

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the Charitable Trusts Act 1993 so as to enable the trustees of certain kinds of trusts to make gifts to “eligible recipients” even though the recipients are not charitable at law. Under current law, trustees of a charitable trust cannot make gifts for non-charitable purposes.

The trusts to which the amendments relate are those referred to in item 2 of the table in section 30-15 of the Income Tax Assessment Act 1997 of the Commonwealth (known as prescribed private funds and ancillary funds). This covers a particular class of trusts that are philanthropic in nature, and gifts made by them to eligible recipients are tax deductible. The regulations may extend the kinds of trusts to which the new provisions apply.

An eligible recipient is defined as a deductible gift recipient within the meaning of the Income Tax Assessment Act 1997 of the Commonwealth. This includes entities that are not technically charitable at law, such as entities with a connection to government (eg the Sydney Opera House Trust).

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on assent.

Clause 3 is a formal provision that gives effect to the amendments to the Charitable Trusts Act 1993 set out in Schedule 1.

Clause 4 provides for the repeal of the proposed Act after all the amendments made by the proposed Act have commenced. Once the amendments have commenced the proposed Act will be spent and section 30 of the Interpretation Act 1987 provides that the repeal of an amending Act does not affect the amendments made by that Act.

Schedule 1 contains the amendments to the Charitable Trusts Act 1993.