

EXPLANATORY STATEMENT

Issued by authority of the Assistant Minister for Competition, Charities and Treasury

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

Australian Charities and Not-for-profits Commission (Consequential and Transitional) Regulations 2025

Section 4 of the *Australian Charities and Not-for-profits Commission (Consequential and Transitional) Act 2012* (Transitional Act) provides that the Governor General may make regulations prescribing matters required or permitted by the Transitional Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Transitional Act.

The *Australian Charities and Not-for-profits Commission Act 2012* (ACNC Act) establishes a framework for the registration and regulation of charities and not-for-profit entities. Under the framework, certain not-for-profit entities ('registered entities') are required to report annually to the Commissioner of the Australian Charities and Not-for-profits Commission (ACNC).

The Transitional Act provides that the Commissioner of the ACNC (Commissioner) may treat statements, reports or other documents given under an Australian law to another Australian government agency by a registered entity as being annual information statements or financial reports for the purposes of the ACNC Act, thus exempting certain registered entities from further reporting obligations. This exemption applies for certain financial years, with a power to extend the exemption to later financial years through regulations. The *Australian Charities and Not-for-profits Commission (Consequential and Transitional) Regulation 2016* provides that this exemption applies for financial years between 2015 and 2024.

The purpose of the *Australian Charities and Not-for-Profits Commission (Consequential and Transitional) Regulations 2025* (Regulations) is to ensure the Commissioner can treat these statements, reports and other documents as annual information statements or financial reports for the purposes of the ACNC Act up to and including the 2028-29 financial year. This maintains the existing reporting arrangements and reduces duplicative regulatory burdens on registered entities for this period. This furthermore allows existing administrative processes the ACNC has established with other government agencies to share financial reporting information for the purposes of the ACNC Act to continue to apply.

An exposure draft of the Regulations was released for public consultation as well as consultation with the Australian Charities and Not-for-profits Commission between 3 December 2024 and 14 January 2025. Eleven submissions were received, which were broadly supportive of the Regulations.

The Act does not specify any conditions that need to be satisfied before the power to make the Regulations may be exercised.

The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003* and are subject to disallowance by Parliament.

The Regulations commenced and applied from the day after registration.

The Regulations are subject to sunseting under section 50 of the *Legislation Act 2003*.

Details of the Regulations are set out in Attachment A.

A statement of Compatibility with Human Rights is at Attachment B.

The Office of Impact Analysis has been consulted and agreed that an Impact Analysis is not required. The measure has no impact on compliance costs.

Details of the *Australian Charities and Not-for-Profits Commission (Consequential and Transitional) Regulations 2025*

Section 1 – Name

This section provides that the name of the regulations is the *Australian Charities and Not-for-Profits Commission (Consequential and Transitional) Regulations 2025* (Regulations).

Section 2 – Commencement

This section provides that the Regulations commenced on the day after the instrument was registered on the Federal Register of Legislation.

Section 3 – Authority

The Regulations are made under the *Australian Charities and Not-for-profits Commission (Consequential and Transitional) Act 2012* (Transitional Act).

Section 4 – Schedule

This section provides that each instrument that is specified in the Schedules to this instrument are amended or repealed as set out in the applicable items in the Schedules, and any other item in the Schedules to this instrument has effect according to its terms.

Schedule 1 – Amendments

Part 2 – Reporting

Section 5

Section 5 extends the financial years in which the Commissioner of the ACNC may treat statements, reports or other documents given under an Australian law to another Australian government agency by a registered entity as being annual information statements or financial reports for the purposes of the ACNC Act. The Regulations extend the exemption from the 2024-25 financial year up to and including the 2028-29 financial year.

By maintaining the existing reporting arrangements under the Transitional Act, the Regulations prevent the imposition of duplicative financial reporting obligations on over 3000 charities.

Section 6

Section 6 preserves the operation of the *Australian Charities and Not-for-profits Commission (Consequential and Transitional) Regulation 2016* (2016 Regulation) in relation to the financial year of 2015-16 and each subsequent financial year up to and including the 2023-24 financial year.

Section 6 also ensures that the Commissioner still has the power, after the repeal of the 2016 Regulation, to share financial reporting information for the purposes of the ACNC Act in relation to the financial year of 2015-16 and each subsequent financial year up to and including the 2023-24 financial year. This ensures that the Commissioner of the ACNC may treat statements, reports or other documents given under an Australian law to another Australian government agency by a registered entity as being annual information

statements or financial reports for the purposes of the ACNC Act in relation to the financial year of 2015-16 and each subsequent financial year up to and including the 2023-24 financial year. Again, this prevents the imposition of duplicative financial reporting obligations for charities.

Schedule 1 – Repeals

Australian Charities and Not-for-profits Commission (Consequential and Transitional) Regulation 2016

Item [1] – The whole of the instrument

This item would repeal the whole of the instrument.

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 (Consequential and Transitional) Regulations 2025

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 *Australian Charities and Not-for-Profits Commission (Consequential and Transitional) Regulations 2025* (the Regulations):

- extend the financial years in which the Commissioner of the ACNC may treat statements, reports or other documents given under an Australian law to another Australian government agency by a registered entity as being annual information statements or financial reports for the purposes of the *Australian Charities and Not-for-Profits Commission Act 2012* up to and including the 2028-29 financial year (Part 2 of Schedule 1 to the Regulations); and
- preserve the operation of the *Australian Charities and Not-for-profits Commission (Consequential and Transitional) Regulation 2016* (2016 Regulations) in relation to the financial year of 2015-16 and each subsequent financial year up to and including the 2023-24 financial year (Part 2 of Schedule 1 to the Regulations).

The purpose of the Regulations is to ensure the Commissioner of the ACNC can continue to treat statements, reports or other documents as annual information statements or financial reports for the purposes of the ACNC Act up to and including the 2028-29 financial year. This maintains existing reporting arrangements and reduces duplicative regulatory burdens on registered entities for this period and allows existing administrative processes established by the ACNC to continue to apply.

The Regulations also ensure that the exemption operates in relation to previous financial years spanning 2015-16 up until 2023-24, allowing the Commissioner to continue to share financial reporting information for the purposes of the ACNC Act for earlier years.

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.