

# Impact Analysis Statement

## Summary IAS

### Details

|  |                               |
|--|-------------------------------|
| <b>Lead department</b>                                       | Department of Justice (DoJ)   |
| <b>Name of the proposal</b>                                  | <i>Trusts Regulation 2026</i> |
| <b>Submission type</b>                                       | Summary IAS                   |
| <b>Title of related legislative or regulatory instrument</b> | <i>Trusts Regulation 2026</i> |
| <b>Date of issue</b>   | March 2026                    |

#### **What is the nature, size and scope of the problem? What are the objectives of government action?**

The *Trusts Act 2025* (Act) received royal assent on 19 May 2025. When the Act commences, it will replace the current *Trusts Act 1973* (1973 Act) with modernised and updated legislation, that provides greater clarity, certainty and administrative efficiency for trusts.

The 1973 Act provides that the original purposes of a charitable trust can be altered in certain circumstances and the trustee may apply to the court to approve a scheme to vary the charitable purpose of the trust and allow the funds to be applied *cy pres*, or as near as possible, to the original charitable purpose of the trust.

The Act contains provisions equivalent to those in the 1973 Act that continue to allow for *cy pres* applications to be made to the court. In addition, the Act includes new provisions which allow the trustee of a charitable trust to apply to the Attorney-General to approve a *cy pres* scheme, in lieu of making an application to the Supreme Court of Queensland, if the value of the trust is below the monetary limit of the District Court of Queensland in section 68 of the *District Court of Queensland Act 1967* (which is currently \$750,000).

The purpose is to streamline the law with respect to the administration of charitable trusts involving lower monetary values and support the effective administration of charitable trusts by providing a more accessible and lower cost alternative to applying to the court. This will keep more money in the hands of the charity.

The Act requires the trustee to apply to the Attorney-General in the approved form; comply with any prescribed requirements; and pay any prescribed fee.

**What options were considered?**

Consideration was given to whether or not there should be a fee for applications to the Attorney-General to approve a cy pres scheme. Prescribing a fee will influence the behaviour of trustees when deciding whether to make an application that will use valuable government resources, similar to the requirement to pay a filing fee when making an application to the court. Therefore, it was determined that a fee should be charged.

In deciding the quantum of the fee, the current filing fees payable to the Supreme Court of Queensland were considered, as were fees under the equivalent process in Victoria.

Three different fee structure options were also considered:

- a flat fee (the same for all charitable trusts, irrespective of the value of the trust property);
- a tiered fee (different fees based on the value of the trust property); and
- a mixed fee structure – flat for corporate trustees, tiered for individuals.

**What are the impacts?**

For charitable trusts within the District Court's monetary limit, an application to the Attorney-General to approve a cy pres scheme represents a less costly, more efficient process than making application to the court. Accordingly, there will be a reduction in the overall regulatory burden on such trusts.

Additionally, the existing procedure for a trustee of the charitable trust to bring an application to the court will continue to apply, meaning the status quo will also be retained in addition to the new procedure for applying to the Attorney-General, resulting in no change in the regulatory burden.

Therefore, even though a fee is proposed for applications to the Attorney-General to approve a cy pres scheme, the introduction of this new fee is considered to be a reduction in the regulatory burden.

Given the relatively low number of cy pres applications made to the court each year, it is anticipated there will only be a small number of applications to the Attorney-General each year. Eligible applicants will save not only on the application fee (as compared to the court filing fee) but also may have other savings in terms of legal costs which will vary depending on the complexity of the application.

**Who was consulted?**

The amount of the prescribed fee was not subject to external consultation. However, the fee has been set at an amount that is lower than the current court application fee, as this will encourage eligible charitable trusts to take advantage of the new procedure.

**What is the recommended option and why?**

It is recommended that a nominal fee be charged for applications to the Attorney-General to approve a cy pres scheme as this will influence the behaviour of trustees when making applications that will utilise valuable government resources.

The fee should have tiers based on the total value of the charitable trust so that smaller charitable trusts pay a lower amount than larger charitable trusts. It is also recommended that there be a flat fee for charitable trusts with a corporate trustee, as this reflects the approach to court filing fees, which are higher for corporations than for individuals.

The following fee structure is proposed:

- if the trustee is a natural person and the value of trust property is:
  - \$500,000 or less—\$500 fee;
  - above \$500,000—\$750 fee; or
- if the trustee is a corporation—\$1,750 fee (irrespective of the value of trust property).

Setting a fee at a level that is lower than the court filing fee (currently \$1,138 or \$2,250 for a corporate trustee) will make the process more attractive to eligible trustees as a genuine alternative to making application to the court. The lower cost of the application to the Attorney-General to approve a cy pres scheme means that less of the trust property is used in legal fees resulting in more funds being available for the charitable purpose.

**Impact assessment**

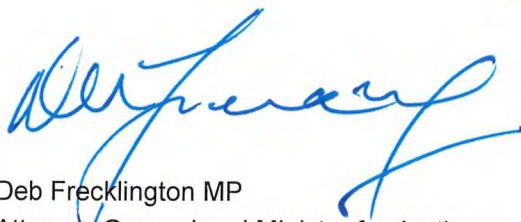
|  | First full year  | First 10 years   |
|--|--|--|
| <b>Direct costs – Compliance costs</b> | Expected to reduce compliance costs for eligible charitable trustees | Expected to reduce compliance costs for eligible charitable trustees |
| <b>Direct costs – Government costs</b> | 0  | 0  |

**Signed**



Brigita Cunnington  
Acting Director-General  
Department of Justice

Date: 13/03/2026



Deb Frecklington MP  
Attorney-General and Minister for Justice  
and Minister for Integrity

Date: 16/3/26.