

# Charitable Trusts Bill 2022

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Western Australia

LEGISLATIVE ASSEMBLY

## **Charitable Trusts Bill 2022**

**A Bill for**

**An Act —**

- **to affect the law relating to charitable trusts; and**
- **to repeal the *Charitable Trusts Act 1962*; and**
- **to make a consequential amendment to the *Freedom of Information Act 1992*.**

The Parliament of Western Australia enacts as follows:

1 **Part 1 — Preliminary**

2 **1. Short title**

3 This is the *Charitable Trusts Act 2022*.

4 **2. Commencement**

5 This Act comes into operation as follows —

- 6 (a) Part 1 — on the day on which this Act receives the  
7 Royal Assent;
- 8 (b) the rest of the Act — on a day fixed by proclamation,  
9 and different days may be fixed for different provisions.

10 **3. Act binds Crown**

11 This Act binds the Crown in right of Western Australia and, so  
12 far as the legislative power of the Parliament permits, the Crown  
13 in all its other capacities.

14 **4. Terms used**

15 In this Act —

16 *administration*, of a charitable trust or property held for a  
17 charitable purpose, includes management of the trust or property  
18 (as the case requires);

19 *approved scheme* means a scheme approved under Part 3;

20 *charitable purpose* —

- 21 (a) means a purpose that is charitable under the law of this  
22 State; and
- 23 (b) includes a charitable purpose as defined in the *Charities*  
24 *Act 2013* (Commonwealth) section 12;

25 *charitable trust* means a trust for a charitable purpose;

26 *Court* means the Supreme Court;

27 *investigation* and *investigator* have the meanings given in  
28 section 32(1);

1            ***involved in the administration***, of a charitable trust or property  
2            held for a charitable purpose, means employed, engaged or  
3            otherwise concerned (including as trustee) in the administration  
4            of the charitable trust or property (as the case requires);  
5            ***property*** —  
6            (a) means any real or personal property; and  
7            (b) includes money;  
8            ***property held for a charitable purpose*** means property that is  
9            held on trust, or is otherwise to be applied, to a charitable  
10            purpose.

1                   **Part 2 — Charitable recreational facilities**

2   **5.       Recreational facilities for charitable purposes**

- 3       (1) In this section —
- 4           *recreational facilities* includes facilities provided for sport or
- 5           leisure activities.
- 6       (2) Recreational facilities are taken to be provided for a charitable
- 7           purpose if —
- 8           (a) they are provided with the object of improving the
- 9               conditions of life for the persons for whom the facilities
- 10              are primarily intended (the *intended users*); and
- 11           (b) either —
- 12               (i) the intended users have need of those facilities
- 13               because of their youth, age, infirmity or
- 14               disability, poverty or social and economic
- 15               circumstances; or
- 16               (ii) the facilities are to be available to members of
- 17               the public or a substantial section of the public.
- 18       (3) The reference in subsection (2) to the provision of recreational
- 19           facilities includes —
- 20           (a) the provision of premises for those facilities and the
- 21               maintenance of grounds and buildings of those
- 22               premises; and
- 23           (b) the organising of any activity for the purposes of those
- 24               facilities.

25   **6.       General savings of law relating to charitable trusts**

- 26       (1) Nothing in this Part detracts from the principle that a purpose
- 27           must be for the public benefit in order to be charitable.
- 28       (2) Nothing in this Part restricts the purposes that are to be regarded
- 29           as charitable independently of this Part.

- 1   **7.       Savings for *Charitable Trusts Act 1962***
- 2       (1)   In this section —
- 3               *commencement day* means the day on which the *Charitable*
- 4               *Trusts Act 1962* came into operation.
- 5       (2)   Nothing in this Part applies —
- 6               (a)   to make charitable a trust existing before
- 7               commencement day; or
- 8               (b)   to validate the disposition of any property before
- 9               commencement day.
- 10       (3)   Nothing in this Part affects any order made in legal proceedings
- 11             before commencement day.
- 12       (4)   Nothing in this Part requires anything properly done before
- 13             commencement day, or anything done or to be done under a
- 14             contract entered into before commencement day, to be treated
- 15             for any purpose as wrongful or ineffective.



- 1 (3) Subsection (2) may be applied so as to restore, with or without  
2 modification, the original purpose if this becomes possible.
- 3 (4) In any of the circumstances referred to in subsection (1)(a)  
4 to (e), the persons in whom the property is vested must, as soon  
5 as reasonably practicable after becoming aware of those  
6 circumstances, submit to the Attorney General for approval a  
7 scheme for the application of the property to an alternative  
8 charitable purpose.
- 9 (5) A failure by a person in whom the property is vested to comply  
10 with subsection (4) constitutes a ground for removal under  
11 section 45(1)(b).
- 12 (6) Nothing in the *Charitable Collections Act 1946* section 16  
13 prevents the application of this section.
- 14 (7) This section extends to property held for a charitable purpose  
15 immediately before the commencement of this section.
- 16 **11. Combining property held for same or similar purpose**
- 17 (1) This section applies to property held for a charitable purpose  
18 (the *original property*) if —
- 19 (a) the charitable purpose (the *original purpose*) could be  
20 more effectively carried out by combining the original  
21 property with other property held for a charitable  
22 purpose (the *other property*); and
- 23 (b) the other property is held for a charitable purpose that is  
24 the same as, or similar to, the original purpose.
- 25 (2) The original property may be combined, and jointly  
26 administered and applied, with the other property in accordance  
27 with an approved scheme.
- 28 (3) This section extends to property held for a charitable purpose  
29 immediately before the commencement of this section.

**s. 12**

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- 1 **12. Extension or variation of powers or specification or**  
2 **variation of mode of administration**
- 3 (1) This section applies to property held for a charitable purpose if  
4 the administration of the property could be facilitated by —
- 5 (a) extending or varying the powers of the persons in whom  
6 the property is vested; or
- 7 (b) specifying or varying the mode of administering the  
8 property.
- 9 (2) The application of this section extends to the extension or  
10 variation of the powers of the persons in whom the property is  
11 vested, and to the specification or variation of a mode of  
12 administering the property, in relation to —
- 13 (a) an invalid accumulation clause; and  
14 (b) an accumulation clause that will become invalid at the  
15 conclusion of the perpetuity period.
- 16 (3) In accordance with an approved scheme, the powers of the  
17 persons in whom the property is vested may be extended or  
18 varied, and the mode of administering the property may be  
19 specified or varied, if the extension, variation or specification is  
20 consistent with the charitable purpose to which the property is  
21 to be applied.
- 22 (4) If an action referred to in subsection (1)(a) or (b) becomes  
23 necessary for the administration of the property, the persons in  
24 whom the property is vested must, as soon as reasonably  
25 practicable after the action becomes necessary, submit to the  
26 Attorney General for approval a scheme that effects the action.
- 27 (5) A failure by a person in whom the property is vested to comply  
28 with subsection (4) constitutes a ground for removal under  
29 section 45(1)(b).

1 (6) Nothing in this section restricts the powers that are or may be  
2 conferred by or under any law of the State on the Court or the  
3 persons in whom the property is vested.

4 (7) This section extends to property held for a charitable purpose  
5 immediately before the commencement of this section.

6 **13. Schemes for approval**

7 (1) Persons in whom property held for a charitable purpose is  
8 vested must prepare, and submit to the Attorney General, a  
9 scheme if they want the property to be dealt with in accordance  
10 with an approved scheme.

11 (2) The scheme must relate to —

12 (a) if section 10 applies — the application of the property  
13 for an alternative charitable purpose as defined in  
14 section 10(2); or

15 (b) if section 11 applies — the combination and joint  
16 administration and application of the property referred  
17 to in that section; or

18 (c) if section 12 applies —

19 (i) the extension or variation of the powers of the  
20 persons in whom the property is vested; or

21 (ii) the specification or variation of the mode of  
22 administering the property.

23 (3) If section 11 applies, the persons in whom the property to be  
24 combined is vested must jointly prepare, and seek approval for,  
25 the scheme.

26 (4) If the consideration by the Court or the Attorney General (as the  
27 case requires) of 2 or more schemes will involve consideration  
28 of substantially similar issues, the persons in whom the property  
29 is vested may jointly prepare, and seek approval for, the  
30 schemes.

**s. 14**

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- 1    **14.    Submitting schemes to Attorney General**
- 2       (1)   A scheme submitted to the Attorney General must be  
3       accompanied by —
- 4           (a)   full details of all the facts in light of which it is proposed  
5           to apply property under the scheme; and
- 6           (b)   copies of any instruments necessary to understand the  
7           scheme.
- 8       (2)   The Attorney General may remit the scheme to the persons in  
9       whom the property is vested for consideration of any  
10       amendments suggested by the Attorney General.
- 11      (3)   Except as provided in subsection (5), the Attorney General  
12      must —
- 13           (a)   prepare a report (a *scheme report*) in writing on the  
14           scheme as submitted by the persons in whom the  
15           property is vested after those persons have considered  
16           any amendments suggested by the Attorney General;  
17           and
- 18           (b)   give a copy of the scheme report to the persons in whom  
19           the property is vested.
- 20      (4)   A scheme report must address the matters referred to in  
21      section 25(1).
- 22      (5)   The Attorney General is not required to prepare a scheme report  
23      if the Attorney General —
- 24           (a)   approves the scheme under section 16(6)(a); and  
25           (b)   considers that a scheme report is unnecessary in the  
26           circumstances.
- 27      (6)   The Attorney General must make the scheme and scheme report  
28      available for inspection by the public free of charge.

- 1     **15.     Attorney General’s fees for considering schemes and**  
2     **preparing scheme reports**
- 3     (1)    The Attorney General may charge persons submitting a scheme  
4     under section 14 reasonable fees for the costs and expenses  
5     (including legal costs) incurred by the Attorney General in  
6     considering the scheme and preparing a scheme report.
- 7     (2)    The Attorney General’s legal costs must be charged in  
8     accordance with —
- 9         (a)    a legal costs determination made for the purposes of this  
10         section under the *Legal Profession Act 2008*  
11         section 275(5); or
- 12         (b)    if paragraph (a) does not apply, in accordance with a  
13         legal costs determination in respect of contentious  
14         business before the Court made under the *Legal*  
15         *Profession Act 2008* section 275(1)(b)(i).
- 16     (3)    For the purposes of subsection (2), a reference in the *Legal*  
17     *Profession Act 2008* section 275 to a law practice includes a  
18     reference to any person providing legal services to the Attorney  
19     General in considering the scheme and preparing a scheme  
20     report.
- 21     **16.     Applications for approval of schemes by Attorney General**
- 22     (1)    This section applies in relation to a scheme if —
- 23         (a)    the value of the property to which the scheme relates is  
24         less than \$100 000, or any greater amount prescribed for  
25         the purposes of this paragraph; or
- 26         (b)    income in the previous financial year from the property  
27         to which the scheme applies was less than \$20 000, or  
28         any greater amount prescribed for the purposes of this  
29         paragraph.

**s. 17**

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- 1       (2) For the purposes of subsection (1)(a), the value of the property  
2       must be determined without regard to any limits on use imposed  
3       by a charitable purpose to which the property is to be applied.
- 4       (3) In relation to a scheme jointly prepared under section 13(3)  
5       or (4), this section applies only if subsection (1) applies to each  
6       of the sets of property to be combined for the purposes of the  
7       scheme.
- 8       (4) The persons in whom the property is vested may apply to the  
9       Attorney General for approval of the scheme.
- 10      (5) The application must be made in writing.
- 11      (6) After receiving the application, the Attorney General must, in  
12      accordance with section 25(1) —
- 13          (a) approve the scheme as submitted by the persons in  
14          whom the property is vested after those persons have  
15          considered any amendments suggested by the Attorney  
16          General under section 14(2); or
- 17          (b) refuse to approve the scheme.
- 18      (7) Before making a decision under subsection (6), the Attorney  
19      General —
- 20          (a) may require the persons in whom the property is vested  
21          to give public notice of the scheme in any manner the  
22          Attorney General thinks fit; and
- 23          (b) must have regard to any representations made to the  
24          Attorney General by any person considered by the  
25          Attorney General to have an interest in the matter.

26      **17. Approval of scheme by Attorney General**

- 27      (1) If the Attorney General approves a scheme, the Attorney  
28      General must give to the persons in whom the property is  
29      vested —
- 30          (a) a written notice of the approval (an *approval notice*);  
31          and

- 1 (b) if the Attorney General has prepared a scheme report in  
2 relation to the scheme — a copy of the report together  
3 with the approval notice.
- 4 (2) The persons in whom the property is vested must ensure that the  
5 approval notice is published in the *Gazette* within 28 days after  
6 the notice is received by the persons.
- 7 (3) A failure by a person in whom the property is vested to comply  
8 with subsection (2) constitutes a ground for removal under  
9 section 45(1)(b).
- 10 (4) The approval of a scheme by the Attorney General takes effect  
11 at the time it is granted or a later time specified in the approval  
12 notice.
- 13 (5) The Attorney General may approve a scheme despite  
14 non-compliance with the procedural requirements of this Part in  
15 relation to the scheme.
- 16 (6) If the Attorney General refuses to approve the scheme —  
17 (a) the Attorney General must set out the reasons for that  
18 decision in a scheme report; and  
19 (b) the persons in whom the property is vested may apply to  
20 the Court under section 18(1) for approval of the  
21 scheme.

22 **18. Approval of scheme by Court**

- 23 (1) The persons in whom the property is vested may, at any time  
24 after receipt of a scheme report relating to a scheme submitted  
25 by them to the Attorney General, apply to the Court for  
26 approval of the scheme.
- 27 (2) The application must be accompanied by a copy of the scheme  
28 and the scheme report.

**s. 19**

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- 1 (3) The Court must make the application, scheme and scheme  
2 report available for inspection by the public free of charge.
- 3 (4) The persons in whom the property is vested must ensure that  
4 notice, in a form approved by the Principal Registrar, of the  
5 Court's approval of the scheme or refusal to approve the scheme  
6 is published in the *Gazette* within 28 days after the order  
7 approving or refusing to approve the scheme is made under  
8 section 21(4).
- 9 (5) A failure by a person in whom the property is vested to comply  
10 with subsection (4) constitutes a ground for removal under  
11 section 45(1)(b).

12 **19. Application for Court approval must be advertised**

- 13 (1) The Court must not consider an application under section 18(1)  
14 unless the persons in whom the property is vested give notice of  
15 the application in accordance with subsection (2).
- 16 (2) Notice must be given within a period that is not more than  
17 3 months and not less than 1 month before the date proposed for  
18 the consideration of the application —
- 19 (a) to the public or a person or class of persons having an  
20 interest in the application of the property, as directed by  
21 the Court; and
- 22 (b) in a manner approved by the Court.
- 23 (3) The notice must —
- 24 (a) give a brief summary of the scheme; and
- 25 (b) state the date proposed for the hearing of the application  
26 by the Court; and
- 27 (c) require any person wanting to oppose the scheme to give  
28 written notice of their intention to do so to the Principal  
29 Registrar, the persons in whom the property is vested  
30 and the Attorney General not less than 7 days before the  
31 date proposed for the hearing of the application.

1     **20.     Opposition to application for scheme**

- 2         (1) A person wanting to oppose an application under section 18(1)  
3             must give notice of the person's intention to oppose the  
4             application to the following —  
5                 (a) the Principal Registrar;  
6                 (b) the persons in whom the property is vested;  
7                 (c) the Attorney General.  
8         (2) The notice must be given in writing not less than 7 days before  
9             the proposed hearing of the application.

10     **21.     Jurisdiction of Court in respect of schemes**

- 11         (1) This section applies if an application for approval of a scheme is  
12             made to the Court under section 18(1).  
13         (2) The Court may decide which persons are to be heard before it in  
14             support of, or in opposition to, the scheme.  
15         (3) The Court has jurisdiction and authority to hear and determine  
16             all matters relating to the scheme.  
17         (4) Subject to section 25, the Court may, as it thinks fit, make an  
18             order —  
19                 (a) approving the scheme with or without modification; or  
20                 (b) refusing to approve the scheme.  
21         (5) The Court may make any order it thinks fit if —  
22                 (a) a scheme is approved under subsection (4)(a); and  
23                 (b) the persons in whom the property is vested make a  
24                     further application for the Court to approve variations to  
25                     the scheme.

**s. 22**

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1 **22. Power to make an order despite non-compliance with**  
2 **procedural requirements**

3 The Court may, if it thinks fit, make an order under this Part in  
4 relation to a scheme despite non-compliance with the procedural  
5 requirements of this Part in relation to the scheme.

6 **23. Administration of property through schemes**

7 (1) An approved scheme may provide that the purposes of the  
8 scheme may, in whole or in part, be carried out, and that any  
9 property to which the scheme relates may be administered, by  
10 any of the following —

- 11 (a) the trustees of any existing charitable trust;
- 12 (b) a health service provider as defined in the *Health*  
13 *Services Act 2016* section 6;
- 14 (c) the Public Trustee or any trustees who could be  
15 appointed under the *Trustees Act 1962*.

16 (2) Nothing in this section limits a scheme in making any other  
17 provision for carrying out the purposes of the scheme under this  
18 Part or for administering any property to which the scheme  
19 relates.

20 **24. Expenses of scheme**

21 (1) In this section —  
22 **expenses**, of a scheme, means the reasonable expenses of —

- 23 (a) preparing and advertising the scheme; and
- 24 (b) obtaining approval for the scheme (including any fees  
25 payable under section 15(1)).

26 (2) A scheme prepared and approved under this Part may provide  
27 that the expenses of the scheme must be paid out of, and be a  
28 charge on, the property to which the scheme relates.

- 1       (3) If a scheme was jointly prepared under section 13(3) or (4), the  
2       scheme may specify how the expenses of the scheme are to be  
3       apportioned.

4       **25. Restrictions on approval of schemes**

- 5       (1) The Court or the Attorney General must not approve a scheme  
6       under this Part unless satisfied of all of the following —
- 7           (a) that the scheme is appropriate to carry out each  
8           proposed purpose and is not contrary to the law of this  
9           State or generally accepted standards of decency and  
10          propriety;
- 11          (b) that the scheme can be approved under this Part;
- 12          (c) that each proposed purpose under the scheme is a  
13          charitable purpose that can be carried out;
- 14          (d) except as provided in sections 17(5) and 22, that the  
15          requirements of this Part have been complied with in  
16          relation to the scheme.
- 17       (2) A refusal of the Court or the Attorney General to approve a  
18       scheme under this Part does not prevent fresh steps from being  
19       taken under this Part to obtain the approval of any other scheme  
20       in respect of the same property.

21       **26. Holder of property to transfer it in accordance with scheme**

- 22       (1) This section applies if a scheme approved by the Court or the  
23       Attorney General under this Part designates a person or body to  
24       hold or receive property under the scheme.
- 25       (2) The persons in whom that property is vested must transfer that  
26       property to that person or body.
- 27       (3) When property is transferred under subsection (2), the persons  
28       in whom the property was previously vested are no longer liable  
29       in respect of any express or implied trust upon which they held  
30       the property.

**s. 27**

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1       (4) Subsection (3) does not remove the liability of the persons in  
2       whom the property was previously vested for any default or  
3       misappropriation of the property.

4       **27. Savings for *Charitable Trusts Act 1962***

5       A scheme approved under the *Charitable Trusts Act 1962*  
6       Part III is taken to be an approved scheme.

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## Part 4 — Investigation of charitable trusts

### 28. Terms used

In this Part —

*authorised person* means a person who is —

(a) 1 or more of the following —

(i) a legal practitioner;

(ii) an accountant;

(iii) a person employed or engaged by the department principally assisting the Attorney General in the administration of this Act;

(iv) a person of a prescribed class;

and

(b) authorised by the Attorney General to conduct, or assist in, an investigation;

*complaint* and *complainant* have the meanings given in section 31(1);

*investigator's report* has the meaning given in section 41(1);

*provider* means a person who provides a document or information relating to a charitable trust to the Attorney General (directly or via an authorised person) or the Western Australian Charitable Trusts Commission —

(a) in response to a requirement; or

(b) voluntarily;

*requirement* has the meaning given in section 32(2);

*Western Australian Charitable Trusts Commission* means the commission established under section 29(1).

- 1 **29. Western Australian Charitable Trusts Commission**  
2 **established**
- 3 (1) The Western Australian Charitable Trusts Commission is  
4 established.
- 5 (2) The Western Australian Charitable Trusts Commission is  
6 constituted by —
- 7 (a) unless paragraph (b) or (c) applies, the Commissioner  
8 appointed under the *Parliamentary Commissioner*  
9 *Act 1971* section 5(1); or
- 10 (b) in the circumstances referred to in the *Parliamentary*  
11 *Commissioner Act 1971* section 6A(2) — the Deputy  
12 Commissioner appointed under section 5(1a) of that  
13 Act; or
- 14 (c) in the circumstances referred to in the *Parliamentary*  
15 *Commissioner Act 1971* section 7(2) — the Acting  
16 Commissioner appointed under section 7(1) of that Act.
- 17 (3) The Deputy Commissioner appointed under the *Parliamentary*  
18 *Commissioner Act 1971* section 5(1a) has the duties that the  
19 Western Australian Charitable Trusts Commission directs.
- 20 (4) The *Parliamentary Commissioner Act 1971* sections 9, 10, 11  
21 and 20(1) apply to the Western Australian Charitable Trusts  
22 Commission as if —
- 23 (a) references in those sections —
- 24 (i) to the Commissioner were to the Western  
25 Australian Charitable Trusts Commission; and
- 26 (ii) to “this Act” were to the *Charitable Trusts*  
27 *Act 2022*;
- 28 and
- 29 (b) in section 10, references to the Deputy Commissioner  
30 and the Acting Commissioner were omitted; and

- 1 (c) in section 11(1) the words “In so far as he is authorised  
2 so to do by Rules of Parliament made under this Act, or  
3 a resolution of both Houses of Parliament” were  
4 omitted.

5 **30. Functions of the Western Australian Charitable Trusts**  
6 **Commission**

7 The Western Australian Charitable Trusts Commission has the  
8 following functions —

- 9 (a) to conduct investigations, including audits of the  
10 accounts of charitable trusts under investigation;  
11 (b) to make an investigator’s report on each investigation;  
12 (c) to make recommendations to the trustees of charitable  
13 trusts in respect of matters arising out of investigations.

14 **31. Complaints relating to charitable trusts or classes of**  
15 **charitable trusts**

- 16 (1) A person (the *complainant*) may make a complaint (the  
17 *complaint*) to the Attorney General or Western Australian  
18 Charitable Trusts Commission about a charitable trust or a class  
19 of charitable trusts.
- 20 (2) The complaint must be made in a manner approved by the  
21 Attorney General or Western Australian Charitable Trusts  
22 Commission (as the case requires).
- 23 (3) This section extends to —
- 24 (a) trusts created before the commencement of this section;  
25 and  
26 (b) acts done and omissions made before the  
27 commencement of this section in relation to those trusts.

1 **32. Investigation of charitable trusts**

2 (1) An investigation of a charitable trust or class of charitable trusts  
3 (an *investigation*) may be carried out by the following  
4 (an *investigator*) —

5 (a) an authorised person acting at the direction of the  
6 Attorney General —

7 (i) on a complaint to the Attorney General; or

8 (ii) on the Attorney General's own initiative;

9 (b) the Western Australian Charitable Trusts  
10 Commission —

11 (i) on a complaint to the Western Australian  
12 Charitable Trusts Commission; or

13 (ii) on referral by the Attorney General.

14 (2) An investigator may, in the performance of a function under this  
15 Act, give to a person a written notice (a *requirement*) requiring  
16 the person to provide to the investigator —

17 (a) a document or other information —

18 (i) relating to a charitable trust; or

19 (ii) concerning any person involved in the  
20 administration of a charitable trust;

21 or

22 (b) any other assistance that is reasonably necessary.

23 (3) An investigator may refuse to investigate a complaint or, having  
24 commenced to investigate a complaint, may refuse to continue  
25 the investigation, if the investigator is of the opinion that —

26 (a) the matter raised in the complaint is trivial; or

27 (b) the complaint is frivolous or vexatious or is not made in  
28 good faith; or

- 1 (c) the complainant has provided insufficient information;  
2 or  
3 (d) another person or body has investigated, is investigating  
4 or is about to investigate the charitable trust or a trustee  
5 of the charitable trust to which the complaint relates; or  
6 (e) having regard to all the circumstances of the case, the  
7 investigation, or the continuance of the investigation of  
8 the matter raised in the complaint, is unnecessary or  
9 unjustifiable.
- 10 (4) If an investigator refuses to investigate a complaint, or refuses  
11 to continue an investigation, the investigator, by notice in  
12 writing —  
13 (a) must inform the complainant of the investigator's  
14 decision; and  
15 (b) may, if the investigator considers it appropriate, provide  
16 reasons for the decision.
- 17 (5) The Western Australian Charitable Trusts Commission may  
18 regulate its procedure in relation to an investigation in any  
19 manner it thinks fit.

20 **33. Powers under *Royal Commissions Act 1968***

- 21 (1) An investigator has all the powers, rights and privileges that are  
22 specified in the *Royal Commissions Act 1968* as they relate to a  
23 Royal Commission and the Chairman of the Royal Commission.
- 24 (2) For the purposes of subsection (1), the provisions of the *Royal*  
25 *Commissions Act 1968* have effect as if they were enacted in  
26 this Act and in terms made applicable to the investigator and  
27 that matter as if the matter were one into which a Royal  
28 Commission was appointed to inquire under that Act.

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- 1 (3) This section applies despite any obligation imposed by an  
2 enactment or rule of law to maintain secrecy or impose any  
3 other restriction in relation to information obtained by, or  
4 furnished to, an investigator.
- 5 (4) A provider is not entitled to any privilege in respect of the  
6 production of documents or the giving of evidence as is allowed  
7 by law in legal proceedings.
- 8 (5) Subject to subsections (3) and (4), a person is not compelled for  
9 the purposes of an investigation to give any evidence or produce  
10 any document that the person could not be compelled to give or  
11 produce in proceedings before a court.

12 **34. Western Australian Charitable Trusts Commission's power**  
13 **to carry out audits of charitable trust accounts**

- 14 (1) The Western Australian Charitable Trusts Commission may, as  
15 part of an investigation, carry out an audit of the accounts of a  
16 charitable trust under investigation.
- 17 (2) The Western Australian Charitable Trusts Commission may, in  
18 writing, appoint, or direct the trustees of the charitable trust to  
19 arrange, an appropriately qualified person (an *auditor*), whether  
20 corporate or unincorporate, to carry out all or a part of the audit.
- 21 (3) In the case of an appointment by the Western Australian  
22 Charitable Trusts Commission, the auditor may be a public  
23 service officer.
- 24 (4) If an auditor, however appointed or arranged, is not a public  
25 service officer, any fee payable to the auditor must be fixed by  
26 the Western Australian Charitable Trusts Commission.
- 27 (5) An auditor must report on completion of the audit to the  
28 Western Australian Charitable Trusts Commission.

- 1       (6) The reference in section 32(1)(b) to the Western Australian  
2       Charitable Trusts Commission includes an auditor carrying out  
3       an audit.

4       **35. Power to enter premises**

5       For the purposes of conducting an investigation, an investigator  
6       may, at any reasonable time —

- 7           (a) enter any premises occupied or used by a person to  
8           whom a requirement has been given; and  
9           (b) inspect those premises or anything on those premises.

10      **36. Consequences of disclosure of privileged documents or**  
11      **information**

- 12      (1) This section applies if a provider discloses to an investigator a  
13      document or information (the *privileged document or*  
14      *information*) subject to privilege against self-incrimination or  
15      legal professional privilege.
- 16      (2) In the case of legal professional privilege —
- 17           (a) the privilege relating to a trustee is abrogated only to the  
18           extent that the privileged document or information  
19           relates to the administration of the trust; and
- 20           (b) the disclosure does not otherwise constitute a waiver of  
21           legal professional privilege.
- 22      (3) The privilege is not abrogated in relation to the disclosure of the  
23      privileged document or information to a person other than the  
24      investigator.
- 25      (4) Subsection (3) does not apply if —
- 26           (a) the investigator is the Western Australian Charitable  
27           Trusts Commission or an authorised person, and the  
28           disclosure is made to the Attorney General; or

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- 1 (b) the disclosure is with the consent of the person who  
2 benefits from the privilege; or
- 3 (c) the disclosure is for the purposes of proceedings for an  
4 offence under section 39 or 40(2); or
- 5 (d) the disclosure is for the purposes of civil proceedings,  
6 whether under this Act, the *Trustees Act 1962* or the  
7 inherent jurisdiction of the Court, for directions in  
8 respect of the charitable trust —
- 9 (i) to remove the trustee; or  
10 (ii) otherwise in respect of a breach of trust.
- 11 (5) A privileged document or information provided in compliance  
12 with a requirement is not admissible in evidence against the  
13 person in proceedings other than proceedings referred to in  
14 subsection (4)(c) or (d).

15 **37. Confidentiality**

- 16 (1) Other than as is necessary for the administration of this Act,  
17 nothing in this Part authorises access to, or the disclosure of, a  
18 document or information provided to an investigator by a  
19 provider.
- 20 (2) The following persons are subject to a duty of confidentiality —
- 21 (a) people who are or were engaged or employed to perform  
22 a function under this Part;
- 23 (b) any other people —
- 24 (i) to whom a document or information is disclosed  
25 under this Part; or
- 26 (ii) who gain access (properly or improperly) to a  
27 document or information obtained under this  
28 Part.

- 1 (3) A person subject to a duty of confidentiality must not record,  
2 make use of or disclose a document or information provided by  
3 a provider except —
- 4 (a) with the consent of the provider; or
- 5 (b) for the purpose of enabling or assisting the Western  
6 Australian Charitable Trusts Commission or Attorney  
7 General to perform or exercise any functions or powers  
8 under this Act or another law relating to charitable  
9 trusts, including disclosing it —
- 10 (i) to a trustee of, or a person with an advisory role  
11 in relation to, a relevant charitable trust; or
- 12 (ii) to a person or class of persons, or a person or  
13 body representing a person or class of persons,  
14 intended to benefit from the application of trust  
15 funds from the relevant charitable trust;
- 16 or
- 17 (c) for the purpose of obtaining or providing legal advice;  
18 or
- 19 (d) for the purpose of legal proceedings relating to the  
20 relevant charitable trust instituted by the Attorney  
21 General or to which the Attorney General is or may  
22 become a party, including —
- 23 (i) for representation in legal proceedings; and  
24 (ii) to a witness or potential witness in the  
25 proceedings;
- 26 or
- 27 (e) in accordance with an order of the Court on application  
28 by the Attorney General; or
- 29 (f) as permitted or required under this Act or another  
30 written law; or

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- 1 (g) for the purposes of notifying, or referring a matter to —  
2 (i) the Commissioner of Police; or  
3 (ii) the Australian Securities and Investments  
4 Commission established under the *Australian*  
5 *Securities and Investments Commission Act 2001*  
6 (Commonwealth); or  
7 (iii) the Advisory Committee established under the  
8 *Charitable Collections Act 1946* section 10; or  
9 (iv) the Commissioner of the Australian Charities and  
10 Not-for-profits Commission established under  
11 the *Australian Charities and Not-for-profits*  
12 *Commission Act 2012* (Commonwealth)  
13 section 110-5; or  
14 (v) the Office of the Registrar of Aboriginal and  
15 Torres Strait Islander Corporations established  
16 under the *Corporations (Aboriginal and Torres*  
17 *Strait Islander) Act 2006* (Commonwealth)  
18 section 1-30; or  
19 (vi) the Commissioner of Taxation holding office  
20 under the *Taxation Administration Act 1953*  
21 (Commonwealth); or  
22 (vii) the Commissioner of State Revenue;  
23 or  
24 (h) if disclosing it to a person or class of persons prescribed  
25 by the regulations.

26 Penalty for this subsection: a fine of \$50 000.

- 27 (4) A person to whom a document or information is disclosed under  
28 subsection (3)(g) may record, make use of or disclose the  
29 document or information in the performance of functions under  
30 any written law or other law, consistent with (or in connection  
31 with) the purpose for which the document or information was  
32 disclosed.

- 
- 1 (5) Without limiting subsection (4), a person to whom a document  
2 or information is disclosed under subsection (3)(g) may record,  
3 make use of or disclose the document or information to, or for  
4 the use of, any entity, court or tribunal in criminal, civil or  
5 administrative proceedings that are related to the original  
6 purpose for which the document or information was provided.

7 **38. Protection from liability for complainants and providers**

- 8 (1) This section applies if a person, in good faith —
- 9 (a) makes a complaint; or
- 10 (b) provides a document, information or assistance to an  
11 investigator in relation to a charitable trust or class of  
12 charitable trusts, whether in response to a requirement or  
13 voluntarily.
- 14 (2) In making the complaint or providing the document,  
15 information or assistance, the person —
- 16 (a) does not incur any civil or criminal liability; and
- 17 (b) is not to be regarded as having breached any duty of  
18 confidentiality or secrecy imposed by law; and
- 19 (c) is not to be regarded as having —
- 20 (i) breached any professional ethics or standards or  
21 any principles of conduct applicable to the  
22 person's employment; or
- 23 (ii) engaged in unprofessional conduct;
- 24 and
- 25 (d) is not liable —
- 26 (i) to any disciplinary action under a written law; or
- 27 (ii) to be dismissed from any office or to have the  
28 person's employment terminated; or
- 29 (iii) to have the person's services dispensed with or  
30 otherwise terminated.

1 **39. False or misleading information**

2 A provider must not provide to an investigator a document or  
3 information that the provider knows to be false or misleading in  
4 a material particular.

5 Penalty: a fine of \$50 000.

6 **40. Failure to comply with requirement**

7 (1) In this section —

8 *specified period*, in relation to a requirement, means —

9 (a) 14 days; or

10 (b) any other period specified by the investigator in the  
11 requirement or otherwise in writing.

12 (2) A person who is given a requirement commits an offence if the  
13 person fails to comply with the requirement within the specified  
14 period after it is given.

15 Penalty for this subsection: a fine of \$50 000.

16 (3) It is a defence to a charge under subsection (2) to prove that —

17 (a) the person had a reasonable excuse for not complying  
18 with the requirement; and

19 (b) the person objected to the requirement in accordance  
20 with subsection (4).

21 (4) A person who is given a requirement may, within the specified  
22 period after the requirement is given, object to complying with  
23 the requirement by lodging with the investigator a notice in  
24 writing specifying a reasonable excuse for not complying with  
25 the requirement.

26 (5) For the purposes of subsections (3) and (4), it is not a reasonable  
27 excuse to assert —

28 (a) privilege against self-incrimination; or

29 (b) if the person is a trustee of the relevant charitable  
30 trust — legal professional privilege.

1   **41.     Investigator’s report**

- 2       (1)   An investigator must prepare a report on the investigation (an  
3       *investigator’s report*).
- 4       (2)   An investigator must give a copy of the investigator’s report to  
5       the Attorney General.
- 6       (3)   An investigator’s report may be accompanied by notice in  
7       writing directing that a relevant trustee must, within a period  
8       specified in the notice, take reasonably necessary action  
9       specified in the notice in response to the findings in the report.
- 10      (4)   If the investigator’s report is accompanied by the notice, the  
11      investigator must give a copy of the notice to the relevant  
12      trustee.
- 13      (5)   If a relevant trustee fails to comply with the notice, the  
14      investigator must prepare an amended or further investigator’s  
15      report.
- 16      (6)   A failure by a trustee to comply with the notice constitutes a  
17      ground for removal of the trustee under section 45(1)(b)(i).

18   **42.     Investigator’s report may be published, tabled and provided**  
19   **to certain persons by Attorney General**

20       On receiving an investigator’s report, the Attorney General  
21       may, if the Attorney General considers the report to be final, do  
22       any of the following —

- 23           (a)   cause a copy of the report, in whole or in part, to be laid  
24           before each House of Parliament;
- 25           (b)   provide a copy of the report, in whole or in part, to the  
26           following —
- 27               (i)   a complainant;
- 28               (ii)  a trustee;
- 29               (iii) a person referred to in section 37(3)(g) or (h).

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- 1 **43. Recovery of costs and expenses of investigation of charitable**  
2 **trust**
- 3 (1) In this section —  
4 *costs and expenses*, of an investigation (including any audit of  
5 the accounts of a charitable trust under the investigation), means  
6 the costs and expenses of an investigator in conducting the  
7 investigation.
- 8 (2) The Attorney General may apply to the Court to recover the  
9 costs and expenses of an investigation.
- 10 (3) On an application under subsection (2), the Court may make  
11 orders for the payment of the whole or part of the costs and  
12 expenses of the investigation —
- 13 (a) out of the property of the relevant charitable trust; or  
14 (b) by a trustee of the relevant charitable trust; or  
15 (c) if the investigation was the result of a complaint and the  
16 Court finds that the complaint was frivolous or  
17 vexatious or was not made in good faith — by the  
18 complainant.

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## Part 5 — Proceedings in relation to charitable trusts

### 44. Proceedings to enforce or vary charitable trusts

- (1) This section applies in relation to property held by a charitable trust whether or not a scheme in respect of the property has been approved under Part 3.
- (2) A person may apply to the Court for 1 or more of the following —
- (a) an order requiring a trustee of a charitable trust to carry out the trusts on which the property is held, and to comply with the provisions of an approved scheme (if any) relating to the property;
  - (b) an order requiring a trustee of a charitable trust to meet the trustee's liability for any breach of trust affecting the property, as the Court may direct;
  - (c) an order requiring a trustee of a charitable trust to provide a document or information to a person or class of persons, or a person or body representing a person or class of persons, intended to benefit from the application of trust funds from the charitable trust;
  - (d) an order giving directions in respect of —
    - (i) the administration of a charitable trust; or
    - (ii) any investigation in relation to a charitable trust; or
    - (iii) any assistance required of a person under section 32(2)(b);
  - (e) an order requiring an audit of the accounts of a charitable trust;
  - (f) an order directing that on and after the date of the order, or any subsequent date specified in the order, the property must not be applied except in accordance with an approved scheme;

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- 1 (g) an order directing that a person holding the property  
2 must not dispose of it without the approval of the Court,  
3 the Attorney General or some other person;
- 4 (h) an order restricting the transactions that may be entered  
5 into or the nature or amount of the payments that may be  
6 made, in the administration of a charitable trust, without  
7 the approval of the Court, the Attorney General or some  
8 other person;
- 9 (i) any other order that is necessary or convenient to be  
10 made for giving effect to an order referred to in any of  
11 paragraphs (a) to (h).
- 12 (3) Copies of the application must be served on the trustees of a  
13 charitable trust to which the application relates.
- 14 (4) The Court may decide which persons are to be heard in relation  
15 to the application.
- 16 (5) After receiving the application, the Court may make any order  
17 under subsection (2) it thinks fit.
- 18 **45. Proceedings relating to persons involved in administration**  
19 **of charitable trusts**
- 20 (1) The Attorney General or a person authorised by the Attorney  
21 General may, in accordance with subsection (2), apply to the  
22 Court for 1 or more of the following —
- 23 (a) an order precluding the involvement of a person in the  
24 administration of a charitable trust;
- 25 (b) an order removing —
- 26 (i) all or any trustees of a charitable trust; or  
27 (ii) any other person involved in the administration  
28 of a charitable trust;
- 29 (c) an order appointing a person as a trustee of a charitable  
30 trust;

- 
- 1 (d) any other order that is necessary or convenient to be  
2 made for giving effect to an order referred to in any of  
3 paragraphs (a) to (c).
- 4 (2) The application may be made on 1 or more of the following  
5 grounds —
- 6 (a) that there has been misconduct or mismanagement in  
7 relation to the administration of a charitable trust;
- 8 (b) that it is necessary or desirable to act for the purpose of  
9 protecting existing or future property held by a  
10 charitable trust;
- 11 (c) that a person is not a fit and proper person to be  
12 involved in the administration of a charitable trust;
- 13 (d) in the case of an order under subsection (1)(b), that a  
14 person has failed to comply with a provision of this Act  
15 and that failure is specified by this Act to constitute a  
16 ground for removal under that subsection.
- 17 (3) After receiving the application, the Court may make any order  
18 under subsection (1) it thinks fit.
- 19 (4) A person must not fail to comply with an order under  
20 subsection (3).
- 21 Penalty for this subsection: imprisonment for 1 year and a fine  
22 of \$50 000.

23 **46. Certain persons unfit to be involved in administration of**  
24 **charitable trusts**

- 25 (1) Except as provided in subsection (2), a person must not be  
26 involved in the administration of a charitable trust if the person  
27 is any of the following —
- 28 (a) a person who is an insolvent under administration as  
29 defined in the *Corporations Act 2001* (Commonwealth)  
30 section 9;

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- 1 (b) a person who is the director of a corporation that is  
2 insolvent or under administration as those terms are  
3 defined in the *Corporations Act 2001* (Commonwealth)  
4 section 9;
- 5 (c) a person who was the director of a corporation at the  
6 time it became insolvent or went into administration as  
7 those terms are defined in the *Corporations Act 2001*  
8 (Commonwealth) section 9;
- 9 (d) a person who is disqualified by or under a written law or  
10 a law of another State, a Territory or the Commonwealth  
11 from being employed, engaged or otherwise involved in  
12 the management of a body corporate or other entity  
13 registered under the *Australian Charities and*  
14 *Not-for-profits Commission Act 2012* (Commonwealth);
- 15 (e) a person —
- 16 (i) in relation to whom an order has been made  
17 under section 45(1)(a) or (b); or
- 18 (ii) who has been otherwise removed as trustee of a  
19 charitable trust by order of the Court;
- 20 (f) a person who has been convicted of an offence  
21 involving fraud or dishonesty;
- 22 (g) a body corporate of which an individual referred to in  
23 any of paragraphs (a) to (f) is a director.
- 24 Penalty for this subsection: imprisonment for 1 year and a fine  
25 of \$50 000.
- 26 (2) Subsection (1) applies to a person in respect of a charitable trust  
27 unless the Court grants leave under subsection (5) for the person  
28 to be involved in the administration of a charitable trust.
- 29 (3) A person to whom subsection (1) applies may apply to the Court  
30 for leave to be involved in the administration of a charitable  
31 trust.

- 1 (4) The Attorney General is a party to the application.
- 2 (5) On receipt of the application the Court may, subject to any  
3 conditions the Court considers appropriate, grant the leave if it  
4 considers there are exceptional circumstances warranting the  
5 granting of the leave.
- 6 (6) A person to whom subsection (1) applies who has not been  
7 granted leave under subsection (5) (a person who is *unfit*) —
- 8 (a) cannot be appointed as a trustee of a charitable trust; and  
9 (b) if the person is a trustee of a charitable trust when the  
10 person becomes unfit — is, by force of this section,  
11 removed as trustee on the later of —
- 12 (i) 30 days after the person becomes unfit; or  
13 (ii) if the person applies for leave under  
14 subsection (3) within 30 days after the person  
15 becomes unfit and leave is refused — the day on  
16 which leave is refused.

17 **47. Conduct of proceedings related to charitable trusts**

- 18 (1) This section applies to proceedings in the Court under the law  
19 relating to charitable trusts, other than proceedings for an  
20 offence under this Act.
- 21 (2) An originating process lodged with the Court by a person other  
22 than the Attorney General must be served on the Attorney  
23 General.
- 24 (3) When hearing the proceedings the Court is not bound by the  
25 rules of evidence and may be informed and conduct the  
26 proceedings in any manner the Court thinks fit.



1 **49. Prescribed trust: trust instrument containing express power**  
 2 **to give to eligible recipients**

3 The trust instrument of a prescribed trust may include an  
 4 express power for the trustees to provide property or benefits to  
 5 or for an eligible recipient or for the establishment of an eligible  
 6 recipient.

7 **50. Prescribed trust: trust instrument not containing express**  
 8 **power to give to eligible recipients**

9 (1) The powers of the trustees of a prescribed trust, whose trust  
 10 instrument does not contain an express power to do so, include a  
 11 power to provide property or benefits to or for an eligible  
 12 recipient or for the establishment of an eligible recipient.

13 (2) Subsection (1) —

- 14 (a) applies despite any provision to the contrary in the trust  
 15 instrument; but
- 16 (b) does not apply in relation to a particular eligible  
 17 recipient or a particular class of eligible recipients to the  
 18 extent that there is an express prohibition in the trust  
 19 instrument against the provision by the trustees of  
 20 property or benefits —
- 21 (i) to or for that eligible recipient or class of eligible  
 22 recipients; or
- 23 (ii) for the establishment of that eligible recipient or  
 24 class of eligible recipients.

25 **51. Ancillary provisions**

26 (1) This Act applies to a prescribed power as if it were a power  
 27 exercisable for a charitable purpose.

28 (2) Without limiting subsection (1) —

- 29 (a) neither the existence nor the exercise of the prescribed  
 30 power affects the validity or status of a charitable trust  
 31 as a charitable trust; and

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- 1 (b) a prescribed trust is to be construed and given effect to  
2 as if —
- 3 (i) the prescribed power were a power exercisable  
4 for a charitable purpose; and
- 5 (ii) any application of property held by the trust in  
6 the way allowed by the power were to or for a  
7 charitable purpose;
- 8 and
- 9 (c) the existence or exercise of the prescribed power does  
10 not affect the control of a prescribed trust by the Court  
11 in the exercise of the Court’s general jurisdiction in  
12 relation to charitable trusts; and
- 13 (d) the jurisdiction mentioned in paragraph (c) extends to  
14 the prescribed power as if the power were exercisable  
15 for a charitable purpose.

16 **52. Validation provisions for period preceding former**  
17 **commencement day**

- 18 (1) In this section —
- 19 *former eligible recipient* means an eligible recipient as defined  
20 in the *Charitable Trusts Act 1962* section 22A.
- 21 (2) The provision, before former commencement day, by the  
22 trustees of a prescribed trust of property or benefits to or for a  
23 former eligible recipient or for the establishment of a former  
24 eligible recipient —
- 25 (a) is taken to be, and always to have been, a provision for  
26 an authorised and valid purpose of the prescribed trust;  
27 and
- 28 (b) does not affect, and is taken never to have affected, the  
29 status of the prescribed trust as a charitable trust.

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- 1       (3) Subsection (2) applies despite a failure by the trustees of a  
2       prescribed trust to do any of the following —
- 3           (a) make a declaration under the *Charitable Trusts Act 1962*  
4           section 22C(3);
- 5           (b) adhere to a limitation applicable in relation to the  
6           prescribed trust under the *Charitable Trusts Act 1962*  
7           section 22C(4) and (5);
- 8           (c) comply with the *Charitable Trusts Act 1962*  
9           section 22C(6).
- 10       (4) The inclusion of a former prescribed power in the trust  
11       instrument of a prescribed trust before former commencement  
12       day is taken to be, and always to have been, valid.
- 13       **53. Validation and transitional provisions for period preceding**  
14       **commencement of this Part**
- 15       (1) In this section —  
16       *new commencement day* means the day on which this Part  
17       comes into operation.
- 18       (2) The inclusion of a prescribed power in the trust instrument of a  
19       prescribed trust on and after former commencement day but  
20       before new commencement day is taken to be, and always to  
21       have been, valid.
- 22       (3) The exercise of a prescribed power on and after former  
23       commencement day but before new commencement day is  
24       taken to be, and always to have been, valid despite a failure by  
25       the trustees of a prescribed trust to do any of the following —
- 26           (a) make a declaration under the *Charitable Trusts Act 1962*  
27           section 22C(3);
- 28           (b) adhere to a limitation applicable in relation to the  
29           prescribed trust under the *Charitable Trusts Act 1962*  
30           section 22C(4) and (5);
- 31           (c) comply with the *Charitable Trusts Act 1962*  
32           section 22C(6).
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**s. 53**

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- 1       (4) The inclusion of a former prescribed power in the trust  
2       instrument of a prescribed trust on and after former  
3       commencement day but before new commencement day is not,  
4       under the law relating to charitable trusts, taken to create an  
5       additional purpose for the prescribed trust.
- 6       (5) The inclusion of a prescribed power in the trust instrument of a  
7       prescribed trust on and after new commencement day is not,  
8       under the law relating to charitable trusts, taken to create an  
9       additional purpose for the prescribed trust.

1 **Part 7 — Miscellaneous**

2 **54. Protection from liability for persons performing functions**  
3 **under Act**

4 (1) A person does not incur any civil or criminal liability for an act  
5 done or omission made in good faith in the performance, or  
6 purported performance, of a function under this Act or any other  
7 law relating to charitable trusts.

8 (2) In doing the act, the person is not liable —

9 (a) to any disciplinary action under a written law; or

10 (b) to be dismissed from any office or to have the person's  
11 employment terminated; or

12 (c) to have the person's services dispensed with or  
13 otherwise terminated.

14 (3) In this section, a reference to the doing of an act includes a  
15 reference to making an omission.

16 **55. Regulations**

17 (1) The Governor may make regulations prescribing all matters that  
18 are required or permitted by this Act to be prescribed, or are  
19 necessary or convenient to be prescribed, for giving effect to the  
20 purposes of this Act.

21 (2) Without limiting subsection (1), the regulations may prescribe  
22 the process for making and responding to a requirement as  
23 defined in section 32(2).

1 **Part 8 — Repeal, savings and transitional provisions**  
2 **and consequential amendment**

3 **56. Charitable Trusts Act 1962 repealed**

4 The *Charitable Trusts Act 1962* is repealed.

5 **57. Savings and transitional provisions for *Charitable Trusts***  
6 ***Act 1962***

7 (1) In this section —

8 ***commencement day*** means the day on which section 56 comes  
9 into operation;

10 ***former Act*** means the *Charitable Trusts Act 1962*;

11 ***scheme application*** means an application to the Attorney  
12 General or the Court under Part III of the former Act.

13 (2) A scheme application pending immediately before  
14 commencement day must be determined under the former Act  
15 as if it had not been repealed.

16 (3) An examination or inquiry commenced under section 20 of the  
17 former Act but not concluded immediately before  
18 commencement day may, in the Attorney General’s discretion,  
19 be continued —

20 (a) under the former Act as if it had not been repealed; or

21 (b) under Part 4 as if it had commenced as an investigation.

22 (4) An application made under section 21 of the former Act but not  
23 determined immediately before commencement day must be  
24 determined under the former Act as if it had not been repealed.

25 (5) A declaration under section 22C of the former Act continues in  
26 operation on and after commencement day as if the former Act  
27 had not been repealed.

1 **58. *Freedom of Information Act 1992* amended**

2 (1) This section amends the *Freedom of Information Act 1992*.

3 (2) In Schedule 2 after the item for “The State Government Insurance  
4 Corporation.” insert:

5

6 The Western Australian Charitable Trusts Commission.

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## Defined terms

*[This is a list of terms defined and the provisions where they are defined.  
The list is not part of the law.]*

Defined term	Provision(s)
administration .....	4
alternative charitable purpose .....	10(2)
approval notice.....	17(1)
approved scheme.....	4
auditor .....	34(2)
authorised person .....	28
charitable purpose .....	4
charitable trust.....	4
commencement day .....	7(1), 57(1)
complainant.....	28, 31(1)
complaint .....	28, 31(1)
costs and expenses .....	43(1)
Court .....	4
eligible recipient .....	48
expenses .....	24(1)
former Act.....	57(1)
former commencement day.....	48
former eligible recipient.....	52(1)
former prescribed power .....	48
government entity .....	48
intended users .....	5(2)
investigation.....	4, 32(1)
investigator.....	4, 32(1)
investigator’s report .....	28, 41(1)
involved in the administration.....	4
new commencement day .....	53(1)
original property .....	11(1)
original purpose .....	10(1), 11(1)
other property.....	11(1)
prescribed power .....	48
prescribed trust.....	48
Principal Registrar .....	8
privileged document or information.....	36(1)
property.....	4
property held for a charitable purpose .....	4
provider.....	28
recreational facilities .....	5(1)
requirement .....	28, 32(2)
scheme application.....	57(1)
scheme report.....	8, 14(3)

specified period.....	40(1)
trust instrument .....	48
unfit.....	46(6)
Western Australian Charitable Trusts Commission .....	28