



Australian Charities and Not-for-profits Commission Amendment Regulation 2013 (No. 2)

Select Legislative Instrument No. 82, 2013

I, Quentin Bryce AC CVO, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulation under the *Australian Charities and Not-for-profits Commission Act 2012*.

Dated 16 May 2013

Quentin Bryce
Governor-General

By Her Excellency's Command

David Bradbury
Assistant Treasurer

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No. 82, 2013 *Australian Charities and Not-for-profits Commission Amendment
Regulation 2013 (No. 2)* *i*

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1 Name of regulation

This regulation is the *Australian Charities and Not-for-profits Commission Amendment Regulation 2013 (No. 2)*.

2 Commencement

This regulation commences on the day after it is registered.

3 Authority

This regulation is made under the *Australian Charities and Not-for-profits Commission Act 2012*.

4 Schedule(s)

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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

Australian Charities and Not-for-profits Commission Regulation 2013

1 Section 4

Insert:

individual donor means an individual who makes a contribution to a registered entity.

2 Section 4

Insert:

private ancillary fund has the same meaning as in the *Income Tax Assessment Act 1997*.

private ancillary fund guidelines has the same meaning as in the *Income Tax Assessment Act 1997*.

3 Section 4

Insert:

taxation law: see section 300-5 of the Act.

4 After Subdivision 40-A

Insert:

Subdivision 40-B—Information withheld or removed from Register

40.10 Information withheld from Register

- (1) For subsection 40-10(1) of the Act, the Commissioner must not include information specified in an item of the following table on the Register, or must remove information specified in an item of the following table from the Register:
- (a) in the circumstances mentioned in the item; and

(b) if the registered entity to which the information relates makes a request, in the approved form, that the information not be included on the Register.

Item	Column 1 Information	Column 2 Circumstance(s)
1	The name and ABN of a registered entity	<p>All of the following:</p> <p>(a) the registered entity is a private ancillary fund;</p> <p>(b) the publication of the name is likely to result in the identification of an individual donor;</p> <p>(c) the name and ABN can be substituted on the Register with a description that:</p> <p>(i) is unlikely to result in the identification of an individual donor; and</p> <p>(ii) would not mislead the public as to the nature and characteristics of the registered entity; and</p> <p>(iii) would not reasonably be regarded as identifying a different registered entity; and</p> <p>(iv) would make clear on the Register that the name of the registered entity has been withheld;</p> <p>(d) the Commissioner has consulted the registered entity about the description referred to in paragraph (c)</p>
2	A contact detail for a registered entity, including the address for service for the entity	<p>Both of the following:</p> <p>(a) the registered entity is a private ancillary fund;</p> <p>(b) the publication of the detail:</p> <p>(i) is likely to result in the identification of an</p>

Schedule 1 Amendments

Item	Column 1 Information	Column 2 Circumstance(s)
		individual donor; or (ii) would create an unreasonable administrative burden on the registered entity
3	A governing rule in the governing rules of a registered entity	Both of the following: (a) the registered entity is a private ancillary fund; (b) the publication of the governing rule is likely to result in the identification of an individual donor
4	The name of a responsible entity	Both of the following: (a) the registered entity is a private ancillary fund; (b) the publication of the name is likely to result in the identification of an individual donor
5	Information in an annual information statement	The publication of the information is likely to result in the identification of an individual donor
6	Information in a financial report, audit or review report	The publication of the information is likely to result in the identification of an individual donor

- (2) Items 1, 2, 3, 5 and 6 of the table in subsection (1) continue to apply to information that relates to an individual donor who has died if:
- (a) the individual donor died within the previous 2 years; or
 - (b) a responsible entity of the registered entity is an associate of the individual donor.

Note: Subsection (2) ensures that the privacy of the family of an individual donor will remain protected while the family remains actively involved in the management of the registered entity.

- (3) For subsection (2), a registered entity must:

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- (a) notify the Commissioner, in the approved form, that information that is not on the Register because of this section can no longer be excluded from the Register because:
 - (i) an individual donor has died; and
 - (ii) subsection (2) no longer applies to require the information to be treated that way; and
 - (b) provide the notification with the first information statement the registered entity provides to the Commissioner after the registered entity becomes aware that the events referred to in subparagraphs (a)(i) and (ii) have occurred.
- (4) Item 4 of the table in subsection (1) does not apply if the responsible entity is an entity of a kind mentioned in guideline 14 of the private ancillary fund guidelines.
- (5) Items 5 and 6 of the table in subsection (1) do not apply to information that relates to a breach of:
- (a) the Act; or
 - (b) a legislative instrument made under the Act; or
 - (c) the taxation law.