

Western Australia

Charitable Collections Act 1946

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Charitable Collections Act 1946

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Charitable Collections Act 1946

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*.

1. Short title

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

2. Commencement

This Act shall come into force upon a day to be fixed by proclamation¹.

3. Repeal

The *War Funds Regulation Act 1939* is hereby repealed.

4. Act No. 55 of 1940 paramount

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.

5. Interpretation

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;
- (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 3 September 1939.

securities for money includes real and personal estate.

War fund means a fund lawfully established under the *War Funds Regulation Act 1939*².

6. Restriction on certain collections

(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 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 licence 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 licence 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 licence under this Act,

and except in accordance with such licence 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 \$100.

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- (3) In any proceedings for an offence against this section the prosecution need not negative any of the matters specified in subsection (1)(i), (ii), or (iii), but it shall lie on the accused 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.

[Section 6 amended by No. 113 of 1965 s. 8; No. 84 of 2004 s. 82.]

7. War funds

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*², shall be deemed to be a licence under this Act.

8. Grant of authority by licensee

Any person, society, body or association being the holder of a licence under this Act may give any authority referred to in section 6 by any means approved by the Minister either generally or in any particular case. Any such approval may be revoked by the Minister.

9. Revocation of authority by society, etc.

- (1) Any person, society, body or association being the holder of a licence under this Act who or which gives any authority referred to in section 6, 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 7 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.
- (2) Any such person to whom such authority is given who fails to produce or deliver such authority, together with any moneys, books, vouchers or other things held or controlled by virtue of such authority, as aforesaid shall be guilty of an offence and liable to a penalty not exceeding \$100.

[Section 9 amended by No. 113 of 1965 s. 8.]

10. Advisory committee

- (1) There shall be an advisory committee for the purposes of this Act.
- (2) There shall be 5 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.

11. Application for licence

- (1) An application for a licence 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 licence 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 licence 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 licence to any applicant and shall not be liable to any proceedings whatsoever as a consequence of any refusal.

12. Conditions of licence

- (1) A licence 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 licence remains unrevoked.
- (2) A licence may be issued subject to any condition fixed by the Minister.
- (3) A licence may at any time be revoked by the Minister as an administrative act.
- (4) Where a condition of a licence 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*¹, 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.

[Section 12 amended by No. 2 of 1949 s. 3.]

13. Inquiry as to revocation of licences

- (1) The advisory committee shall, when requested so to do by the Minister, inquire whether any licence issued under this Act to any person, society, body or association should be revoked.
- (2) The advisory committee may recommend that any such licence 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 licence should be revoked.

14. Licences to be issued gratis

No fee shall be charged for any licence under this Act.

15. Statements to be furnished by licensees

- (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.
- (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 \$100.
- (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.

[Section 15 amended by No. 55 of 1947 s. 4; No. 113 of 1965 s. 8.]

16. Transfers of moneys

- (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 —

- (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 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 section 6(5).

[Section 16 amended by No. 55 of 1947 s. 5.]

17. Vesting of funds in Minister

- (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.

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- (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.

[Section 17 amended by No. 55 of 1947 s. 6.]

17A. Delegation

- (1) The Minister may, either generally or as provided by the instrument of delegation, delegate to any person any of the Minister's functions under this Act except this power of delegation.
- (2) Performance of a function by a delegate is to be treated as performance by the Minister.
- (3) A person purporting to act under this section as a delegate is taken to have acted in accordance with the terms of the delegation unless the contrary is shown.

[Section 17A inserted by No. 74 of 2003 s. 33.]

18. Summary disposal of proceedings

Except where otherwise specifically provided the penalty for any breach of this Act shall not exceed \$40.

[Section 18 amended by No. 113 of 1965 s. 8; No. 59 of 2004 s. 141.]

19. Proceedings for offences

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

- (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.
- (2) The Auditor General shall as soon as practicable after such inspection, examination, and audit, make and forward to the Minister a report of the result thereof.
- (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 *Auditor General Act 2006*.

[Section 20 amended by No. 2 of 1949 s. 4; No. 98 of 1985 s. 3; No. 77 of 2006 s. 17.]

21. Regulations

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 licence 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.

[Section 21 amended by No. 55 of 1947 s. 7.]

Notes

- ¹ This is a compilation of the *Charitable Collections Act 1946* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

Compilation table

| Short title | Number and year | Assent | Commencement |
|--|-----------------|-------------|--|
| <i>Charitable Collections Act 1946</i> | 29 of 1946 | 24 Jan 1947 | 28 Mar 1947 (see s. 2 and <i>Gazette</i> 28 Mar 1947 p. 509) |
| <i>Charitable Collections Act Amendment Act 1947</i> | 55 of 1947 | 10 Jan 1948 | 10 Jan 1948 |
| <i>Charitable Collections Act Amendment Act 1949</i> | 2 of 1949 | 24 Aug 1949 | 24 Aug 1949 |
| Reprint of the <i>Charitable Collections Act 1946</i> approved 9 Apr 1959 (includes amendments listed above) | | | |
| <i>Decimal Currency Act 1965</i> | 113 of 1965 | 21 Dec 1965 | s. 4-9: 14 Feb 1966 (see s. 2(2)); balance: 21 Dec 1965 (see s. 2(1)) |
| Reprint of the <i>Charitable Collections Act 1946</i> authorised 24 Mar 1971 (includes amendments listed above) | | | |
| <i>Acts Amendment (Financial Administration and Audit) Act 1985</i> s. 3 | 98 of 1985 | 4 Dec 1985 | 1 Jul 1986 (see s. 2 and <i>Gazette</i> 30 Jun 1986 p. 2255) |
| <i>Statutes (Repeals and Minor Amendments) Act 2003</i> s. 33 | 74 of 2003 | 15 Dec 2003 | 15 Dec 2003 (see s. 2) |
| Reprint 3: The <i>Charitable Collections Act 1946</i> as at 2 Apr 2004 (includes amendments listed above) | | | |
| <i>Courts Legislation Amendment and Repeal Act 2004</i> s. 141 | 59 of 2004 | 23 Nov 2004 | 1 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7128) |
| <i>Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004</i> s. 82 | 84 of 2004 | 16 Dec 2004 | 2 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7129 (correction in <i>Gazette</i> 7 Jan 2005 p. 53)) |
| <i>Financial Legislation Amendment and Repeal Act 2006</i> s. 17 | 77 of 2006 | 21 Dec 2006 | 1 Feb 2007 (see s. 2 and <i>Gazette</i> 19 Jan 2007 p. 137) |

- ² Repealed by section 3 of this Act.

