Fundraising Legislation – Growth and Trends

What is the current amount of Australian fundraising legislation?
There are currently 133,726 words on 499 pages representing the current (in force) Acts and Regulations relating directly to nonprofit fundraising in Australia.¹

Has this increased since the original act and regulations?
When they were first brought into law, the Acts and Regulations directly relating to nonprofit fundraising amounted to 87,401 words on 260 pages. There is an overall 53 per cent increase in words and a 92 per cent increase in pages.

What are the current measures in each jurisdiction?

<table>
<thead>
<tr>
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<th>Current Legislation</th>
<th>Percentage Increase from ‘as made’ legislation</th>
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<tbody>
<tr>
<td></td>
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<tr>
<td>NSW</td>
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<td>20792</td>
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<td>NT</td>
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</tr>
</tbody>
</table>

¹NSW Charitable Fundraising Act 2003; Charitable Fundraising Regulation 2008.
ACT Charitable Collections Act 2003; Charitable Collections Regulation 2003
VIC Fundraising Act 1998; Fundraising Regulation 2009; Veterans Act 2005
WA Charitable Collections Act 1946; Street Collections Regulations 1999
TAS Collections for Charities Regulations 2001
QLD Collections Act 1966; Collections Regulation 2008
SA Collections for Charitable Purposes Act 1939
What are the reasons for increases and decreases?
Clearly, altered legislative drafting styles (for example, more white space in layout, inclusion or exclusion of administrative notes or removing forms that were once included in Regulations) account for some of the growth or decline in words and pages.

However, substantive growth has occurred in New South Wales and Victoria and is attributed to a change in approach to regulation. Queensland’s legislative growth occurred in the 1970s due to the introduction of a scheme for disaster relief funds following the catastrophic 1974 floods. The other jurisdictions have little or negative growth in their Acts. Western Australia’s reduction occurred through removal of gaming provisions to a more specific Act. Tasmania’s reduction is due to removing the transitional provisions relating to amendments to the Consumer Affairs Act 1988 (Tas) and removing details of the administrative arrangements. Queensland’s and Western Australia’s Acts, as opposed to their Regulations, have changed little in many years.

So what are the regulatory trends?
The history of dedicated fundraising regulation in Australia spans over 75 years.

New South Wales was the first jurisdiction to introduce a comprehensive regulatory framework specifically aimed at controlling collections from the public. This occurred in 1934. Tasmania is the most recent jurisdiction with its Act being established in 2001. South Australia introduced its Act in 1939, followed by Western Australia in 1940 (street collections) and 1946 (collections for charitable purposes), Queensland in 1952 and the ACT in 1959 with its Street Collections Ordinance. Victoria did not enter the field of dedicated fundraising legislation until 1984. The Northern Territory has not gone down the path of introducing fundraising legislation.

Each jurisdiction has had a different history and set of circumstances which acted as a catalyst to the introduction of legislation. Tasmania responded to pressure from local charities to introduce licensing, whilst NSW responded to growing public disquiet over the administration practices of some charities.

Earlier Acts in NSW, Queensland, the ACT and Victoria have all now been repealed and replaced. The original soft touch, inertia approach taken by Victoria has been replaced by a more ‘hands on’ regulatory environment. While South Australia increased the accountability measures over the years it is now proposing reforms which move away from a prescriptive regulatory environment to one supervised by a Code of Practice. New South Wales replaced its original Act with one that allowed for more flexibility in the regulatory approach thus recognising the wide differences between charities. The original concept of registration as a charity was abolished and replaced with a scheme centred on an authority to raise funds.

The utility of the legislation in Queensland and Western Australia is waning as neither jurisdiction has done a significant review for decades (over 40 years in Queensland; 60 years in Western Australia). Recent legislative activity in Tasmania, South Australia and Victoria has revealed different policy strategies in each jurisdiction.

Common to all the existing regulatory environments across Australia is a strategy of controlling activities and administration of fundraising, not one of facilitating fundraising activities to the public benefit.

The next page shows a timeline of the major fundraising Acts across the Australian jurisdictions.

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2 Victoria had a Patriotic Funds Act in 1958.
Timeline of Major Fundraising Acts


- Charitable Collections Act 1934 (NSW)
- Collections for Charitable Purposes Act 1939 (SA)
- Street Collections Regulation Act 1940 (WA)
- Charitable Collections Amendment Act 1941 (NSW)
- Patriotic Funds Act 1942 (Qld)
- Charitable Collections Act 1946 (WA)
- Charitable Collections Act 1952 (Qld)
- Patriotic Funds Act 1958 (Vic)
- Collections Ordinance 1959 (ACT)
- Collections Act 1966 (Qld)
- Fundraising Appeals Act 1984 (Vic)
- Charitable Fundraising Act 1991 (NSW)
- Fundraising Act 1998 (Vic)
- Collections for Charities Act 2001 (Tas)
- Charitable Collections Act 2003 (ACT)
- Veterans Act 2005 (Vic)