

## **EXPLANATORY STATEMENT**

### **Issued by authority of the Assistant Minister to the Treasurer, Parliamentary Secretary to the Treasurer**

*Australian Charities and Not-for-profits Commission Act 2012*

*Australian Charities and Not-for-profits Commission Amendment (2018 Measures  
No. 1) Regulations 2018*

The *Australian Charities and Not-for-profits Commission Act 2012* provides for the registration and regulation of charities by the Australian Charities and Not-for-profits Commission (ACNC).

Section 200-5 of the *Australian Charities and Not-for-profits Commission Act 2012* (the Act) provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The purpose of the *Australian Charities and Not-for-profits Commission Amendment (2018 Measures No. 1) Regulations 2018* (the Regulations) is to amend the *Australian Charities and Not-for-profits Commission Regulation 2013* to require the publication of additional information on the Register maintained by the Australian Charities and Not-for-profit Commissioner. The Regulations do this by prescribing that the Register is to include a summary of an entity's activities and financial information. The publication of this information will make the Register more useful and accessible to viewers, improving the transparency of the activities and finances of registered charities.

Further details of the Regulations are set out in Attachment A.

The Act did not specify any conditions that were required to be satisfied before the power to make the Regulations was exercised.

Targeted consultation on the Regulations was undertaken with the ACNC, however, pursuant to section 17 of the *Legislation Act 2003*, no public consultation was undertaken on the Regulations as they are minor and machinery in nature.

The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*.

The Regulations commenced on 1 July 2018.

A Statement of Compatibility with Human Rights is at Attachment B. The Regulations are compatible with human rights as they do not raise any human rights issues.

## **Attachment A**

### **Details of the *Australian Charities and Not-for-profits Commission Amendment (2018 Measures No. 1) Regulations 2018***

Attachment A sets out further details of the *Australian Charities and Not-for-profits Commission Amendment (2018 Measures No. 1) Regulations 2018* (the Regulations).

#### **Section 1—Name of Regulations**

This section provides that the title of the Regulations is the Australian Charities and Not-for-profits Commission Amendment (2018 Measures No. 1) Regulations 2018.

#### **Section 2—Commencement**

This section provides that the Regulations commence on 1 July 2018.

#### **Section 3—Authority**

This section provides that the instrument is made under the *Australian Charities and Not-for-profits Commission Act 2012* (the Act).

#### **Section 4—Schedules**

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

### **Schedule 1—Amendments**

#### **Items 1 and 2—Information on register**

The Regulations prescribe that certain information that the Australian Charities and Not-for-profit Commissioner (Commissioner) is authorised to collect under a provision of the Act is to be included on the Australian Charities and Not-for-profits Register, for the purposes of paragraph 40-5(1)(g) of the Act.

The information to be included is a summary of:

- (a) a registered entity's financial information; and
- (b) information about the registered entity's activities.

The terms 'financial information' and 'activities' are not defined and take their ordinary meaning. Generally, registered entities are required to report financial information, and information about their activities under Division 60 of the Act. All registered entities are required to give the Commissioner an annual information statement in the approved form under section 60-5 of the Act, which may include information about an entity's finances, as well as its activities. In addition, section 60-10 of the Act requires medium and large registered entities to lodge a financial report with the Commissioner.

The amendments require that a 'summary' is to be included on the Australian Charities and Not-for-profits Register. The summary may be prepared by either the registered entity or the Commissioner, and may be an extract of information already provided in the annual information statement or another report. The term 'summary'

is not defined and takes on its ordinary meaning, but generally will be a brief and comprehensive presentation of key facts or statements about particular matters. A summary does not necessarily have to be expressed in a particular format, and may be presented in a graphical, numerical or other form. A table note is inserted to the table in regulation 40.1 to make clear that the summary may present the information in other formats.

The Commissioner may determine the form of the summary where the Commissioner prepares the summary from information provided, or where the Commissioner asks the registered entity to prepare the summary. If the Commissioner asks the registered entity to prepare the summary, the Commissioner may require the summary to be provided as part of the annual information statement in the approved form. A summary may also be extracted from information already provided as part of the annual information statement.

The amendments provide the Commissioner with the flexibility to determine the form of the summary. This will allow for summary information to be presented in a consistent way on the Australian Charities and Not-for-profits Register. This will make the information more accessible and comprehensible to users of the Register.

The summary can only be included on the Register if the summary is derived only from information disclosed by the registered entity to the Commissioner and which is included on the Register.

This condition ensures that the summary of information is consistent with other information on the Register. Where the information is summarised in a way that would mean it is not derived only from information on the Register, the condition will not be satisfied.

Generally, information may be included on the Register by way of an electronic link to that information. For example, the Commissioner may provide a link to a summary which is included on another website.

## **Statement of Compatibility with Human Rights**

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

### ***Australian Charities and Not-for-profits Commission Amendment (2018 Measures No. 1) Regulations 2018***

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

## **Overview of the Legislative Instrument**

The Legislative Instrument prescribes that the Australian Charities and Not-for-profits Register is to include a summary of either or both of an entity's activities or financial information. The publication of this information will make the Register more useful and accessible to viewers, improving the transparency of registered entities' activities and finances. The information included in the summary consists only of information that is already included on the Register and is publicly available.

The information that will be included on the register only relates to registered entities. Under the Act, a registered entity cannot be an individual. Accordingly, Article 17 of the International Covenant on Civil and Political Rights (about arbitrary or unlawful interference with privacy) is not engaged.

## **Human rights implications**

This Legislative Instrument does not engage any of the applicable rights or freedoms.

## **Conclusion**

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.