

Approved for Reprint, 24th March, 1971.

WESTERN AUSTRALIA.

CHARITABLE COLLECTIONS.

10° and 11° Geo. VI., XXIX.

No. 29 of 1946.¹

(Affected by Act No. 113 of 1965.)

[As amended by Acts:

No. 55 of 1947 assented to 10th January, 1948;

No. 2 of 1949 assented to 24th August, 1949,

and reprinted pursuant to the Amendments Incorporation Act, 1938.]

AN ACT to provide for the regulation and control of the collection of money or goods for charitable purposes, and to repeal the War Funds Regulation Act, 1939.

[Assented to 24th January, 1947.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the *Charitable Collections Act, 1946-1949*.

Short title.
Amended by
No. 2 of
1949, s. 2.

¹ Came into operation 28th March, 1947, see *Government Gazette* 28th March, 1947, p. 509.

*Charitable Collections.*Commence-
ment.

2. This Act shall come into force upon a day to be fixed by proclamation.¹

Repeal.

3. The War Funds Regulation Act, 1939, is hereby repealed.

Act No. 55
of 1940
paramount.

4. This Act shall be construed as subject to the provisions of the Street Collections (Regulation) Act, 1940 (No. 55 of 1940), the intention being that any provision of that Act or any regulation or by-law made thereunder shall be paramount to any provision of this Act or any regulation or by-law made thereunder in the case of repugnancy or inconsistency.

Interpre-
tation.
Amended by
No. 55 of
1947, s. 3.

5. In this Act—

“charitable purpose” means—

- (a) the affording of relief to diseased, sick, infirm, incurable, poor, destitute, helpless or unemployed persons, or to the dependants of any such persons;
- (b) the relief of distress occasioned by war, whether occasioned in Western Australia or elsewhere;
- (c) the supply of equipment to any of His Majesty’s naval, military, or air forces, including the supply of ambulances, hospitals and hospital ships;
- (d) the supply of comforts or conveniences to members of the said forces;
- (e) the affording of relief, assistance or support to persons who are or have been members of the said forces or to the dependants of any such persons;

¹ Came into operation 28th March, 1947, see *Government Gazette* 28th March, 1947, p. 509.

- (f) the support of hospitals, infant health centres, kindergartens and other activities of a social welfare or public character;
- (g) any other benevolent, philanthropic or patriotic purpose.

“maladministration” means any act in reference to moneys or securities for moneys or goods collected or held by a war fund or collected or held for any charitable purpose, performed by the persons, society, body or association who or which are or is the trustees or trustee thereof, in contravention of the duties imposed on them or it by the trusts or in excess of those duties, and any neglect or omission on their or its part to fulfil those duties.

“Minister” means the Minister of the Crown to whom for the time being the administration of this Act is committed by the Governor.

“Present war” means the war in which His Majesty was engaged commencing on the third day of September, One thousand nine hundred and thirty-nine.

“securities for money” includes real and personal estate.

“War fund” means a fund lawfully established under the War Funds Regulation Act, 1939.

6. (1) No person shall—

- (a) collect or attempt to collect any money or goods for any charitable purpose; or
- (b) obtain or attempt to obtain money by the sale of any disc, badge, token, flower or other device for any charitable purpose; or
- (c) conduct any entertainment or function to which any charge for admission is made, or sell or attempt to sell any ticket for

Restriction
on certain
collections.
Amended by
No. 113 of
1965, s. 8.

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admission to any entertainment or function in any case where it is held out that any part of the proceeds of the entertainment or function are to be devoted (either wholly or partly) for any charitable purpose; or

- (d) advertise, whether by way of poster, streamer, handbill, notice in any newspaper or any other means or hold out or represent in any manner that the whole or any part of the proceeds of any sports, races, fete, bazaar or other function will be paid into or applied for any charitable purpose.

unless he is—

- (i) the holder of a license under this Act; or
- (ii) a member of the committee or other governing body, of a society, body, or association which is the holder of a license under this Act and who is authorised by such licensee; or
- (iii) authorised to do so by a person, society, body or association which holds a license under this Act,

and except in accordance with such license and authority.

(2) Any person who commits any contravention of this section shall be guilty of an offence and liable to a penalty not exceeding one hundred dollars.

(3) In any proceedings for an offence against this section the prosecution need not negative any of the matters specified in paragraphs (i), (ii), or (iii) of subsection (1) of this section, but it shall lie on the defendant to prove any of those matters on which he relies.

(4) This section shall apply whether the money or goods are collected or attempted to be collected solely for any charitable purpose or partly for any charitable purpose and partly for any other purpose.

(5) The Governor may by proclamation exempt collections in aid of any charitable purpose specified therein from the operation of this section.

7. Where, prior to the commencement of this Act, any war fund has been established or any moneys or goods have been collected for any war fund by any person, society, body or association the establishment of such war fund and the collection of such moneys or goods shall for the purposes of this Act be deemed to have been authorised by the Minister under and in accordance with the provisions of the preceding section and the authority already issued under the War Funds Regulation Act, 1939, shall be deemed to be a license under this Act.

War funds.

8. Any person, society, body or association being the holder of a license under this Act may give any authority referred to in section six by any means approved by the Minister either generally or in any particular case. Any such approval may be revoked by the Minister.

Grant of authority by licenses.

9. (1) Any person, society, body or association being the holder of a license under this Act who or which gives any authority referred to in section six, may revoke any such authority, and when any such authority is revoked the person to whom it was given shall, if the authority was given in writing, within seven days after notice in writing of the revocation produce and deliver the same together with any moneys, books, vouchers or other things held or controlled by virtue of such authority, to such firstmentioned person or to a member of the committee or other governing body of such society, body or association.

Revocation of authority by society, etc.
Amended by No. 113 of 1955, s. 8.

(2) Any such person to whom such authority is given who fails to produce or delivery such authority, together with any moneys, books, vouchers or other

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things held or controlled by virtue of such authority, as aforesaid shall be guilty of an offence and liable to a penalty not exceeding one hundred dollars.

Advisory
committee.

10. (1) There shall be an advisory committee for the purposes of this Act.

(2) There shall be five members of the committee who shall from time to time be appointed by the Governor upon the recommendation of the Minister.

(3) The Minister shall from time to time appoint one of the members of the committee to be the chairman thereof.

Application
for license.

11. (1) An application for a license under this Act shall be made to the Minister, who shall refer the application for consideration and report by the advisory committee.

(2) In considering any application for a license the advisory committee, in addition to taking into account any other matters thought fit by the committee, shall consider whether, having regard to the objects of the applicant, those objects would be more effectively or economically carried out by any other person, society, body or association being the holder of or an applicant for a license under this Act.

(3) After considering the report of the advisory committee on any application, the Minister may, in his discretion, grant or refuse a license to any applicant and shall not be liable to any proceedings whatsoever as a consequence of any refusal.

Conditions
of license.
Amended by
No. 2 of
1949, s. 3.

12. (1) A license under this Act may authorise collections to be made, money to be obtained, or entertainments to be conducted, for such period or for such occasions as the Minister thinks fit, or may

authorise collections to be made, money to be obtained, or entertainments to be conducted, during such time as the license remains unrevoked.

(2) A license may be issued subject to any condition fixed by the Minister.

(3) A license may at any time be revoked by the Minister as an administrative act.

(4) Where a condition of a license requires that before being made, any proposed contract or arrangement, relating to payment from moneys in hand or to be obtained for any charitable purpose, shall be submitted to and approved by the Minister—

- (a) any contract or arrangement made after the coming into operation of the Charitable Collections Act Amendment Act, 1949, without having been so submitted and approved shall, subject to the provisions of the next succeeding paragraph, be void;
- (b) any money received by any person in purported pursuance of a contract or arrangement which is void by virtue of the provisions of the last preceding subsection shall be recoverable in any court of competent jurisdiction as a debt due from that person at the suit of the Minister or a person authorised by him to sue.

(5) Where money is recovered pursuant to the provisions of paragraph (b) of the last preceding subsection, it shall, subject to the provisions of this Act, be appropriated to the charitable purpose for which it was obtained, but if the cost of recovery has not been recovered, that cost may first be deducted.

13. (1) The advisory committee shall, when requested so to do by the Minister, inquire whether any license issued under this Act to any person, society, body or association should be revoked.

Inquiry as to revocation of licenses.

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(2) The advisory committee may recommend that any such license be revoked if it is of opinion—

- (a) that the money or goods received for charitable purposes by the person, society, body or association are mismanaged or are substantially applied otherwise than for affording the relief for which the money or goods were collected; or
- (b) that the amount of any money or goods received by the person, society, body or association and applied towards charitable purposes or to be so applied is inadequate in proportion to the total amount so received; or
- (c) that remuneration at a rate which is excessive, in relation to the part of any money or goods received by the person, society, body or association and applied towards charitable purposes, has been, or is likely to be, paid to any person from the money or goods so received; or
- (d) that the person, society, body or association has ceased effectively to carry out any charitable purpose; or
- (e) that for any other reason the license should be revoked.

Licenses to be issued gratis.

14. No fee shall be charged for any license under this Act.

Statements to be furnished by licensees.
Amended by No. 55 of 1947, s. 4; No. 113 of 1965, s. 8.

15. (1) Every person, society, body or association who or which collects or receives or before the passing of this Act collected or received any money or goods for any charitable purpose shall at the time or times when required by the Minister, submit to the Minister an audited account setting out the money and goods so collected or received and a statement of particulars of the manner in which the same have been dealt with.

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(2) The accounts of all persons, societies, bodies or associations referred to in the next preceding subsection shall be audited by a person approved by the Minister.

(3) Every person, society, body or association who or which contravenes or fails to comply with the provisions of this section shall be guilty of an offence and liable to a penalty not exceeding one hundred dollars.

(4) When any society, body, or association is liable to any such penalty every member of the committee or governing body thereof or (if there is no committee or governing body thereof) every member of the society, body or association shall be severally liable to the penalty unless he proves that the offence was committed without his knowledge or without his consent.

16. (1) If the Governor is satisfied that any moneys or securities for moneys or goods collected by a war fund or held for any charitable purpose by or on behalf of any person, society, body or association, are not or will not be required for that purpose, the Governor may, by proclamation, declare that the whole or any part of such moneys and securities or goods shall be—

Transfers
of moneys.
Amended by
No. 55 of
1947, s. 5.

- (a) applied by such person, society, body or association to any other charitable purpose; or
- (b) vested in and transferred to the Minister to be applied to any charitable purpose, and may by the same or any subsequent proclamation vest and transfer the said moneys, securities and goods or any part thereof in and to such persons and for any such charitable purposes as the Governor shall declare.

Provided that where such moneys, securities or goods were originally collected by a war fund they shall be applied to purposes connected with the

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present war unless the Minister on the advice of the advisory committee otherwise directs.

(2) Any such proclamation shall have the force of law, and payments and transfers shall be made to carry out the directions of the Governor thereby made.

(3) A proclamation shall not be made under this section until a resolution has been passed by both Houses of Parliament approving of the making of the proclamation.

(4) This section shall apply notwithstanding any exemption given by a proclamation issued under subsection (5) of section six of this Act.

Vesting of
funds in
Minister.
Amended by
No. 55 of
1947, s. 6.

17. (1) The Governor may, by proclamation, vest in the Minister the moneys, securities for moneys or goods collected by a war fund or held for any charitable purpose by or on behalf of any person, society, body or association, on being satisfied—

- (a) that a majority of at least three-fourths in number of the persons who are trustees or who have the control of the moneys or securities for moneys or goods have consented thereto; or
- (b) there has been maladministration of the moneys, securities for moneys, or goods.

(2) The moneys, securities or goods vested in the Minister by a proclamation made under this section shall be held upon the trusts upon which they were held prior to being vested in the Minister. Provided that the Governor may by proclamation vary the trusts and may by the same or any subsequent proclamation vest the said moneys, securities and goods or any part thereof in such persons and for such charitable purposes as the Governor shall specify.

(3) Any such proclamation shall have the force of law, and payments and transfers shall be made to carry out the directions of the Governor thereby made.

(4) The receipt of the Minister shall be a sufficient discharge to the said persons as to moneys, securities and goods paid and transferred, and the said persons shall not thereafter be liable or accountable therefor, or be bound to see to the application, distribution or appropriation thereof.

18. Proceedings for offences against this Act shall be disposed of summarily under and in accordance with the provisions of the Justices Act, 1902-1942.¹

Summary disposal of proceedings. Amended by No. 113 of 1965, s. 8.

Except where otherwise specifically provided the penalty for any breach of this Act shall not exceed forty dollars.

19. (1) No prosecution for an offence against this Act shall be instituted without the approval in writing of the Minister.

Proceedings for offences.

(2) Unless proof to the contrary is given, any document purporting to be signed by the Minister and to be an approval by the Minister under subsection (1) shall, without any further proof or proof of the signature of the Minister, be sufficient proof before any court of the giving of the approval.

20. (1) Where moneys have been raised or collected for any charitable purpose the Auditor General himself, or by some other officer appointed by him or an officer authorised by the Minister for the purpose, may inspect, examine, and audit accounts relating to any such moneys, and investigate and examine all documents and vouchers connected therewith.

Audit of accounts. Amended by No. 2 of 1949, s. 4.

(2) The Auditor General shall as soon as practicable after such inspection, examination, and audit, make and forward to the Minister—

- (a) a report of the result thereof and of the manner in which the accounts and documents and vouchers aforesaid have been kept; and
- (b) a statement of all sums found to have been omitted to be collected or not duly

¹ Now Justices Act, 1902-1968.

accounted for, and of all payments which have not been duly authorised or properly made or for which the necessary certificates, receipts, and vouchers have not been produced.

(3) Such report may, if the Minister so directs, be published in any newspaper.

(4) The Auditor General, and any officer appointed by him as aforesaid, shall have and may exercise for the purposes of this section all or any of the powers conferred upon him with reference to the auditing of public accounts by the Audit Act, 1904.

Regulations.
Amended by
No 55 of
1947, s. 7.

21. The Governor may make any regulations, not inconsistent with this Act, which may be necessary or convenient for carrying out any of the provisions of this Act or for better effecting the objects of this Act, and in particular—

- (a) to prescribe the manner in which and times when returns, accounts and statements required under this Act, shall be made;
- (b) to prescribe the manner of investment of moneys collected or held for charitable purposes;
- (c) to prescribe times for the doing of any act, matter or thing required by this Act to be done by license holders or by other persons in connection with collections or entertainments for charitable purposes;
- (d) to prescribe and regulate methods of banking of moneys collected for charitable purposes;
- (e) to prescribe the forms to be used for the purposes of this Act;
- (f) to regulate the proceedings and provide for the carrying on of the functions of the advisory committee.