



New South Wales

Customer Service Legislation Amendment Bill 2023

Explanatory note

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

Overview of Bill

The objects of this Bill are—

- (a) to provide for exemptions from certain requirements under the *Associations Incorporation Act 2009* and the *Charitable Fundraising Act 1991* for an entity that is registered under the *Australian Charities and Not-for-profits Commission Act 2012* of the Commonwealth, and
- (b) to permit a certificate of registration under the *Property and Stock Agents Act 2002* to be issued, extended or restored in exceptional circumstances so that the certificate has a duration of more than 4 years, and
- (c) to prescribe an exceptional circumstance, and
- (d) to extend a part of the *Retail Leases Act 1994*, that currently applies to Sydney (Kingsford-Smith) Airport, to the new Sydney West Airport.

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.

Schedule 1 **Amendment of Associations Incorporation Act 2009 No 7**

Schedule 1[2] and [3] provide that a registered entity under the *Australian Charities and Not-for-profits Commission Act 2012* of the Commonwealth (*the Commonwealth Act*) is not

required to lodge certain financial documents or a summary of the registered entity's financial affairs for a financial year under the *Associations Incorporation Act 2009* if the registered entity has given statements and reports under the Commonwealth Act for the financial year and the information in the statements and reports is publicly available to the extent required by that Act. **Schedule 1[1]** make a consequential amendment. **Schedule 1[5]** includes a transitional provision to provide that the proposed amendments do not apply to past financial years.

Schedule 1[4] permits the regulations under the principal Act to exempt a registered entity from requirements under the principal Act.

Schedule 2 Amendment of Charitable Fundraising Act 1991 No 69

Schedule 2[3] provides that a registered entity under the Commonwealth Act is taken to hold an authority to conduct a fundraising appeal in New South Wales in certain circumstances. **Schedule 2[1], [2] and [4]** make consequential amendments. **Schedule 2[5]** includes transitional provisions for registered entities that currently hold authorities.

Schedule 3 Amendment of Property and Stock Agents Act 2002 No 66

Schedule 3 permits a certificate of registration to be issued, extended or restored in exceptional circumstances so that the certificate has a duration of more than 4 years and permits exceptional circumstances to be prescribed by regulations.

Schedule 4 Amendment of Property and Stock Agents Regulation 2022

Schedule 4[1] prescribes an exceptional circumstance for a certificate of registration.

Schedule 4[2] sets out fees for applications for the issue, extension or restoration of a certificate of registration in exceptional circumstances.

Schedule 5 Amendment of Retail Leases Act 1994 No 46

Schedule 5 extends a part of the *Retail Leases Act 1994* that currently applies to Sydney (Kingsford-Smith) Airport so that it also applies to the new Sydney West Airport.



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New South Wales

Customer Service Legislation Amendment Bill 2023

No. _____, 2023

A Bill for

An Act to amend the *Charitable Fundraising Act 1991* and the *Associations Incorporation Act 2009* in relation to registered entities; to amend the *Retail Leases Act 1994* in relation to Western Sydney Airport; and to amend the *Property and Stock Agents Act 2002* and the *Property and Stock Agents Regulation 2022* in relation to certificates of registration.

The Legislature of New South Wales enacts—

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1 Name of Act

2

This Act is the *Customer Service Legislation Amendment Act 2023*.

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2 Commencement

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This Act commences as follows—

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- (a) for Schedules 1 and 2—on a day or days to be appointed by proclamation,
- (b) otherwise—on the date of assent to this Act.

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Schedule 1	Amendment of Associations Incorporation Act 2009 No 7	1
		2
[1] Section 4 Definitions		3
	Insert in alphabetical order in section 4(1)—	4
	<i>ACNC registered entity</i> means a registered entity under the <i>Australian Charities and Not-for-profits Commission Act 2012</i> of the Commonwealth.	5
		6
[2] Section 45 Lodgment of documents with Secretary		7
	Insert after section 45(3)—	8
	(4) This section does not apply to a Tier 1 association if—	9
	(a) the association has been an ACNC registered entity for the whole of the relevant financial year, and	10
		11
	(b) the association has given all statements and reports for the financial year as required by the Commonwealth Act, Division 60, and	12
		13
	(c) the information in the statements and reports is publicly available on the Register under the Commonwealth Act to the extent required by that Act.	14
		15
		16
	(5) In this section—	17
	<i>the Commonwealth Act</i> means the <i>Australian Charities and Not-for-profits Commission Act 2012</i> of the Commonwealth.	18
		19
[3] Section 49 Lodgment of summary with Secretary		20
	Insert after section 49(3)—	21
	(4) This section does not apply to a Tier 2 association if—	22
	(a) the association has been an ACNC registered entity for the whole of the relevant financial year, and	23
		24
	(b) the association has given all statements and reports for the financial year as required by the Commonwealth Act, Division 60, and	25
		26
	(c) the information in the statements and reports is publicly available on the Register under the Commonwealth Act to the extent required by that Act.	27
		28
		29
	(5) In this section—	30
	<i>the Commonwealth Act</i> means the <i>Australian Charities and Not-for-profits Commission Act 2012</i> of the Commonwealth.	31
		32
[4] Section 107 Regulations		33
	Insert after section 107(1)(e)—	34
	(f) ACNC registered entities, including exempting ACNC registered entities from the whole or specified provisions of this Act or the regulations.	35
		36
		37
[5] Schedule 4 Savings, transitional and other provisions		38
	Insert at the end of the schedule, with appropriate part and clause numbering—	39

Part	Provisions consequent on enactment of Customer Service Legislation Amendment Act 2023	1
		2
	Financial reporting by ACNC registered entities	3
	Section 49(4) and (5) do not apply in relation to a financial year that ended before the commencement of the subsections.	4
		5

Schedule 2	Amendment of Charitable Fundraising Act 1991 No 69	1 2
[1]	Sections 4(1), definition of “ACNC registered entity”, 24A(1)(d) and 24B(3) Omit the provisions.	3 4
[2]	Section 16 Dealing with applications Omit section 16(1). Insert instead— (1) The Secretary may grant an authority if the Secretary is satisfied that all the persons proposing to conduct the appeal, and all the persons associated with the proposed appeal, are fit and proper persons to administer, or to be associated with, a fundraising appeal for charitable purposes.	5 6 7 8 9 10
[3]	Section 19B Insert after section 19A— 19B Deemed authorities (1) A person or organisation is taken to hold an authority (a <i>deemed authority</i>) if— (a) the person or organisation is a registered entity under the Commonwealth Act, and (b) the person or organisation has notified the ACNC Commissioner that the person or organisation intends to conduct a fundraising appeal in New South Wales, and (c) the deemed authority is not suspended or cancelled under this Act. (2) The following provisions do not apply to a deemed authority— (a) this division, other than sections 19 and 19A, (b) Division 4. (3) In addition to the grounds in section 19A(1), the Secretary may suspend or cancel a deemed authority if the person or organisation fails to give a statement or report as required by the Commonwealth Act, Division 60. (4) The regulations may make provision about deemed authorities, including— (a) exempting holders of deemed authorities from the whole or specified provisions of this Act or the regulations, and (b) imposing additional requirements on holders and former holders of deemed authorities. (5) In this section— <i>ACNC Commissioner</i> means the Commissioner within the meaning of the Commonwealth Act. <i>the Commonwealth Act</i> means the <i>Australian Charities and Not-for-profits Commission Act 2012</i> of the Commonwealth.	11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37
[4]	Section 24B Authority holders to give written statements regarding compliance with legislation Omit “is not an ACNC registered entity and” from section 24B(4).	38 39 40
[5]	Schedule 2 Savings and transitional provisions Insert at the end of the schedule, with appropriate part and clause numbering—	41 42

Part	Provisions consequent on enactment of Customer Service Legislation Amendment Act 2023	1
		2
	Deemed authorities	3
(1)	An authority held by a registered entity and in force immediately before the commencement of section 19B is, from the commencement, taken to be a deemed authority.	4 5 6
(2)	The deemed authority is subject to section 19B, other than section 19B(1)(b).	7
(3)	The deemed authority is not subject to the term specified in the authority.	8
(4)	In this clause—	9
	registered entity means a registered entity under the <i>Australian Charities and Not-for-profits Commission Act 2012</i> of the Commonwealth.	10 11

Schedule 3	Amendment of Property and Stock Agents Act	1
	2002 No 66	2
Section 26AA		3
Insert after section 26A—		4
26AA	Exceptional circumstances for extending or restoring certificates of registration beyond 4 years	5
		6
(1)	The Secretary may, if satisfied exceptional circumstances exist—	7
(a)	grant a certificate of registration for a term longer than 4 years, or	8
(b)	grant an extension to an existing certificate of registration of up to 12 months so that the certificate has a term longer than 4 years, or	9
(c)	grant a restoration to a certificate of registration for an additional 12 months so that the certificate has a term longer than 4 years.	10
(2)	A grant under subsection (1) may be unconditional or subject to conditions.	11
(3)	The Secretary may require the holder, or former holder, of a certificate of registration to do the following—	12
(a)	make an application for a grant under subsection (1),	13
(b)	make the application within the time required by the Secretary,	14
(c)	make the application in a form approved by the Secretary,	15
(d)	pay the fee prescribed by the regulations for the application.	16
(4)	An application for the restoration of a certificate of registration must be made—	17
(a)	within 3 months of the expiry of the certificate of registration, or	18
(b)	within the further period determined by the Secretary on the application of the person seeking the restoration.	19
(5)	A certificate of registration that has been surrendered or cancelled must not be restored.	20
(6)	For an application for a restoration of a certificate of registration—	21
(a)	anything done by the holder of the expired certificate of registration between its expiry and the determination of the application is taken to have been done as the holder of a certificate of registration, and	22
(b)	if the application is granted—the certificate of registration is taken to have been restored from the day on which the certificate of registration expired.	23
(7)	In this section—	24
	<i>exceptional circumstances</i> includes circumstances prescribed by the regulations.	25
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Schedule 4 Amendment of Property and Stock Agents Regulation 2022

[1] Section 52A

Insert before section 53—

52A Certificate of registration longer than 4 years—the Act, s 26AA

For the Act, section 26AA(7), definition of *exceptional circumstances*, a real risk to the effective functioning of the property and stock agents industry is an exceptional circumstance.

[2] Schedule 14 Fees and Compensation Fund contributions

Insert after Part 1, item 14—

15	Application for a grant under the Act, section 26AA(1)—				
(a)	for a grant of a certificate of registration under section 26AA(1)(a)	1.88	0.88	Nil	2.76
(b)	for a grant of an extension to a certificate of registration under section 26AA(1)(b)	0.47	0.44	Nil	0.91
(c)	for a grant of a restoration to a certificate of registration under section 26AA(1)(c)	0.47	0.44	Nil	0.91

Schedule 5	Amendment of Retail Leases Act 1994 No 46	1
[1] Section 6 Leases to which Act does not apply		2
	Omit “Sydney (Kingsford-Smith) Airport” from the note.	3
	Insert instead “premises at airports”.	4
[2] Part 9A, heading		5
	Omit “Sydney (Kingsford-Smith) Airport”. Insert instead “Premises at airports”.	6
[3] Section 80A, heading		7
	Omit “Application”. Insert instead “Definitions”.	8
[4] Section 80A(1)		9
	Omit the subsection.	10
[5] Section 80A(2)		11
	Omit the definitions of <i>Airport</i> and <i>Airport passenger terminal</i> . Insert instead—	12
	<i>airport</i> means the following as described in regulations under the <i>Airports Act 1996</i> of the Commonwealth—	13
	(a) Sydney (Kingsford-Smith) Airport,	14
	(b) Sydney West Airport.	15
	<i>airport passenger terminal</i> means a passenger terminal at an airport.	16
[6] Section 80A(2), definition of “airside premises”		17
	Omit “of the Airport”. Insert instead “of an airport”.	18
[7] Section 80A(2), definition of “airside premises”, paragraph (c)		19
	Omit “Airport”. Insert instead “airport”.	20
[8] Section 80BA		21
	Insert after section 80A—	22
80BA Application		23
	This part applies only in relation to premises at an airport passenger terminal.	24
[9] Sections 80B, 80C(1) and (2) and 80D		25
	Omit “Airport passenger terminal” wherever occurring.	26
	Insert instead “airport passenger terminal”.	27