

Extension of Charitable Purpose Act 2004

Act No. 107 of 2004 as amended

This compilation was prepared on 3 December 2008
taking into account amendments up to Act No. 130 of 2008

The text of any of those amendments not in force
on that date is appended in the Notes section

The operation of amendments that have been incorporated may be affected
by application provisions that are set out in the Notes section

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Notes

An Act relating to charities and charitable purpose, and for related purposes

1 Short title [see Note 1]

This Act may be cited as the *Extension of Charitable Purpose Act 2004*.

2 Commencement

This Act commences, or is taken to have commenced, on 1 July 2004.

3 Definitions

In this Act, unless the contrary intention appears:

allocation has the same meaning as in the *National Rental Affordability Scheme Act 2008*.

charity means a charitable institution, a charitable fund or any other kind of charitable body.

entity has the same meaning as in the *Income Tax Assessment Act 1997*.

first 2 NRAS years means:

- (a) the period referred to in paragraph (a) of the definition of **NRAS year** in the *National Rental Affordability Scheme Act 2008*; and
- (b) the year beginning on 1 May 2009.

incentive period has the same meaning as in the *National Rental Affordability Scheme Act 2008*.

instrument means any instrument (including rules, regulations or by-laws) made, granted or issued under an Act.

National Rental Affordability Scheme has the same meaning as in the *National Rental Affordability Scheme Act 2008*.

rental dwelling has the same meaning as in the *National Rental Affordability Scheme Act 2008*.

taxation law has the same meaning as in the *Income Tax Assessment Act 1997*.

4 Provision of child care services is a charitable purpose

- (1) Without limiting what constitutes a charitable purpose, **charitable purpose** includes the provision of child care services on a non-profit basis.
- (2) This section applies:
 - (a) for the purposes of a provision of an Act or instrument; and
 - (b) for the purpose of determining whether an institution

or fund is, for the purposes of a provision of an Act or instrument, a charity.

- (3) The fact that, because of this section, a purpose of an institution or fund is a charitable purpose does not affect the question whether that purpose is for the public benefit.

4A Provision of a rental dwelling under National Rental Affordability Scheme is a charitable purpose

- (1) Without limiting what constitutes a charitable purpose, *charitable purpose* includes the provision of a rental dwelling if:
- (a) the rental dwelling is provided by an entity that is:
 - (i) endorsed as exempt from income tax by the Commissioner of Taxation under section 50-105 of the *Income Tax Assessment Act 1997*; and
 - (ii) an approved participant in the National Rental Affordability Scheme; and
 - (b) either:
 - (i) an allocation in relation to the rental dwelling has been made to the approved participant by the Secretary that specifies a date in the first 2 NRAS years from which the allocation will operate or is taken to have operated; or
 - (ii) an allocation in relation to the rental dwelling has been reserved and it is genuinely intended by the approved participant that the conditions on which the allocation has been reserved will be fulfilled in the first 2 NRAS years.
- (2) To avoid doubt, the provision of the rental dwelling by the entity has effect as a charitable purpose only during the incentive period for the allocation.
- (3) This section applies:
- (a) for the purposes of a provision of a taxation law or any instrument made, granted or issued under a taxation law; and
 - (b) for the purpose of determining whether an entity that has been endorsed as exempt from income tax by the Commissioner of Taxation under section 50-105 of the *Income Tax Assessment Act 1997*, remains, for the purposes of a provision of a taxation law or any instrument made, granted or issued under a taxation law, entitled to be so endorsed.

5 Self-help groups and closed or contemplative religious orders are for the public benefit

- (1) Without limiting what constitutes a public benefit, an institution has a purpose that is for the public benefit to the extent that the institution is:
- (a) an open and non-discriminatory self-help group (see subsection (2)); or
 - (b) a closed or contemplative religious order that

regularly undertakes prayerful intervention at the request of members of the public.

- (2) An institution is an *open and non-discriminatory self-help group* if:
- (a) it is an association of individuals that has an open and non-discriminatory membership; and
 - (b) it is established for the purpose of assisting individuals affected by:
 - (i) a particular disadvantage or discrimination; or
 - (ii) a need, arising out of a particular disadvantage or discrimination, that is not being met; and
 - (c) it is made up of, and controlled by, individuals who are affected by the disadvantage or discrimination; and
 - (d) all of its criteria for membership relate to its purpose; and
 - (e) its membership is open to any individual who satisfies the criteria.
- (3) This section applies for the purpose of determining whether an institution is a charity, for the purposes of a provision of an Act or instrument.
- (4) The fact that, because of this section, a purpose of an institution is for the public benefit does not affect the question whether that purpose is a charitable purpose.

Notes to the *Extension of Charitable Purpose Act 2004*

Note 1

The *Extension of Charitable Purpose Act 2004* as shown in this compilation comprises Act No. 107, 2004 amended as indicated in the Tables below.

Table of Acts

| Act | Number and year | Date of Assent | Date of commencement | Application, saving or transitional provisions |
|---|-----------------|----------------|----------------------|--|
| <i>Extension of Charitable Purpose Act 2004</i> | 107, 2004 | 30 June 2004 | 1 July 2004 | |
| <i>National Rental Affordability Scheme (Consequential Amendments) Act 2008</i> | 130, 2008 | 28 Nov 2008 | 1 July 2008 | — |

Table of Amendments

| ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted | |
|--|-------------------|
| Provision affected | How affected |
| S. 3 | am. No. 130, 2008 |
| S. 4A | ad. No. 130, 2008 |