Charities (Consequential Amendments and Transitional Provisions) Bill 2013
No. , 2013

(Treasury)

A Bill for an Act to deal with consequential and transitional matters arising from the enactment of the Charities Act 2013, and for other purposes
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A Bill for an Act to deal with consequential and transitional matters arising from the enactment of the Charities Act 2013, and for other purposes

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the Charities (Consequential Amendments and Transitional Provisions) Act 2013.

2 Commencement

(1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.
## Commencement information

<table>
<thead>
<tr>
<th>Provision(s)</th>
<th>Commencement</th>
<th>Date/Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table</td>
<td>The day this Act receives the Royal Assent.</td>
<td></td>
</tr>
<tr>
<td>2. Schedule 1, Parts 1 and 2</td>
<td>At the same time as the Charities Act 2013 commences.</td>
<td></td>
</tr>
<tr>
<td>3. Schedule 1, Part 3</td>
<td>The later of:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(a) immediately after the commencement of the Charities Act 2013; and</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(b) the time item 44 of Schedule 1 to the Tax Laws Amendment (Special Conditions for Not-for-profit Concessions) Act 2013 commences.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>However, the provision(s) do not commence at all unless both of the events mentioned in paragraphs (a) and (b) occur.</td>
<td></td>
</tr>
<tr>
<td>4. Schedule 1, Part 4</td>
<td>Immediately after the time specified in the Tax Laws Amendment (Special Conditions for Not-for-profit Concessions) Act 2013 for the commencement of item 33 of Schedule 1 to that Act.</td>
<td>However, the provision(s) do not commence at all if that item commences before the time the Charities Act 2013 commences.</td>
</tr>
<tr>
<td>5. Schedule 2</td>
<td>At the same time as the Charities Act 2013 commences.</td>
<td></td>
</tr>
<tr>
<td>6. Schedule 3</td>
<td>Immediately after the commencement of the Australian Charities and Not-for-profits Commission Act 2012.</td>
<td>3 December 2012</td>
</tr>
</tbody>
</table>

### Note:
- This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.
- Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.
3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.
Schedule 1—Consequential amendments

Part 1—Main amendments

A New Tax System (Goods and Services Tax) Act 1999

1 Section 195-1 (paragraph (b) of the definition of ACNC-registered religious institution)
Omit “item 3”, substitute “item 4”.

Australian Charities and Not-for-profits Commission Act 2012

2 Subsection 25-5(4) (note)
Omit “that is the relief of poverty, sickness or the needs of the aged”, substitute “of advancing social or public welfare”.

3 Subsections 25-5(5) and (6)
Repeal the subsections, substitute:

(5) The table is as follows:

<table>
<thead>
<tr>
<th>Item</th>
<th>Column 1 Type of entity</th>
<th>Column 2 Corresponding subtype of entity</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Charity</td>
<td>Entity with a purpose to which paragraph (a) of the definition of charitable purpose in subsection 11(1) of the Charities Act 2013 applies (advancing health)</td>
</tr>
<tr>
<td>2</td>
<td></td>
<td>Entity with a purpose to which paragraph (b) of the definition of charitable purpose in subsection 11(1) of the Charities Act 2013 applies (advancing education)</td>
</tr>
<tr>
<td>3</td>
<td></td>
<td>Entity with a purpose to which paragraph (c) of the definition of charitable purpose in subsection 11(1) of the Charities Act 2013 applies (advancing social or public welfare)</td>
</tr>
<tr>
<td>4</td>
<td></td>
<td>Entity with a purpose to which paragraph (d) of the definition of charitable purpose in subsection 11(1) of the Charities Act 2013 applies (advancing religion)</td>
</tr>
</tbody>
</table>
## Entitlement to registration

<table>
<thead>
<tr>
<th>Item</th>
<th>Type of entity</th>
<th>Corresponding subtype of entity</th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td>Entity with a purpose to which paragraph (e) of the definition of charitable purpose in subsection 11(1) of the Charities Act 2013 applies (advancing culture)</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>Entity with a purpose to which paragraph (f) of the definition of charitable purpose in subsection 11(1) of the Charities Act 2013 applies (promoting reconciliation, mutual respect and tolerance between groups of individuals that are in Australia)</td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>Entity with a purpose to which paragraph (g) of the definition of charitable purpose in subsection 11(1) of the Charities Act 2013 applies (promoting or protecting human rights)</td>
<td></td>
</tr>
<tr>
<td>8</td>
<td>Entity with a purpose to which paragraph (h) of the definition of charitable purpose in subsection 11(1) of the Charities Act 2013 applies (protecting the safety of the general public)</td>
<td></td>
</tr>
<tr>
<td>9</td>
<td>Entity with a purpose to which paragraph (i) of the definition of charitable purpose in subsection 11(1) of the Charities Act 2013 applies (preventing or relieving the suffering of animals)</td>
<td></td>
</tr>
<tr>
<td>10</td>
<td>Entity with a purpose to which paragraph (j) of the definition of charitable purpose in subsection 11(1) of the Charities Act 2013 applies (advancing the natural environment)</td>
<td></td>
</tr>
<tr>
<td>11</td>
<td>Entity with a purpose to which paragraph (k) of the definition of charitable purpose in subsection 11(1) of the Charities Act 2013 applies (purposes beneficial to the general public and analogous to the other charitable purposes)</td>
<td></td>
</tr>
<tr>
<td>12</td>
<td>Entity with a purpose to which paragraph (l) of the definition of charitable purpose in subsection 11(1) of the Charities Act 2013 applies (advancing public debate)</td>
<td></td>
</tr>
<tr>
<td>13</td>
<td>Institution whose principal activity is to promote the prevention or the control of diseases in human beings</td>
<td></td>
</tr>
<tr>
<td>14</td>
<td>Public benevolent institution</td>
<td></td>
</tr>
</tbody>
</table>
Note 1: For the definition of charity, see the Charities Act 2013.

Note 2: An entity commonly known as a health promotion charity could be an entity described in column 2 of item 13 of the table (institution whose principal activity is to promote the prevention or the control of diseases in human beings).

Trusts

(6) Section 14 of the Charities Act 2013 (Cy pres schemes) applies:

(a) for the purposes of this Act; or

(b) for the purposes of determining whether an entity meets the description of a type or subtype of entity in the table in subsection (5) of this section;

in the same way as that section 14 applies for the purposes of that Act.

4 Subsection 60-95(2) (example)

Omit “relieve poverty”, substitute “advance social or public welfare”.

5 Paragraph 205-35(1)(b)

Omit “item 3 of the table in subsection 25-5(5) (Entity with a purpose that is the advancement of”, substitute “item 4 of the table in subsection 25-5(5) (Entity with a purpose of advancing”.

Fringe Benefits Tax Assessment Act 1986

6 Subparagraph 58(1)(a)(iii)

Omit “item 3”, substitute “item 4”.

7 Subsection 136(1) (paragraph (b) of the definition of registered health promotion charity)

Omit “item 5”, substitute “item 13”.

8 Subsection 136(1) (paragraph (b) of the definition of registered public benevolent institution)

Omit “item 6”, substitute “item 14”.

9 Subsection 136(1) (paragraph (b) of the definition of registered religious institution)

Omit “item 3”, substitute “item 4”.

Charities (Consequential Amendments and Transitional Provisions) Bill 2013 No. 2013
**Consequential amendments Schedule 1**

**Main amendments Part 1**

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**Income Tax Assessment Act 1936**

10 Subsection 121F(1) (paragraph (aa) of the definition of *relevant exempting provision*)

Omit “50-20,”.

11 Subsection 121F(1) (paragraph (cb) of the definition of *relevant exempting provision*)

Omit “and” (last occurring).

12 Subsection 128F(9) (paragraph (a) of the definition of *company*)

Repeal the paragraph, substitute:

(a) the trust is not a charity; and

13 Paragraph 272-90(7)(a) in Schedule 2F

Omit “, 50-10 or 50-20”, substitute “or 50-10”.

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**Income Tax Assessment Act 1997**

14 Section 11-5 (table item headed “funds established by will or trust”)

Repeal the item.

15 Subparagraph 43-55(1)(a)(i)

Omit “50-20,”.

16 Section 50-5 (note 1)

Omit “charitable institutions, funds and trusts”, substitute “charities”.

17 Section 50-20

Repeal the section.

18 Section 50-52 (heading)

Omit “items 1.1 and 4.1”, substitute “item 1.1”.

19 Subsection 50-52(1)

Omit “or 4.1”.

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*Charities (Consequential Amendments and Transitional Provisions) Bill 2013 No. 7, 2013*
20 Section 50-100

Omit “charitable institutions and trusts funds for charitable purposes”, substitute “charities”.

21 Subsection 50-110(2)

Omit “or item 4.1 of the table in section 50-20”.

22 Paragraphs 50-110(5)(a), (b) and (c)

Repeal the paragraphs, substitute:

(a) the entity must meet the relevant conditions referred to in the column headed “Special conditions” of item 1.1 of the table in section 50-5; or

(b) both of the following conditions must be met:

(i) the entity must not have carried on any activities as a charity;

(ii) there must be reasonable grounds for believing that the entity will meet the relevant conditions referred to in the column headed “Special conditions” of item 1.1 of the table.

23 Subsection 207-115(2) (heading)

Omit “charitable or other institutions”, substitute “charities”.

24 Paragraph 207-115(2)(a)

Omit “or item 4.1 of the table in section 50-20”.

25 Subsection 995-1(1) (paragraph (b) of the definition of registered health promotion charity)

Omit “item 5”, substitute “item 13”.

26 Subsection 995-1(1) (paragraph (b) of the definition of registered public benevolent institution)

Omit “item 6”, substitute “item 14”.

Part 2—Extension of Charitable Purpose Act 2004

27 The whole of the Act

Repeal the Act.
Part 3—Charities Act 2013

28 Subsection 3(1)

Insert:

*not-for-profit entity* has the meaning given by the *Income Tax Assessment Act 1997*. 
Part 4—Tax Laws Amendment (Special Conditions for Not-for-profit Concessions) Act 2013

29 Items 33 and 40 of Schedule 1
   Repeal the items.

30 Schedule 1 (heading relating to the *Extension of Charitable Purpose Act 2004*)
   Repeal the heading.

31 Item 67 of Schedule 1
   Repeal the item.
Schedule 2—Transitional provisions

Part 1—Dictionary

1 Dictionary

In this Schedule:

ACNC Act means the Australian Charities and Not-for-profits Commission Act 2012.

approved form has the meaning given by the ACNC Act.

commencement day means the day on which this Schedule commences.

endorsed as a contributing fund means endorsed under Subdivision 50-B of the Income Tax Assessment Act 1997 as exempt from income tax because of being covered by item 4.1 of the table in section 50-20 of that Act (Funds contributing to other funds).
Part 2—Registration

Division 1—Registered entities

2 Registration—old subtypes equivalent to new subtypes

Registration

(1) The Commissioner of the ACNC is treated as having registered an entity under Division 30 of the ACNC Act on the commencement day as the subtype of entity mentioned in column 2 of an item of the table in subitem (3) if, on the day before the commencement day, the entity is registered as the subtype of entity mentioned in column 1 of that item.

Applications for registration

(2) An application for registration under Division 30 of the ACNC Act as the subtype of entity mentioned in column 1 of an item of the table in subitem (3) is treated, from the commencement day, as being an application for registration as the subtype of entity mentioned in column 2 of that item, if:

(a) the application was made before the commencement day; and
(b) on the day before the commencement day, the Commissioner of the ACNC had neither registered the applicant nor refused the application.

Table

(3) The table is as follows:

<table>
<thead>
<tr>
<th>Item</th>
<th>Column 1</th>
<th>Column 2</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Subtype of entity mentioned in column 2 of the following item of the table in subsection 25-5(5) of the ACNC Act, as in force on the day before the commencement day:</td>
<td>Subtype of entity mentioned in column 2 of the following item of the table in subsection 25-5(5) of the ACNC Act, as amended by this Act:</td>
</tr>
<tr>
<td>1</td>
<td>item 2 (education)</td>
<td>item 2 (education)</td>
</tr>
<tr>
<td>2</td>
<td>item 3 (religion)</td>
<td>item 4 (religion)</td>
</tr>
</tbody>
</table>
### Corresponding subtypes

<table>
<thead>
<tr>
<th>Item</th>
<th>Column 1</th>
<th>Column 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td>item 5 (prevention or the control of diseases in human beings)</td>
<td>item 13 (prevention or the control of diseases in human beings)</td>
</tr>
<tr>
<td>4</td>
<td>item 6 (public benevolent institution)</td>
<td>item 14 (public benevolent institution)</td>
</tr>
<tr>
<td>5</td>
<td>item 7 (child care services)</td>
<td>item 3 (social or public welfare)</td>
</tr>
</tbody>
</table>

#### 3 Registration—old subtypes possibly equivalent to new subtypes

**Registration**

(1) The Commissioner of the ACNC is treated as having registered an entity under Division 30 of the ACNC Act on the commencement day as the subtype of entity mentioned in column 2 of an item of the table in subitem (3) if:

- (a) on the day before the commencement day, the entity is registered as the subtype of entity mentioned in column 1 of that item; and
- (b) the entity notifies the Commissioner that, on the commencement day, the entity meets the description of the subtype of entity mentioned in column 2 of that item.

**Applications for registration**

(2) An application for registration under Division 30 of the ACNC Act as the subtype of entity mentioned in column 1 of an item of the table in subitem (3) is treated, from the commencement day, as being an application for registration as the subtype of entity mentioned in column 2 of that item, if:

- (a) the application was made before the commencement day; and
(b) on the day before the commencement day, the Commissioner of the ACNC had neither registered the applicant nor refused the application; and

(c) the applicant requests the Commissioner to treat the application as being an application for registration as the subtype of entity mentioned in column 2 of that item.

**Table**

(3) The table is as follows:

<table>
<thead>
<tr>
<th>Corresponding subtypes</th>
<th>Column 1</th>
<th>Column 2</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Item</strong></td>
<td><strong>Column 1</strong></td>
<td><strong>Column 2</strong></td>
</tr>
<tr>
<td></td>
<td>Subtype of entity mentioned in column 2 of the following item of the table in subsection 25-5(5) of the ACNC Act, as in force on the day before the commencement day:</td>
<td>Subtype of entity mentioned in column 2 of the following item of the table in subsection 25-5(5) of the ACNC Act, as amended by this Act:</td>
</tr>
<tr>
<td>1</td>
<td>item 1 (relief of poverty, sickness or the needs of the aged)</td>
<td>item 1 (health)</td>
</tr>
<tr>
<td>2</td>
<td>item 1 (relief of poverty, sickness or the needs of the aged)</td>
<td>item 3 (social or public welfare)</td>
</tr>
<tr>
<td>3</td>
<td>item 4 (another purpose that is beneficial to the community)</td>
<td>item 1 (health)</td>
</tr>
<tr>
<td>4</td>
<td>item 4 (another purpose that is beneficial to the community)</td>
<td>item 3 (social or public welfare)</td>
</tr>
<tr>
<td>5</td>
<td>item 4 (another purpose that is beneficial to the community)</td>
<td>item 5 (culture)</td>
</tr>
<tr>
<td>6</td>
<td>item 4 (another purpose that is beneficial to the community)</td>
<td>item 6 (reconciliation, mutual respect and tolerance between groups of individuals that are in Australia)</td>
</tr>
<tr>
<td>7</td>
<td>item 4 (another purpose that is beneficial to the community)</td>
<td>item 7 (human rights)</td>
</tr>
<tr>
<td>8</td>
<td>item 4 (another purpose that is beneficial to the community)</td>
<td>item 8 (protecting the safety of the general public)</td>
</tr>
<tr>
<td>9</td>
<td>item 4 (another purpose that is beneficial to the community)</td>
<td>item 9 (preventing or relieving the suffering of animals)</td>
</tr>
</tbody>
</table>
Corresponding subtypes

<table>
<thead>
<tr>
<th>Item</th>
<th>Column 1</th>
<th>Column 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>10</td>
<td>item 4 (another purpose that is beneficial to the community)</td>
<td>item 10 (natural environment)</td>
</tr>
<tr>
<td>11</td>
<td>item 4 (another purpose that is beneficial to the community)</td>
<td>item 11 (purposes beneficial to the general public and analogous to the other charitable purposes)</td>
</tr>
<tr>
<td>12</td>
<td>item 4 (another purpose that is beneficial to the community)</td>
<td>item 12 (advancing public debate)</td>
</tr>
</tbody>
</table>

**Notices and requests**

(4) A notice given under paragraph (1)(b), or a request made under paragraph (2)(c), must be:

(a) in the approved form; and

(b) given to the Commissioner during the period of 18 months starting on the commencement day.

Note: Subdivision 175-B of the ACNC Act imposes an administrative penalty if the notice or request contains a statement that is false or misleading in a material particular.

**Division 2—Funds contributing to other funds**

4 Funds contributing to other funds

(1) This item applies to a fund that, on the day before the commencement day, is endorsed as a contributing fund.

(2) The Commissioner of Taxation is treated as having endorsed the fund under Subdivision 50-B of the *Income Tax Assessment Act 1997* on the commencement day as exempt from income tax because the fund is covered by item 1.1 of the table in section 50-5 of that Act (registered charity).

(3) The Commissioner of the ACNC is treated as having registered the fund on the commencement day under Division 30 of the ACNC Act as the
type of entity mentioned in column 1 of item 1 of the table in
subsection 25-5(5) of that Act (charity).

(4) The purpose the fund has, on the day before the commencement day, is
treated as being a charitable purpose during the period:
   (a) starting on the commencement day; and
   (b) ending on the day (if any) the fund ceases to be entitled to be
       endorsed as a contributing fund (disregarding the
       amendments made by Schedule 1 to this Act).

5 Opt-out

If, during the period of 12 months starting on the commencement day, a
fund notifies the Commissioner of the ACNC, in the approved form,
that the fund does not want item 4 to apply to the fund:
   (a) item 4 does not apply, and is taken never to have applied, to
       the fund; and
   (b) the Commissioner of Taxation is treated as having revoked,
       on the day before the commencement day, the entity’s
       endorsement mentioned in paragraph 426-5(h) in Schedule 1
to the Taxation Administration Act 1953.
Schedule 3—Other amendments

Income Tax Assessment Act 1997

1 After section 50-45

Insert:

50-47 Special condition for all items

An entity that:
(a) is covered by any item; and
(b) is an \*ACNC type of entity;

is not exempt from income tax unless the entity is registered under the Australian Charities and Not-for-profits Commission Act 2012.

2 At the end of subsection 50-110(5)

Add:

The entity must also satisfy section 50-47, if the entity is an \*ACNC type of entity.


3 Section 50-50

Omit “, as amended by Schedules 1 and 2 to the Tax Laws Amendment (Special Conditions for Not-for-profit Concessions) Act 2012”. 

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