

South Australia



**TRUSTEE (VARIATION OF CHARITABLE TRUSTS) AMENDMENT
ACT 1996**

No. 50 of 1996

SUMMARY OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of s. 69B—Alteration of purposes of charitable trust



ANNO QUADRAGESIMO QUINTO

ELIZABETHAE II REGINAE

A.D. 1996

No. 50 of 1996

An Act to amend the Trustee Act 1936.

[Assented to 25 July 1996]

The Parliament of South Australia enacts as follows:

Short title

1. (1) This Act may be cited as the *Trustee (Variation of Charitable Trusts) Amendment Act 1996*.

(2) The *Trustee Act 1936* is referred to in this Act as "the principal Act".

Commencement

2. This Act will come into operation on a day to be fixed by proclamation.

Amendment of s. 69B—Alteration of purposes of charitable trust

3. Section 69B of principal Act is amended—

(a) by inserting after "scheme" in subsection (1) "(a trust variation scheme)";

(b) by striking out subsections (3), (4), (5) and (6) and substituting the following subsections:

(3) A trust variation scheme may be approved, on the application of the trustee, by—

(a) the Supreme Court; or

(b) if the value of the trust property does not exceed \$250 000 or another limit prescribed by regulation—the Attorney-General.

[The authority to which the application is made (ie. the Supreme Court or the Attorney-General) is referred to in this section as "the relevant authority".]

(4) However, the Attorney-General has a discretion to refer an application to the Supreme Court if the application raises questions that should, in the Attorney-General's opinion, be decided by the Court.

(5) Notice of an application for approval of a trust variation scheme must be given as the relevant authority directs.

(6) If the relevant authority is satisfied, on application under this section, that the variation of the terms of a trust proposed in a trust variation scheme—

(a) accords, as far as reasonably practicable, with the spirit of the trust; and

(b) is justified in the circumstances of the particular case,

the relevant authority may approve the trust variation scheme and the approved scheme prevails over inconsistent provisions of a relevant instrument or declaration of trust.

(7) The reasonable costs of an application under this section are payable at the direction of the relevant authority from the trust property.

(8) In the case of an application decided by the Attorney-General, the costs—

(a) are to be fixed by the Attorney-General; and

(b) may include costs payable to the Crown to defray the cost of investigating and deciding the application; and

(c) may be recovered as a debt.

(9) The Attorney-General must keep available for public inspection a register of approvals given by the Attorney-General under this section.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

E. J. NEAL Governor