

Western Australia

**Western Australian Bush Nursing Trust
Act 1936**

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Western Australia

Western Australian Bush Nursing Trust Act 1936

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Western Australia

Western Australian Bush Nursing Trust Act 1936

**An Act to incorporate the Western Australian Bush Nursing Trust;
to make provision for the administration of certain funds held by
that Trust; and for other relative purposes.**

[Assented to 11 December 1936.]

Whereas by a deed dated the fifth day of October, one thousand nine hundred and twenty (a copy of which appears in the First Schedule to this Act), the sum of fifteen thousand pounds which had then lately been remitted by the British Red Cross Society and the Order of St. John of Jerusalem to the then Governor General of the Commonwealth, the Right Honourable Sir Ronald Craufurd Munro-Ferguson, P.C., G.C.M.G., was paid or handed over by him to certain trustees named therein subject to certain trusts, which the said trustees declared and acknowledged: And whereas under a power reserved in the said deed to the Governor General of the Commonwealth for the time being, the present Governor General of the Commonwealth, Brigadier General the Right Honourable Lord Gowrie, V.C., G.C.M.G., C.B., D.S.O., by a further deed dated the fifteenth day of June, one thousand nine hundred and thirty-six (a copy of which is set out in the Second Schedule to this Act), appointed the Honourable John Nicholson, M.L.C., a trustee for the purpose of the first-mentioned deed in place of Sir Walter Kingsmill, now deceased, and the present funds and investments of the Trust as set out in the Schedule to the second deed were vested in certain individual trustees named in such last-mentioned deed: And whereas it is desirable that the trustees of the said fund should be constituted a body corporate, with perpetual

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succession, and that all funds and investments belonging to the said Trust should be vested in the body corporate: Now therefore, be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows: —

1. Short title

This Act may be cited as the *Western Australian Bush Nursing Trust Act 1936*.

2. Definitions

In this Act, subject to the context, the following terms shall have the following meanings respectively: —

“**Deed of trust**” means the deed of trust set out in the First Schedule to this Act.

“**Fund**” means the assets and investments from time to time representing the trust moneys originally paid over to the trustees named in the deed of trust.

“**Trustees**” means the Trustees of the Western Australian Bush Nursing Trust Incorporated as constituted under this Act.

3. Trustees to be a body corporate

(1) The present trustees of the fund and their successors in office are hereby incorporated under the name of The Trustees of the Western Australian Bush Nursing Trust Incorporated.

(2)(a) The trustees shall have perpetual succession and a common seal and shall be capable of suing and being sued and of holding and disposing of real and personal property in the same way as an individual person may do, subject, however, to the provisions of this Act and to the trusts declared by the deed of trust: provided that no lands granted to the trustees by the Crown before or after the passing of this Act without pecuniary consideration therefor shall be sold, mortgaged, or leased for a period exceeding

twenty-one years, without the consent in writing of the Governor being indorsed upon the transfer, deed, mortgage, assurance, or other instrument effectuating such sale, mortgage, or lease.

- (b) The trustees are empowered for such purposes to execute and do all such transfers, deeds, mortgages, assurances, instruments, writings, and things as may be necessary or desirable to effectuate any such transaction as is mentioned in the preceding paragraph.
- (c) The corporate seal of the trustees shall be held on behalf of the trustees by the chairman for the time being, and all deeds or instruments to which such seal may be affixed shall be deemed sufficiently executed by the affixing of such seal and by being signed by two of the trustees.

4. Liability of individual trustees limited

No individual member of the trustees or any officer or servant of the trustees shall as such be under any personal liability to any creditor of the trustees beyond the property of the trustees in his hands.

5. Trustees may make rules

- (a) For the purpose of the administration of the trust fund the members for the time being of the trustees, or a majority of their number, may from time to time make and alter rules or regulations not inconsistent with the provisions of the trust deed.
- (b) All such rules and regulations shall be under the common seal of the trustees, and shall be filed with the Registrar of Deeds mentioned in the Ordinance 19^o Vic. 14.

6. Vesting of property in the trustees

- (1) Subject as in this section mentioned all real or personal property held by any trustee or trustees or other persons on behalf of the

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trustees shall after the passing of this Act vest in the trustees, and the Registrar of Titles or the Registrar of Deeds, as the case may be, is hereby authorized, on receiving an application executed by the trustees in respect of any of the lands mentioned in the Schedule to the deed set out in the Second Schedule, or in respect of any other lands which may be held by any trustee or other person on behalf of the trustees, to indorse the relevant certificate of title or other document of title, or enter a memorial in the Registry of Deeds, as the case may be, of the fact that such land is vested in the trustees by force of this Act.

- (2) All such real or personal property shall be so vested in the trustees subject to all trusts, covenants, contracts, and liabilities affecting the same.

7. Source of process

- (a) In all cases where it may be necessary to serve any process upon the trustees, service may be effected at the headquarters upon any one of the individual members for the time being of the trustees.
- (b) For the purpose of this section the trustees shall notify the said Registrar of Deeds of the address of the headquarters of the trustees and of any change of such address, and process shall be deemed sufficiently served on the trustees if served at the address last notified under this section.

8. Indemnity to trustees

- (1) Any member of the trustees from time to time acting under the deed of trust shall be answerable and chargeable only for his own acts, deeds, receipts, omissions, neglects, and defaults respectively, and not for those of any other member or of any banker, broker, agent, solicitor, officer, or employee or other person with whom or into whose hands any trust moneys, securities, or property shall be vested or come nor for any defect in title, or in respect of the purchase or acquisition at an

overvalue of any property purchased or acquired at any time, nor for the insufficiency or deficiency of any stocks, funds, or securities, nor for any other loss, unless the same shall happen through the wilful default of such first-mentioned member.

- (2) The individual members of the trustees from time to time may reimburse themselves; or pay or discharge out of the fund or any moneys for the time being in their hands or under their control belonging to the fund all liabilities, costs, charges, or expenses in or about the execution of the trusts or powers granted under this Act or under the provisions of the said deed.

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THE DEED OF TRUST

THIS INDENTURE made the Fifth day of October, One thousand nine hundred and twenty, BETWEEN THE RIGHT HONOURABLE SIR RONALD CRAUFURD MUNRO-FERGUSON P.C., G.C.M.G. The Governor General and Commander in Chief in and over the Commonwealth of Australia of the one part and THE HONOURABLE WALTER KINGSMILL of Perth in the State of Western Australia President of the Legislative Council, ALEXANDER JOSEPH MONGER of Perth and York in the said State of Western Australia farmer, ALFRED CARSON of Perth aforesaid Journalist, THE HONOURABLE HAL PATESHALL COLEBATCH of Perth aforesaid Minister for Health in the Government of the State of Western Australia, THE HONOURABLE PHILIP COLLIER of Perth aforesaid at present Leader of the Opposition in the Legislative Assembly of the State of Western Australia (hereinafter called the Trustees) of the other part: WHEREAS the British Red Cross Society and the Order of St. John of Jerusalem in England as a recognition and appreciation of the support given by His Majesty's Dominions overseas to their objects during the Great War and with a view of establishing or assisting public charitable funds and institutions in the Commonwealth and the curing and alleviating of ill health and human suffering primarily of members of His Majesty's forces and others resident or sojourning in the Commonwealth and lately engaged in War Service in the Great War and their respective dependants but also generally of the residents of the Commonwealth lately remitted large sums to the Governor General to the applied at his discretion in or towards public charitable purposes of which the approved:

AND WHEREAS the said Ronald Crufurd Munro-Ferguson has approved of the establishment of a Bush Nursing Scheme for the purpose of providing certificated nurses or midwives for home nursing in country districts and carrying out the trusts and purposes hereinafter referred to in and throughout the said State of Western Australia and has paid over to the Trustees as Trustee the sum of fifteen thousand pounds for the purposes upon the trusts and with and subject to the powers provisions authorities and discretions hereinafter set forth:

AND WHEREAS the Trustees have received the said sum and have consented and agreed to accept and take upon themselves such trusts

NOW THIS INDENTURE WITNESSETH:—

1. The Trustees declare that the said sum of fifteen thousand pounds hereinafter referred to as “the Trust Fund” shall be held by them in trust to invest the same as hereinafter provided and to receive from time to time the income arising therefrom and to hold such income in trust to pay or apply such income after deduction of all outgoings and expenses in connection with the administration and execution of the trusts herein as follows namely:

In or towards establishing maintaining and extending from time to time a Bush Nursing Scheme in and throughout such districts and places in Western Australia as the Trustee may in their discretion from time to time think proper and to endow contribute to or assist any institutions established for or undertaking or having as one of its or their objects the work of Bush Nursing in the said State with power to employ and pay for or contribute towards the payment of nurses and persons deemed requisite in connection with all or any of the trusts or purposes herein referred to and to purchase or hire vehicles horses motors conveyances and equipments and do such acts and things as the trustees may from time to time decide for the purpose of efficiently carrying out the work of the said scheme on such lines as may from time to time be determined by the Trustees and generally to expend the whole or any part of such income in or towards such Bush Nursing Scheme in such manner as they may think proper.

2. So far as the Trustees deem it practicable or desirable the trusts hereby created shall be so administered that the benefit thereof may be primarily enjoyed by soldiers and sailors and other persons who rendered service to the Empire in or in connection with the Great War and their dependants and subject thereto for the general benefit of residents in country districts within the said State of Western Australia.

3. The Trustees shall not be bound personally to carry out the purposes aforesaid but may at their discretion delegate all or any of the trusts powers and authorities herein conferred upon them to any society committee or body persons and may pay all or any part of the said income to any such society committee or body of persons in order to carry out all or any of the purposes or trusts

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hereinbefore mentioned and the receipt of such society committee or body of persons or the president chairman secretary or treasurer thereof shall be a good and sufficient receipt and discharge to the Trustees for and in respect of all or any moneys paid over by the Trustees. Any delegation made as hereinbefore provided may at the discretion of the Trustees at any time or times be revoked with power to the Trustees to make any further appointment or delegations as they may from time to time think fit. The Trustees also shall in the event of their delegating all or any of the trusts or powers hereinbefore mentioned have power from time to time, to make vary and revoke rules or regulations for the purpose of carrying out the objects of the trust hereby created but so that no rule or regulation shall be ultra vires of the trusts or powers hereby created or conferred.

4. The Trustees may invest the Trust Fund and any accumulations of income at their discretion in any investments authorized by law for Trustees and may from time to time vary or transpose the same: Provided always and it is hereby declared that it shall be competent for any investments as aforesaid to be made in the names of any three Trustees for the time being who are not subject to retirement as hereinafter provided: And further that any accumulations of income which may be invested under the powers herein contained may be resorted to and applied in or towards any of the purposes or trusts hereinbefore referred to.

5. Two of the Trustees hereinbefore mentioned namely the said The Honourable Hal Pateshall Colebatch and the Honourable Philip Collier have been selected by reason of their holding the official positions of Minister for Health and Leader of the Opposition respectively as hereinbefore referred to and they have agreed to act as such Trustees subject to the provisions for retirement or determination of such appointment as hereinafter provided: Now in pursuance of such agreement it is hereby declared that the said the Honourable Hal Pateshall Colebatch and the Honourable Philip Collier shall on their ceasing to hold the said respective offices of Minister for Health and Leader of the Opposition respectively retire from and cease to act as Trustees under these presents and they shall execute such deeds and documents as may be necessary to give effect to such retirement. On the retirement of the said the Honourable Hal Pateshall Colebatch and the said the Honourable Philip Collier then their successors from time to time in the said respective offices if willing to act shall be appointed as Trustees and every successor for the time being holding the said respective offices shall on ceasing to hold same be subject during the continuance of these presents

to the like provisions of retirement as are hereinbefore contained in respect of the said the Honourable Hal Pateshall Colebatch and the Honourable Philip Collier the intention being that the holder for the time being of the Office of Minister for Health in the Government of Western Australia and the holder for the time being of the office of Leader of the Opposition in the Legislative Assembly of the said State shall be entitled to act as Trustees and in the event of any person or persons for the time being being the holder or holders of the said respective offices refusing or declining to act then it shall be competent for the remaining Trustees to appoint some other person or persons to the vacant position.

6. The said the Honourable Walter Kingsmill so long as he shall act as a Trustee shall preside at and be the chairman of all meetings of the Trustees but in the event of his absence from any meeting the Trustees present may subject as aforesaid appoint a chairman for every such meeting. The Trustees may pass such regulations or rules from time to time as they may think proper and may determine a quorum and make provisions for regulating the procedure in relation to all meetings and business of the Trustees.

A decision of the majority of the Trustees shall be binding and any Trustees dissenting from any lawful decision of a majority of the Trustees shall nevertheless concur in executing and doing all such instruments and acts as may be requisite for the purpose of giving effect to every such decision.

7. If any Trustees shall become or be declared bankrupt or shall permanently leave the State of Western Australia he shall cease to be a Trustee and shall if required by the other Trustees execute all such deeds or instruments as they may deem requisite in the premises.

8. The power of appointing a new Trustee or new Trustees of those presents save as hereinbefore provided may be exercised by the Governor General for the time being of the Commonwealth of Australia on the recommendation of the surviving or continuing Trustee or Trustees or in the event of the said Governor General being absent or failing to exercise the said power then the same may be exercised by the surviving or continuing Trustee or Trustees.

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9. If in the opinion of the Trustees it would be desirable to increase the number of the said Trustees then the said the Governor General for the time being of said Commonwealth may on the recommendation of the Trustees increase the number of the said Trustees but no reduction in the said Trustees shall be made below three.

10. If at any time the number of Trustees shall be reduced below three the continuing Trustees shall not except for the purpose of filling the vacancy or vacancies act in the trusts of these presents until the number of such Trustees be increased to at least three.

In witness whereof the said parties hereto have hereunto set their hands and seals the day and year first hereinbefore written.

Signed, sealed, and delivered
by the said the Right
Honourable Sir Ronald Craufurd
Munro-Ferguson in the presence
of —

}

“R. M. FERGUSON” [L.S.]

John Nicholson,
Solicitor, Perth, W.A.

Signed, sealed, and delivered
by the said The Honourable
Walter Kingsmill in the
presence of —

}

WALTER KINGSMILL [L.S.]

John Nicholson

Signed, sealed, and delivered
by the said Alexander Joseph
Monger in the presence of —

}

ALEX J. MONGER [L.S.]

John Nicholson

Signed, sealed, and delivered
by the said Alfred Carson
in the presence of —

}

ALFRED CARSON [L.S.]

John Nicholson

Signed, sealed, and delivered
by the said The Honourable
Hal Pateshall Colebatch in
the presence of —

}

H.P. COLEBATCH [L.S.]

John Nicholson

Signed, sealed, and delivered
by the said The Honourable
Philip Collier in the
presence of —

}

P. COLLIER [L.S.]

John Nicholson

The Second Schedule

The Second Schedule

DEED APPOINTING NEW TRUSTEE

THIS INDENTURE made the fifteenth day of June One thousand nine hundred and thirty-six BETWEEN BRIGADIER GENERAL THE RIGHT HONOURABLE LORD GOWRIE, V.C., G.C.M.G., C.B., D.S.O., The Governor General and Commander-in-Chief in and over the Commonwealth of Australia of the first part, ALEXANDER JOSEPH MONGER of Perth and York in the State of Western Australia farmer and grazier, and ALFRED CARSON of Perth aforesaid Journalist, THE HONOURABLE CHARLES GEORGE LATHAM of Perth aforesaid, at present Leader of the Opposition in the Legislative Assembly of the said State of Western Australia, the surviving and acting Trustees under the Indenture hereinafter recited of the second part, and JOHN NICHOLSON of Perth aforesaid Solicitor of the third part:

WHEREAS by an Indenture dated the Fifth day of October One thousand nine hundred and twenty, made between The Right Honourable SIR RONALD CRAUFURD MUNRO-FERGUSON, P.C., G.C.M.G., the then Governor General and Commander-in-Chief in and over the Commonwealth of Australia of the one part, and THE HONOURABLE WALTER KINGSMILL of Perth in the State of Western Australia the then President of the Legislative Council, the said ALEXANDER JOSEPH MONGER, the said ALFRED CARSON, and THE HONOURABLE HAL PATESHALL COLEBATCH of Perth aforesaid the then Minister for Health in the Government of the State of Western Australia, and THE HONOURABLE PHILIP COLLIER of Perth aforesaid the then Leader of the Opposition in the Legislative Assembly of the State of Western Australia (thereinafter called "the Trustees") of the other part, it was thereby recited that the British Red Cross Society and the Order of St. John of Jerusalem in England as a recognition and appreciation of the support given by His Majesty's Dominions Overseas during the Great War and with a view of establishing or assisting public charitable funds and institutions in the Commonwealth and otherwise as therein mentioned had remitted large sums to the Governor General to be applied at his discretion in or towards public charitable purposes of which he approved and that he had approved of the establishment of a Bush Nursing Scheme for the purpose as therein referred to in and throughout the said State of Western Australia and had paid over to the Trustees as Trustees the sum of fifteen thousand pounds for the purposes upon the trusts an with and subject to the powers provisions authorities and discretions thereinafter set forth:

AND WHEREAS it was thereby declared that the said sum of fifteen thousand pounds (thereinafter and hereinafter referred to as "The Trust Fund") should be held by the Trustees in trust to invest the same as therein provided with power to make any such investments in the names of any three Trustees for the time being who were not subject to retirement as therein mentioned and to receive from time to time the income arising therefrom and to hold such income in trust to pay or apply same after deduction of all outgoings and expenses in connection with the administration and execution of the trusts in the manner therein mentioned:

AND WHEREAS the Trust Fund was originally invested by the Trustees in stock or bonds of the Commonwealth of Australia and is now represented by the Consolidated Treasury Bonds of the Commonwealth of Australia also money in bank and property as shown in the schedule hereto:

AND WHEREAS it was by the said recited indenture provided that the said the Honourable Hal Pateshall Colebatch and the Honourable Philip Collier were selected as Trustees aforesaid by reason of their holding the official positions of Minister for Health and Leader of the Opposition respectively as hereinbefore referred to and it was declared that they should on their ceasing to hold the said respective offices respectively retire from and cease to act as Trustees aforesaid the intention being that the holder for the time being of the office of Minister for Health in the Government of said State and the holder for the time being of the office of Leader of the Opposition in the Legislative Assembly of the said State should be entitled to act as Trustees thereunder and in the event of such successors in office refusing or declining to act then it should be competent for the Trustees then remaining to appoint some other person or persons:

AND WHEREAS the said Honourable Selby Walter Munsie and the said Honourable Charles George Latham being the holders respectively of said offices have since their assumption of such respective offices been acting and are now acting as Trustees together with the other surviving Trustees under the said recited indenture:

AND WHEREAS the said Honourable Walter Kingsmill (being then Sir Walter Kingsmill) died on the fifteenth day of January one thousand nine hundred and thirty-five

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AND WHEREAS by the said recited indenture it is also provided that the power to appoint a new Trustee or new Trustees save as therein provided may be exercised by the Governor General for the time being of the Commonwealth of Australia (who is the party hereto of the first part) but such appointment to be made on the recommendation of the surviving or continuing trustee or trustees and in the event of the said Governor General being absent or failing to exercise the said power then such power may be exercised by the surviving or continuing Trustee or Trustees:

AND WHEREAS the parties hereto of the second part being the surviving or continuing and acting Trustees under said recited indenture have (as is acknowledged by their execution hereof) recommended the appointment of the said John Nicholson to be a Trustee of the said recited indenture in place of the said Honourable and later Sir Walter Kingsmill now deceased:

NOW THIS INDENTURE WITNESSETH that in exercise of the power for this purpose by the hereinbefore recited indenture of the fifth day of October one thousand nine hundred and twenty and of every or any other power in this behalf enabling him, he, the said Brigadier General The Right Honourable Lord Gowrie V.C., G.C.M.G., C.B., D.S.O., being Governor General of or in and over the Commonwealth of Australia DOTH HEREBY APPOINT the said John Nicholson to be a Trustee in place of the said the Honourable and later Sir Walter Kingsmill (now deceased) for the purposes of the said indenture:

AND IT IS HEREBY DECLARED that the investments and property comprising the Trust Fund aforesaid and all other if any the property both real and personal including things in action and the right to receive and recover the same which are now subject to the Trusts of the said recited indenture shall vest in the said Alexander Joseph Monger, Alfred Carson, the Honourable Selby Walter Munsie, the Honourable Charles George Latham and John Nicholson their heirs executors administrators and assigns including the successors in office of the said Honourable Selby Walter Munsie and the Honourable Charles George Latham who shall accept or act in the trusts of said recited indenture (according to the nature of the property) as joint tenants for all such estate and interest as the former Trustees or any of them had therein respectively immediately before the execution of these presents and upon the trusts and subject to the powers and provisions applicable thereto respectively by virtue of the said indenture:

AND the said several persons being parties hereto of the second part shall execute and deliver and cause to be registered all such deeds instruments transfers assignments or conveyances which may be necessary for the purpose of vesting as aforesaid the property comprising the Trust Fund in the names of them the said Alexander Joseph Monger, Alfred Carson, the Honourable Selby Walter Munsie, the Honourable Charles George Latham and John Nicholson:

IT IS HEREBY ALSO AGREED AND DECLARED that the said Alexander Joseph Monger, Alfred Carson, the Honourable Selby Walter Munsie, the Honourable Charles George Latham and John Nicholson their heirs executors administrators and assigns including successors in office as aforesaid shall hold the property both real and personal comprising the Trust Fund so far as the same may have been transferred or vested or when the same shall have been transferred to or vested in their names upon the trusts and subject to the powers and provisions applicable thereto by virtue of the said indenture of the Fifth day of October, One thousand nine hundred and twenty

THE SCHEDULE HEREINBEFORE REFERRED TO.

1. Consolidated Treasury Bonds of the Commonwealth of Australia 4% maturing 13th September, 1961 for the sum of fifteen thousand six hundred pounds.

2. Consolidated Treasury Bond of the Commonwealth of Australia 4% maturing 15th December, 1938, for the sum of one hundred pounds.

3. Moneys at credit of account No. S.1131 in the Savings Department of the Commonwealth Bank of Australia at Perth aforesaid amounting at date hereof to £2,197 11s. 10d., less £700 paid by cheque to Bush Nursing Society.

4. All that piece of land being Northcliffe lot 72 being the whole of the land comprised in Certificate of Title volume 1001 folio 448, at present registered in names of former Trustees Walter Kingsmill, Alexander Joseph Monger, Alfred Carson, Sir James Mitchell and Selby Walter Munsie as joint tenants.

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5. All that piece of land being Kununoppin Town Lot 211 (reserve 19840) comprised in lease from Crown 819/42 now Crown Lease 1351/1932 registered in name of Western Australian Bush Nursing Trust Incorporated. Term of lease from 1st October, 1932, to 30th September, 2931.

6. Applications for lease or for right to occupy Busselton town lot 45 (reserve 18909) and Denmark town lot 70 (reserve 19658) for rich lands no titles or leases have as yet issued.

IN WITNESS whereof the parties hereto have hereunto set their hands and seals the day and year first hereinbefore written.

Signed, sealed and delivered
by the said the Brigadier
General The Right Honourable
Lord Gowrie in the presence
of —

}

GOWRIE [L.S.]

C. B. Ponsonby, X.R.H.,
Government House,
Canberra, F.C.T.

Signed, sealed and delivered
by the said Alexander Joseph
Monger in the presence of —

}

ALEX J. MONGER [L.S.]

H. A. Ashton,
19 Perpetual Buildings,
Perth.

Signed, sealed and delivered
by the said Alfred Carson
in the presence of —

}

ALFRED CARSON [L.S.]

G. L. Burgoyne,
Perth.

Signed, sealed and delivered
by the said The Honourable
Selby Walter Munsie in the
presence of —

}

S. W. MUNSIE [L.S.]

A.H. Telfer.

Signed, sealed and delivered
by the said The Honourable
Charles George Latham in the
presence of —

}

C. G. LATHAM [L.S.]

F. H. Cox,
Perth.

Signed, sealed and delivered
by the said John Nicholson in
the presence of —

}

JOHN NICHOLSON [L.S.]

A. H. Telfer.

Notes

- ^{1.} This is a compilation of the *Western Australian Bush Nursing Trust Act 1936* and includes all amendments effected by the other Acts referred to in the following Table.

Table of Acts

Act	Number and Year	Assent	Commencement	Miscellaneous
<i>Western Australian Bush Nursing Trust Act 1936</i>	20 of 1936	11 December 1936	11 December 1936	
