



NDS Submission

Statutory Definition of Charity



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About National Disability Services

National Disability Services is the peak industry body for non-government disability services. Its purpose is to promote and advance services for people with disability. Its Australia-wide membership includes 820 non-government organisations, which support people with all forms of disability. Its members collectively provide the full range of disability services—from accommodation support, respite and therapy to community access and employment. NDS provides information and networking opportunities to its members and policy advice to State, Territory and Federal governments.

After numerous reports and inquiries have recommended a statutory definition of charity, NDS welcomes the opportunity to provide comment on the Exposure Draft of the *Charities Bill 2013*.

Comments are confined to the following small number of matters.

Consultation period

The Government's recently released draft Code of Best Practice for Engagement with the not-for-profit sector articulates the principle of 'timeliness'—that stakeholders should be given sufficient time to provide considered responses on consultation matters.

This consultation period has been for a period of less than four weeks; a longer time period would have been appreciated.

Rationale for the Bill

The rationale for the *Charities Bill* is not obvious from reading the draft legislation. To improve clarity and remove any confusion, NDS recommends that 'Objects' be added to the Exposure Draft.

The development of clear explanatory materials to explain the Bill to stakeholders would also assist. These materials should also make it clear that, at present, the charity definition applies only to Commonwealth legislation.

NDS notes that some people find the language of charitable purposes and public benefit. Explanatory materials should try to address this.

NDS also welcomes the explicit acknowledgement that a peak body is a charity: 'where charities establish a peak or similar body to further their common charitable purposes, the same principles and considerations apply in determining the purpose of that entity as would apply to any entity'.

List of charitable purposes

A number of NDS members have raised concerns about disability not being listed as a charitable purpose. This concern is likely to be due to an expectation that the list is exhaustive.

Some of these members had not read the Explanatory Material for the Bill, which, in Section 1.89 does list disability under 'advancing social and community welfare'.

While NDS is reassured that disability is adequately addressed by the proposed list of categories of charitable purposes, we recommend that concise information materials be developed to provide clarity.

Disability language

NDS notes that the reference to disability in the Explanatory Memorandum—‘the care, support and protection of people with a disability including the provision of residential and non-residential care’—is old fashioned and somewhat paternalistic.

It should be amended to reflect a contemporary approach to how people with disability are supported. NDS suggests that the phrase be replaced by ‘the support of people with disability to participate in community and economic life, including the provision of residential and non-residential care’.

The reference to the aged should be amended in a similar manner.