The Parliament of the Commonwealth of Australia

HOUSE OF REPRESENTATIVES

EXPOSURE DRAFT

Australian Charities and Not-for-profits Commission (Consequential and Transitional) Bill 2012

No. , 2012

(Treasury)

A Bill for an Act to deal with consequential and transitional matters in connection with the Australian Charities and Not-for-profits Commission Act 2012, and for related purposes
Contents

1 Short title ........................................................................................................... 1
2 Commencement ................................................................................................... 1
3 Schedule(s) ......................................................................................................... 2

Schedule 1—Application and transitional provisions 3
  Part 1—Dictionary .................................................................................................. 3
  Part 2—Registration ................................................................................................. 4
  Part 3—The Register .............................................................................................. 7
  Part 4—Reporting .................................................................................................... 8
  Part 5—ACNC annual report .................................................................................. 10
  Part 6—Advisory Board ........................................................................................ 11
  Part 7—Protected information ............................................................................... 12

Schedule 2—Consequential amendments ............................................................... 13
A Bill for an Act to deal with consequential and transitional matters in connection with the *Australian Charities and Not-for-profits Commission Act 2012*, and for related purposes

The Parliament of Australia enacts:

1 **Short title**

This Act may be cited as the *Australian Charities and Not-for-profits Commission (Consequential and Transitional) Act 2012*.

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

---

*Australian Charities and Not-for-profits Commission (Consequential and Transitional) Bill 2012*

No. 1, 2012 1
column 2 of the table. Any other statement in column 2 has effect according to its terms.

<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. Schedules 1 and 2</td>
<td>At the same time as the <em>Australian Charities and Not-for-profits Commission Act 2012</em> commences.</td>
<td></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.

(2) 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.
1 Schedule 1—Application and transitional provisions

Part 1—Dictionary

1 Dictionary

In this Schedule:

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

*commencement day* means the day on which this Schedule commences.
Part 2—Registration

2 Charities

(1) This item applies to an entity:
   (a) that, on the day before the commencement day, is endorsed
       under Subdivision 50-B of the *Income Tax Assessment Act 1997* as exempt from income tax because the entity is
       covered by item 1.1, 1.5, 1.5A or 1.5B of the table in
       section 50-5 of that Act; and
   (b) to which item 3 or 4 of this Schedule does not apply.

(2) The Commissioner is treated as having registered the entity 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).

3 Health promotion charities

(1) This item applies to an entity that, on the day before the commencement
    day, is:
       (a) endorsed under Subdivision 50-B of the *Income Tax
           Assessment Act 1997* as exempt from income tax because the
           entity is covered by item 1.1 of the table in section 50-5 of
           that Act (charitable institution); and
       (b) endorsed under Subdivision 30-BA of that Act as:
           (i) a deductible gift recipient because the entity is a fund,
               authority or institution covered by item 1.1.6 of the
               table in subsection 30-20(1) of that Act (charitable
               institution whose principal activity is to promote the
               prevention or the control of diseases in human beings); or
           (ii) a deductible gift recipient for the operation of such a
                fund, authority or institution.

(2) This item also applies to an entity that, on the day before the
    commencement day, is endorsed under section 123D of the *Fringe
    Benefits Tax Assessment Act 1986* as a health promotion charity.

(3) The Commissioner is treated as having registered the entity on the
    commencement day under Division 30 of the ACNC Act as:

 Australian Charities and Not-for-profits Commission (Consequential and Transitional) Bill 2012 No. , 2012
Application and transitional provisions  Schedule 1
Registration  Part 2

4 Public benevolent institutions

(1) This item applies to an entity that, on the day before the commencement day, is:
   (a) endorsed under Subdivision 50-B of the Income Tax Assessment Act 1997 as exempt from income tax because the entity is covered by item 1.1 of the table in section 50-5 of that Act (charitable institution); and
   (b) endorsed under Subdivision 30-BA of that Act as:
       (i) a deductible gift recipient because the entity is a fund, authority or institution covered by item 4.1.1 of the table in subsection 30-45(1) of that Act (public benevolent institution); or
       (ii) a deductible gift recipient for the operation of such a fund, authority or institution.

(2) This item also applies to an entity that, on the day before the commencement day, is endorsed under section 123C of the Fringe Benefits Tax Assessment Act 1986:
   (a) as a public benevolent institution; or
   (b) for the operation of a public benevolent institution.

(3) The Commissioner is treated as having registered the entity on the commencement day under Division 30 of the ACNC Act as:
   (a) the type of entity mentioned in column 1 of item 1 of the table in subsection 25-5(5) of that Act (charity); and
   (b) the subtype of entity mentioned in column 2 of item 6 of that table (public benevolent institution).

5 Opt-out

(1) This item applies to an entity that, during the period of 6 months starting on the commencement day, notifies the Commissioner of the ACNC, in the approved form, that the entity does not want this Part to apply to the entity.
Schedule 1 Application and transitional provisions
Part 2 Registration

(2) Items 2, 3 and 4 do not apply, and are taken never to have applied, to the entity.

(3) The Commissioner of Taxation is treated as having revoked, on the day before the commencement day, the entity’s endorsements mentioned in paragraphs 426-5(a), (b), (c), (d), (e), (f), (g) and (h) in Schedule 1 to the Taxation Administration Act 1953 (whichever are applicable).

6 Religious institutions

(1) This item applies to an entity:

(a) that notifies the Commissioner of the ACNC that, on the day before the commencement day, the entity was exempt from income tax because the entity was covered by item 1.2 of the table in section 50-5 of the Income Tax Assessment Act 1997; and

(b) to which item 2, 3 or 4 of this Schedule does not apply.

(2) The Commissioner is treated as having registered the entity on the commencement day under Division 30 of the ACNC Act as:

(a) the type of entity mentioned in column 1 of item 1 of the table in subsection 25-5(5) of that Act (charity); and

(b) the subtype of entity mentioned in column 2 of item 3 of that table (entity with a purpose that is the advancement of religion).

(3) A notice given under paragraph (1)(a) must be:

(a) in the approved form; and

(b) given to the Commissioner during the period of 12 months starting on the commencement day.

Note: Subdivision 175-B of the ACNC Act imposes an administrative penalty if the notice contains a statement that is false or misleading in a material particular.
Part 3—The Register

7 The Register

During the period of 15 months starting on the commencement day, Division 40 of the ACNC Act does not apply to information or documents that the Commissioner does not possess.
Part 4—Reporting

8 Annual information statements

(1) Subdivision 60-B of the ACNC Act applies to the 2012-13 financial year and later financial years.

Substituted accounting periods

(2) If, before 30 June 2013, an entity adopts under Subdivision 60-F of the ACNC Act an accounting period other than the financial year, Subdivision 60-B of that Act applies, in relation to the 2012-13 financial year, as if:

(a) the reference in subsection 60-5(1) to the financial year were a reference to the accounting period that starts during the financial year; and

(b) the reference in subsection 60-5(2) to 31 December in the following financial year were a reference to the last day of the 6 month period after the end of the accounting period.

9 Financial reporting

General start time

(1) Subdivision 60-C of the ACNC Act applies to the 2013-14 financial year and later financial years.

Note: If, on or before 30 June 2013, an entity adopts under Subdivision 60-F of the ACNC Act an accounting period that ends on a day (the substituted end day) other than 30 June, the effect of this subitem and Subdivision 60-F is that Subdivision 60-C of the ACNC Act will not apply to the entity before the day after the substituted end day during the 2013-14 financial year. See also item 10.

Voluntary reporting

(2) A registered entity may give to the Commissioner a financial report for the 2012-13 financial year. The ACNC Act (other than Subdivisions 60-C and 175-C) applies to the report as if the entity had been required to give the report to the Commissioner under Subdivision 60-C.

(3) To avoid doubt, the requirements of Subdivision 60-C (including those set out in regulations made for the purposes of subsection 60-15(1)) do not apply to a financial report given under subitem (2) of this item.
Voluntary reporting—substituted accounting periods

(4) If, before 30 June 2013, the registered entity adopts under Subdivision 60-F of the ACNC Act an accounting period other than the financial year, subitem (2) of this item applies as if the reference in the subitem to the 2012-13 financial year were a reference to the accounting period that starts during the financial year.

10 Substituted accounting periods

(1) The Commissioner is treated as having allowed an entity under section 60-85 of the ACNC Act on the commencement day to adopt an accounting period that ends on a particular day (the substituted end day) (other than 30 June) each year if:

(a) the entity is a registered entity on the commencement day because of Part 2 of this Schedule; and

(b) the entity notifies the Commissioner that, under an Australian law, the entity is or was required to prepare a financial report for a period of 12 months that ended on the substituted end day during the 2012-13 financial year.

(2) A notice given under paragraph (1)(b) must be:

(a) in the approved form; and

(b) given to the Commissioner during the period of 6 months starting on the commencement day.

Note: Subdivision 175-B of the ACNC Act imposes an administrative penalty if the notice contains a statement that is false or misleading in a material particular.
Part 5—ACNC annual report

11 Annual report

(1) Section 130-5 of the ACNC Act applies to the 2012-13 financial year and later financial years.

(2) However, for the 2012-13 financial year, treat the references in that section to the financial year as being references to the period that:

   (a) starts on the commencement day; and

   (b) ends on 30 June 2013.
Part 6—Advisory Board

12 Meetings of the Advisory Board

(1) Section 145-5 of the ACNC Act applies to the 2013-14 financial year and later financial years.

Meetings before 2013-14 financial year

(2) The Chair may convene meetings of the Advisory Board during the period that:

(a) starts on the commencement day; and
(b) ends on 30 June 2013.

(3) The ACNC Act applies to a meeting convened under subitem (2) of this item in the same way as that Act applies to meetings convened under section 145-5 of that Act.
Part 7—Protected information

13 Protected taxation information

Section 355-25 in Schedule 1 to the *Taxation Administration Act 1953* (disclosure of protected information by taxation officers) does not apply to an entity that makes a record of information or discloses information if:

(a) the entity is a taxation officer; and
(b) the record is made for or the disclosure is to the Commissioner of the ACNC for the purpose of the Commissioner performing any of his or her functions, or exercising any of his or her powers, under Division 40 of the *ACNC Act* (Australian Charities and Not-for-profits Register); and
(c) the information is mentioned in subsection 40-5(1) of that Act (information to be included in the Register); and
(d) the record or disclosure is made during the period of 6 months starting on the commencement day.

Note: Information obtained by an ACNC officer for the purposes of the ACNC Act may be protected ACNC information under Part 7-1 of the ACNC Act.
Schedule 2—Consequential amendments

To be drafted