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# Update Summary

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**UPDATE 207**

**JUNE 2025**

**THE LAW OF TRUSTS**

**Material Code 42725798**

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“Charitable Trusts: Administration and Cy-près” has been comprehensively reviewed and updated by Professor Emeritus M Bryan.

Highlights of the update feature new and revised commentary, including in the following paragraphs:

- Regulating charities, renamed paragraph (previously The Australian Taxation Office), see [20.210]
- Methods of creating charitable trusts, see [20.030]
- The Role of the Attorney-General, see [20.170]
- New South Wales: Charitable Trusts Act 1993, ss 7 and 8, adding *Plummer v Attorney-General of New South Wales* [2018] NSWSC 869, *Sir Moses Montefiore Jewish Home v Perpetual Company Ltd* [2012] NSWSC 210, see [20.190]
- Summary proceedings by individuals for breach of trust and to resolve administrative problems – Sir Samuel Romilly's Act, adding *An v Joo (No 2)* [2020] NSWSC 377, see [20.250]
- Direct gift to new charity, not by way of trust, adding *Re Polykarpou* [2016] NSWSC 409; *The Joyce Henderson Trustee Inc v Attorney-General (WA)* [2010] WASC 60, see [20.290]
- The changing topography of cy-près, adding *The New Zealand Guardian Trust Company Ltd v Presbyterian Support (Upper South Island)* [2015] NZHC 468; *Cancer Council of Western Australia v Attorney-General* [2016] WASC 297, see [20.1030]
- Administrative schemes and cy-près schemes, adding *Re Royal Freemasons Homes of Victoria* [2024] VSC 238 *General* [2016] WASC 297, see [20.1050]
- Fund left is insufficient for the designated purpose, adding *University of Adelaide v Attorney-General (SA)* [2018] SASC 82; *HM Attorney General v Zedra Fiduciary Services (UK) Ltd* [2020] EWHC 2988 (Ch), see [20.1670]
- Trust property is unsuitable for the designated purpose, see [20.1690]
- Fund is surplus to the needs of the charitable purpose designated, adding *Re Stanford* [1924] 1 Ch 73, see [20.1710]
- Fund is surplus to the needs of the charitable purpose designated, adding *Re Slevin* [1891] 2 Ch 236, see [20.1710]
- Trust disclaimed by the trustee, see [20.1750]
- Removal of offensive requirements, adding *Perpetual Trustee Co Ltd v Attorney-General (NSW)* [2018] NSWSC 1456, see [20.1790]
- Mistaken or inadequate description of an existing charitable entity, adding *Banwell v Attorney-General (Qld)* [2020] QSC 239, see [20.3050]

- Reference is made to a charitable entity that never existed or equivocally to several charities, adding In *Public Trustee of South Australia* [2024] SASC 104, see [20.3070]
- Direct gifts to charitable entities that have been dissolved before the testator's death – lapse, see [20.3090]
- Gifts on trust to charitable entities that have been dissolved, adding *Public Trustee of Queensland v Queensland*, see [20.3110]
- Reform of entity before testator's death, adding *Banwell v Attorney-General (Qld)* [2020] QSC 239; *Perpetual Trustee Company Ltd v Bays Healthcare Group Inc* [2023] VSC 727, see [20.3130]
- Church amalgamations, adding *Free Serbian Orthodox Church Diocese for Australia and New Zealand Property Trust v Dobrijevic* [2017] NSWCA 28; (2017) 94 NSWLR 340, see [20.3210]
- Reluctance of the courts to countenance personal benefit, see [20.3230]
- Corporations as trustees for their objects, adding *Children's Investment Fund Foundation (UK) v Attorney General* [2022] AC 155; *Grain Technology Australia Ltd v Rosewood Research Pty Ltd (No 3)* [2023] NSWSC 238, see [20.3250]
- New South Wales, see [20.5030]
- Queensland, adding *Perpetual Trustee Co Ltd v The Corporation of the Synod of the Diocese of Brisbane* [2024] QSC 163, see [20.5050]
- South Australia, adding *Public Trustee of South Australia* [2024] SASC 104, see [20.5070]
- Victoria, adding *Housing Choices v Attorney-General for the State of Victoria* [2024] VSC 107, see [20.5090]
- New Zealand, see *Re the Young Men's Christian Association of Christchurch (Inc) Charitable Trust* [2020] NZHC 2027, see [20.5150]
- Significant powers conferred on Attorney-General, adding *Re Polykarpou* [2016] NSWSC 409, see [20.5510]
- Self-government of responsible entities, see *St Hilda's College Ltd v Uniting Church in Australia (Victoria)* [2023] VSC 462, see [20.5710]
- Valuation of property gifts, see [20.8150] to Land tax, see [20.10150], inclusive.

