 of the PTO Act.

3.57. Finally, a timeframe in relation to unclaimed property was identified as an issue for consideration, with the view expressed that the legislation is silent in this regard.

[83] Section 58 (Revocation of elections filed in error), Public Trust Office Act 1975.
[84] Minutes of initial meeting with the Public Trust Office, 18 September 2024. Attendees included the Public Trustee, Assistant Public Trustee at the time and their Legal Consultant.
[85] Public Trust Office *Annual Report 2025*, p. 33.

Issues for Consideration

a) <u>Outdated $4,000 threshold</u>

3.58. A point for consideration arises in relation to the monetary threshold below which the Public Trustee can elect to manage unclaimed property without a court order. The current threshold of $4,000 appears to be relatively low in the present-day Samoa, and may reflect the economic conditions at the time the Act was enacted in 1975. While this threshold may have previously captured property of significant value, it is less likely to do so today. As a result, a low threshold may lead to unnecessary court applications. It may therefore be appropriate to consider whether an increase in the threshold would better support the efficient administration of unclaimed property, while maintaining appropriate oversight.

Discussion Question

16. Should the current $4,000 threshold for the Public Trustee to manage unclaimed property without a court order:
   a) Remain the same;
   b) Be increased to a higher amount; or
   c) Be otherwise reformed?

Please explain your reasoning.

b) <u>Retention of funds by PTO</u>

3.59. A further issue arises around the potential for the PTO to retain unclaimed funds to cover operational costs. While this proposal is currently under consideration by Cabinet and the Attorney General, it raises broader questions about transparency, accountability, and the appropriate use of unclaimed property. It also questions whether using unclaimed funds in this way is fully consistent with the principle that the property is held for the benefit of the rightful owner.

3.60. Additionally, stakeholders may wish to consider whether the law should provide clearer guidance on how unclaimed funds can be used, and what safeguards, limits, or reporting requirements should apply.

Discussion Question

17. Should the PTO be able to retain and use unclaimed funds for operational purposes?

If yes:

a) Should this be expressly provided for in legislation?
b) What safeguards or limits should apply to the use of retained funds?
For example: an annual spending limit, restrictions on which operational costs the funds can be used for, etc.
c) Should there be reporting requirements on the use of retained funds?
d) If yes to c), what types of reporting requirements would be appropriate?

For example, who should receive and oversee the retained funds, how often should reporting be made, what information should be included, etc.

c) Time limits before reversion to State (20 years for land, 7 years for property)

3.61. Section 83 of the PTO Act currently provides that:

- Land will vest in the State after 20 years; and
- Other property will vest in the State after 7 years, provided that no person has established a claim and the Public Trustee, after due inquiry, is not aware of any person entitled to the property.

3.62. Stakeholders and members of the general public wish to consider whether these time limits before reversion of property to the State remain appropriate.

3.63. On one hand, fixed time limits provide certainty and ensure that unclaimed property is not held indefinitely. On the other hand, questions may arise as to whether these time frames are fit for purpose. For example, the 20-year period for land is relatively long, while the 7-year period for other property may be comparatively short, particularly in cases where known beneficiaries are difficult to locate.

3.64. It is also unclear whether a single fixed time frame for each type of property adequately reflects the different circumstances in which property becomes unclaimed. For instance, property where no owner can be identified may warrant a different approach from property where a beneficiary is known but cannot be located or has not yet come forward to claim their entitlement.

3.65. The current legislative framework reflects the distinctions in section 83:

- Where a property is held for a known beneficiary who has not claimed it, the Public Trustee may apply to the Court for directions on the distribution of the property, consistent with section 81(2)(a)(iii) of the Trusts Act 2014.
- Separately, the Public Finance Management Act 2001 ("PFM") distinguishes between general unclaimed money and unclaimed trust money: general unclaimed money must be transferred to the General Revenue Fund after 3 months following notice to the owner (PFM, section 68), while unclaimed trust money is held for 3 years, with additional inquiry and public notice requirements, before transfer to the Fund (PFM, section 69).

3.66. Consideration may also be given to whether the law should provide greater flexibility, such as allowing for extensions, earlier vesting (in the State) in appropriate cases, or a more discretionary, supervised court process. It may also be useful to consider whether the law should address the position of late claimants after property has vested in the State, including whether compensation should still be available.

Discussion Question

18. Should the current time limits before reversion to State (20 years for land, 7 years for property):
    a) Remain the same;
    b) Be shortened or lengthened; or
    c) Be otherwise reformed (for example, allowing extensions, earlier vesting, etc.)?

    Please explain your reasoning, particularly in relation to land and other property.

19. Should the law provide guidance on how late claimants are treated after property has vested in the State?

    If yes:
    a) Should compensation be available to claimants whose property has already vested in the State?

3.6 Part 7 – Miscellaneous

3.67. This Part contains provisions covering a variety of matters. As previously mentioned, majority of the provisions (some 28 provisions) provide for different powers, duties and roles that the Public Trustee may carry out in relation to estates it administers.

a) PTO to act in different capacities (s.92)

3.68. Of interest to the Commission from it's preliminary research and analysis, is the provision in section 92 (Public Trustee may sue himself or herself in different capacity). There were questions raised as to the implementation of this provision. There were some uncertainties as to the application of this provision. It is therefore highlighted to be considered in this Review if it is still relevant in the operations of the PTO today.

Discussion Questions

20. What are the instances when the PT acts in different capacities in the same matter?

    Is it practical to keep the provision allowing the PT to sue himself of herself in different capacities, in the same matter?

    Do we retain this provision or repeal?

b) Funeral payments (s.95)

3.69. In preliminary discussions with the PTO, they clearly identified another matter which remains unclear and unprovided for in the PTO Act 1975, but is crucial to the beneficiaries and would assist greatly in the disbursement of estate funds.

3.70. The law currently makes general provision for 'funeral payments' stating that where there is insufficient assets to pay liabilities in full, the PT is given discretion to give priority in distribution of assets to costs and expenses of administration, funeral expenses, medical and hospital expenses, and claims having priority under the law, in that order. The law does not specify a set amount or percentage to be allocated specifically for funeral expenses.

3.71. The Public Trustee mentioned that in dealing with estates, funeral expenses is an area where most families (beneficiaries) need the assistance upon the death of owner of property/assets to be distributed. It continues to be a challenge for the PTO to determine amounts to be distributed and paid to beneficiaries particularly to assist with funeral payments with the current wording of the law.

3.72. It was the view of the PTO that perhaps if the law could specify an amount to be set aside to be paid to assist and cover funeral payments that can be disbursed before every other estate matter is settled, this may help in their assistance offered to families of the deceased person.

Discussion Questions

21. Should the law specify a set amount to be paid to the families or beneficiaries of the deceased, solely for the purposes of covering and assisting with 'funeral payments'?

    Why / Why not?

3.7 Other matters raised - not in the PTO Act 1975

a) Clarify 'Beneficiaries'

3.73. The proper disbursement of assets in Samoa depends on the status of beneficiaries. The PTO follows the administration of law to legal spouses of deceased upon intestacy while it precludes de facto partners from enjoying the same entitlement during the administration of estates. Married spouses hold the strongest and most privileged position enjoying exclusive rights that other classes of beneficiaries do not. When it comes to testacy regime, de facto partners are also not allowed to contest a will or disposition, leaving room for the legal spouse to do so in court. Comparable jurisdictions such as New Zealand, Queensland and Victoria, de facto partners enjoy rights identical to those of married spouses. The law in Samoa also provides for the division[86] of assets accordingly to various beneficiaries who are legally required to provide legal documents for proof.

3.74. Upon consultation, PTO raised that there is inconsistency in disbursing of assets to beneficiaries for both NPF and ACC and a uniform approach similar to theirs would be the ideal preference. To enjoy the assets upon intestacy, it is essential to follow the administration of assets that PTO follows because it allows beneficiaries to produce legal documents to claim assets to expedite the administration process. Civil union partners are also not recognized in Samoa, similar to Fiji, though this is noted as largely a historical issue in other jurisdictions tied to same-sex marriage reform. In addition, Samoa is the only jurisdiction that fails to contemplate the scenario

[86] Section 44 (Power of Public Trustee to administer if no application made for probate or administration), Administration Act 1975.

of a deceased leaving behind multiple partners; under current law, a married spouse would receive the entire estate to the complete exclusion of any de facto partner.

i. General Beneficiaries (Persons entitled to a share in an estate)

3.75. These are the most commonly referenced type of beneficiaries throughout the Act. These are persons who hold a legal entitlement to a share of an estate being administered by the Public Trustee, whether under a will (testate) or through the rules of intestacy (without a will). Section 33 explicitly addresses advances to such beneficiaries, allowing the Public Trustee to make advances of up to two-thirds of a beneficiary's estimated share from the Common Fund, provided that share is indefeasibly vested (ie., not subject to any contingency). Section 94(5) further confirms that after all debts, fees and expenses are paid, the Public Trustee must hold the residue of the estate for 'the person or persons lawfully entitled to the same' reinforcing this category.

ii. Infants (beneficiaries under 21 years of age)

3.76. Infants are treated as a distinct and specially protected class of beneficiary throughout the Act. Section 58 allows a trustee to pay the legacy or estate share of an infant directly to the Public Trustee, who then holds and administers it on the infant's behalf until the infant reaches full age.

3.77. Section 59 requires that any money or damages awarded to a person not of full age in any Court proceeding be paid to the Public Trustee, who holds and applies it for the infant's maintenance, education, advancement, or general benefit. Section 97 further requires the Public Trustee, when acting as administrator or trustee, to hold the shares of infants in trust until their infancy ceases.

iii. Person under mental or legal disability

3.78. These types of beneficiaries are similarly treated as a protected beneficiary class. Section 59 and 40 both reference persons who are 'not of full mental capacity' or are 'under any disability'. Like infants, these individuals cannot manage their own affairs, and the Act empowers the Public Trustee to receive, hold, and administer any money or property due to them in a manner the Public Trustee deems fit for their benefit.

iv. Tenants for life

3.79. These are specific types of beneficiaries recognized under section 99, being persons who hold a legal or equitable life interest in land forming part of an estate under the Public Trustee's administration. Their entitlement is to the use, occupation, and enjoyment of the land and its income (rents, profits, issues), but this right is conditional which means that the Public Trustee may impose terms and conditions (such as maintaining the property and paying rates and insurance) before allowing the tenant for life into possession, and may eject them by notice if those conditions are breached.

v. Legatees (Recipients of Pecuniary Legacies)

3.80. These individuals are referenced in section 98 as beneficiaries entitled to a specific sum of money under a will. The Act makes provision for interest to accrue on unpaid pecuniary legacies where insufficient funds are immediately available, or where payment is delayed due to the infancy or disability of the legatee.

vi. Creditors

3.81. These individuals are acknowledged throughout the Act as persons with a claim against the estate, particularly in section 94 and 95. Although creditors are not 'beneficiaries' in the traditional sense. The Act treats them as a class of claimant who must be satisfied before the residue passes to other beneficiaries. Section 95 establishes a clear priority order when assets are insufficient: administration and funeral costs rank first, followed by medical and hospital expenses and insolvency-priority claims, with any surplus then distributed to those lawfully entitled.

vii. Beneficiaries under Benefit funds

3.82. These are referenced in section 60 which allows the Public Trustee to administer 'benefit funds' on behalf of their members or beneficiaries. While the Act does not elaborate extensively on this category, it contemplates persons who are entitled to receive payments from funds managed or administered by the Public Trustee in that specific capacity.

viii. Next-of-Kin

3.83. These individuals in section 103 provides that the Public Trustee shall not be liable to 'any beneficiary, next-of-kin, creditor or other person' in respect of any error in determining the domicile of a deceased person. This implicitly recognizes next-of-kin as a class of person with a potential beneficial interest in a deceased's estate, particularly in intestacy situations.

b) The need to clarify or seek process to allow the transfer of land (deceased registered owner)

3.84. A significant procedural challenge faced by the PTO arises where the PTO is required to transfer land forming part of an estate, but the land in question remains registered in the name of a deceased owner.

3.85. According to PTO, under the current requirements of the Ministry of Lands and Survey (MLS), formerly the Ministry of Natural Resources and Environment, a valid transfer of land must be effected from a living registered owner — a requirement that, by its nature, cannot be satisfied where the registered owner is deceased. This creates a practical and legal impasse that directly impedes the PTO's ability to administer and distribute estate assets in a timely manner.

3.86. The Commission had the opportunity to seek guidance on process followed by the Public Trust Office of NZ through a discussion with a representative of the PTO of NZ during a Twinning Programme conducted in July 2025 on this issue. In discussions with PTO NZ, reference was made to a process of 'Transmission of Land' rather than a transfer of land as used in Samoa. The transmission of land is done by way of a transmission instrument under NZ's Land Transfer Act 2017. This method and process of enabling the changing of registered owner of land under trust is not yet in Samoa, but may be timely for the PTO and MLS to discuss the possibility of reforms to adopt a similar process to remedy this issue faced by PTO.

c) Limitation Period (finality of Claims & Disbursement of estates)

3.87. The relevant provisions are found under Part 4 of the Samoa Administration Act 1975.

3.88. Under Section 47 of the Administration Act 1975, the Court may grant relief to a widow, widower, parent, child, or grandchild of a deceased leaving estate in Samoa, if the court is satisfied that the applicant has been insufficiently provided for by the estate. There is nothing in the act to determine whether, for example, adopted or step-children are covered by the Act. Furthermore, the notion of 'widow' or 'widower' naturally excludes de facto partners from applying to the court under this Part.

3.89. The application must be made to the court within 12 months of the grant of probate in Samoa (Administration Act 1975 s 48(1)). The court may grant special leave for applications outside this time period (Administration Act 1975 s 48(2)). There is no scope for the Public Trustee to bring this date forward. In addition, the Public Trustee is afforded no protections if it distributes after this time period has elapsed, as there are no preclusions for actions brought against a Public Trustee who has distributed without having had notice of a beneficiary's intent to bring a claim under this Part. Indeed, a beneficiary need not even give notice to the Public Trustee if it intends to make an application. Under section 50 of the *Administration Act 1975*, the court may provide for the 'following' of assets, that is, it may make an order after the final distribution of the estate requiring a beneficiary to transfer assets to another. As such, the position that the Samoa Public trustee finds itself in is one where it cannot make any distributions, for fear of having its distributions challenged (given the lack of protections comparable to other jurisdictions), or for fear of having a following order made requiring the property to be redistributed.

3.90. Finally, under section 20 of the Limitation Act 1975, the time limit on litigation pertaining to a deceased's estate is 12 years from the date of the deceased, or 6 years if the claim pertains solely to recover arrears of interest in respect of a legacy or damages in respect of such arrears.

3.91. It appears the provisions above are general and may create ways for actions brought against the PTO from beneficiaries that may have gone without a distribution.

Discussion Question

22. Should the law define who are considered beneficiaries including:
    (a) adopted children;
    (b) widowers to include defacto partners etc.?

23. Should the law be amended to provide for 'transmission of land' process to enable PTO to effect distribution of land in estate / trusts?

24. Should the law be amended to clearly express a limitation period in which people are barred from claiming to be beneficiaries?

d) Categorization of the PTO – Public Trading Body (Public Bodies (Perf & Acct) Act 2001)

3.92. Consideration should be given to the classification of the PTO as a Public Trading Body (PTB) under the Public Bodies (Performance and Accountability) Act 2001. As a PTB, the PTO is required to earn revenue and optimise returns on the investment of public funds.[87]

3.93. This classification appears to have contributed to changes in the fee structure prescribed under the Public Trust Office Regulations 2015, with fees increasing following the PTO's transition to this status of Public Bodies. These fees are charged against the estate or property under administration. PTO has indicated that this has resulted in complaints, delays in the payment of fees (sometimes fees are paid 3-4 years after administration), and situations where fees may absorb much or all of the returns from the estate assets.[88]

3.94. An additional administrative issue arises from reporting arrangements. The PTO is required to report to more than one Minister, including the Minister responsible for Public Enterprises in its capacity as a PTB, and the Minister of Finance under its broad portfolio responsibilities. This creates duplication in oversight and may possibly create uncertainty too.[89]

3.95. These matters raise questions about the balance between the PTO's revenue-earning obligations as a PTB, its role, and its governance arrangements.

PART 4 – Summary of Discussion Questions

1) What are the primary functions and roles of the Public Trustee (PT)?

2) What are the primary functions and roles of the Public Trustee's Office (PTO)?

3) Should the governing legislation expressly set out the functions and roles of the PT and PTO?

4) Are there overlaps in the performance of functions of the PTO and other institutions?

5) If so, should the law be reformed to require these institutions to refer all compensations and entitlements under their respective laws to PTO for distribution or not?

6) Should all estate and trust-related matters be consolidated under the exclusive jurisdiction of the PTO, or whether the current practice of shared responsibility among multiple agencies should be retained, refined, or otherwise restructured.

[87] Sections 2 (Interpretation) and 8 (Principal objective to be a successful business), Public Bodies (Performance and Accountability) Act 2001.
[88] Minutes of initial meeting with the Public Trust Office, 18 September 2024.
[89] Minutes of initial meeting with the Public Trust Office, 7 February 2025.

7) Should there be Regulations in place to clarify the process and timing for when the interests can be paid out?

8) What are some areas of the Public Trustee Office process that should be explicitly defined in order address any concerns raised by beneficiaries?

9) Should the PTO continue the practice of investing estate funds, and if so, under what guidelines or limitations and if these are in addition to the existing limitations?

10) Should the PTO continue the practice of advancing estate funds to beneficiaries?

11) Is the monetary value currently prescribed in the Act still appropriate in today's economic and social context?

12) Should the Public Trust Office Act 1975 provide a specific timeframe for the identification and finalisation of beneficiaries in the administration of estates?
    If yes, what would be an appropriate timeframe?
    Please explain your answer.

13) Should the Public Trust Office Act 1975 provide that the investment of estate funds by the Public Trustee be carried out in accordance with client direction and consent, or should this remain within the Public Trustee as empowered under the Act?
    Please explain your reasoning.

14) Should the law be amended to increase the current monetary threshold, given that the value of most estates have risen over time?

15) What would be an appropriate revised amount to reflect these changes in estate values? Please explain your reasoning.

16) Should the current $4,000 threshold for the Public Trustee to manage unclaimed property without a court order:
    a) Remain the same;
    b) Be increased to a higher amount; or
    c) Be otherwise reformed?

17) Should the PTO be able to retain and use unclaimed funds for operational purposes?
    If yes:
    a) Should this be expressly provided for in legislation?
    b) What safeguards or limits should apply to the use of retained funds?
    For example: an annual spending limit, restrictions on which operational costs the funds can be used for, etc.
    c) Should there be reporting requirements on the use of retained funds?
    d) If yes to c), what types of reporting requirements would be appropriate?

For example, who should receive and oversee the retained funds, how often should reporting be made, what information should be included, etc.

18) Should the current time limits before reversion to State (20 years for land, 7 years for property): Remain the same;
    a) Be shortened or lengthened; or
    b) Be otherwise reformed (for example, allowing extensions, earlier vesting, etc.)?

    Please explain your reasoning, particularly in relation to land and other property.

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    If yes:
    a) Should compensation be available to claimants whose property has already vested in the State?
    b) If so, under what circumstances or limitations?

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    Is it practical to keep the provision allowing the PT to sue himself of herself in different capacities, in the same matter?

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