



Treasury Laws Amendment (Support for Small Business and Charities and Other Measures) Act 2024

No. 52, 2024

**An Act to amend the law relating to taxation,
financial services and corporations, and for related
purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation
(<https://www.legislation.gov.au/>)

Contents

1	Short title	2
2	Commencement.....	2
3	Schedules.....	3
Schedule 1—\$20,000 instant asset write-off for small business entities		
		4
	<i>Income Tax (Transitional Provisions) Act 1997</i>	4
Schedule 2—Small business energy incentive		
		6
	<i>Income Tax (Transitional Provisions) Act 1997</i>	6
Schedule 3—New class of deductible gift recipients		
		11
Part 1—Amendment of the Income Tax Assessment Act 1997		11
	<i>Income Tax Assessment Act 1997</i>	11
Part 2—Amendment of the Taxation Administration Act 1953		15
	<i>Taxation Administration Act 1953</i>	15
Part 3—Other amendments		26
	<i>A New Tax System (Australian Business Number) Act 1999</i>	26
Schedule 4—Deductible gift recipients—specific listings		
		27
	<i>Income Tax Assessment Act 1997</i>	27
Schedule 5—Exemption for Global Infrastructure Hub Ltd		
		28
	<i>Income Tax Assessment Act 1997</i>	28
Schedule 6—Income tax amendments for updates to accounting standards for general insurance contracts		
		29
Part 1—Main amendments		29
	<i>Income Tax Assessment Act 1997</i>	29
Part 2—Other amendments		34
	<i>Income Tax Assessment Act 1997</i>	34
Part 3—Application and transitional provisions		37

Schedule 7—Non-arm’s length expenses of superannuation funds	42
<i>Income Tax Assessment Act 1997</i>	42
Schedule 8—AFCA scheme	46
Part 1—Main amendments	46
<i>Corporations Act 2001</i>	46
Part 2—Application provision	48
<i>Corporations Act 2001</i>	48
Part 3—Other amendments	49
<i>Treasury Laws Amendment (2023 Law Improvement Package No. 1) Act 2023</i>	49



Treasury Laws Amendment (Support for Small Business and Charities and Other Measures) Act 2024

No. 52, 2024

**An Act to amend the law relating to taxation,
financial services and corporations, and for related
purposes**

[Assented to 28 June 2024]

The Parliament of Australia enacts:

*No. 52, 2024 Treasury Laws Amendment (Support for Small Business and Charities
and Other Measures) Act 2024 1*

1 Short title

This Act is the *Treasury Laws Amendment (Support for Small Business and Charities and Other Measures) Act 2024*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	28 June 2024
2. Schedules 1 and 2	The first 1 January, 1 April, 1 July or 1 October to occur after the day this Act receives the Royal Assent.	1 July 2024
3. Schedule 3	The day after this Act receives the Royal Assent.	29 June 2024
4. Schedules 4 to 7	The first 1 January, 1 April, 1 July or 1 October to occur after the day this Act receives the Royal Assent.	1 July 2024
5. Schedule 8, item 1	The later of: (a) the start of the day after this Act receives the Royal Assent; and (b) immediately after the commencement of item 269 of Schedule 2 to the <i>Treasury Laws Amendment (2023 Law Improvement Package No. 1) Act 2023</i> . However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.	29 June 2024 (paragraph (a) applies)
6. Schedule 8,	The day after this Act receives the Royal	Never

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
item 2	Assent. However, the provisions do not commence at all if item 289 of Schedule 2 to the <i>Treasury Laws Amendment (2023 Law Improvement Package No. 1) Act 2023</i> commences on or before that day.	commenced
7. Schedule 8, items 3 to 11	The day after this Act receives the Royal Assent.	29 June 2024
8. Schedule 8, Part 3	Immediately before the commencement of Schedule 2 to the <i>Treasury Laws Amendment (2023 Law Improvement Package No. 1) Act 2023</i> . However, the provisions do not commence at all if that event: (a) does not occur; or (b) occurs on or before the day this Act receives the Royal Assent.	Never commenced (paragraph (b) applies)

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

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

Schedule 1—\$20,000 instant asset write-off for small business entities

Income Tax (Transitional Provisions) Act 1997

1 Section 328-180 (heading)

Omit “30 June 2023”, substitute “30 June 2024”.

2 Subsection 328-180(1) (paragraph (b) of the definition of *increased access year*)

Omit “30 June 2023”, substitute “30 June 2024”.

3 Subsection 328-180(4) (heading)

Repeal the heading, substitute:

Temporary increase to asset cost threshold

4 At the end of subsection 328-180(4)

Add:

; or (d) were a reference to \$20,000, if you first acquired the asset at or after the 2015 budget time, and you:

- (i) first used the asset, for a taxable purpose, on or after 1 July 2023 and on or before 30 June 2024; or
- (ii) first installed the asset ready for use, for a taxable purpose, on or after 1 July 2023 and on or before 30 June 2024.

5 At the end of subsection 328-180(5)

Add:

; or (e) were a reference to \$20,000, if the amount is so included at any time:

- (i) on or after 1 July 2023; and
- (ii) on or before 30 June 2024.

6 At the end of subsection 328-180(6)

Add:

; or (e) were a reference to \$20,000, in relation to a deduction for an income year that ends:

- (i) on or after 1 July 2023; and
- (ii) on or before 30 June 2024.

Schedule 2—Small business energy incentive

Income Tax (Transitional Provisions) Act 1997

1 At the end of Division 328

Add:

328-465 Energy incentive

- (1) You can deduct for an income year an amount that is equal to the lower of:
 - (a) 20% of the total amount (which may be nil) of your expenditure to which subsection 328-470(1) or (3) applies in relation to the income year; and
 - (b) \$20,000 less any amount deducted under paragraph (a) for a previous income year.

Note: The deduction relates to the period of 1 July 2023 to 30 June 2024. An entity may have deducted an amount under paragraph (a) for a previous income year if the entity has a substituted accounting period.

These are bonus deductions under the Income Tax Assessment Act 1997

- (2) The *Income Tax Assessment Act 1997* has effect as if this section and section 328-470 of this Act were provisions of Division 25 of the *Income Tax Assessment Act 1997*.
- (3) Sections 8-10, 40-215 and 355-715 of the *Income Tax Assessment Act 1997* do not apply in relation to a deduction under this section.

328-470 What expenditure qualifies for the energy incentive

Expenditure included in the first element of cost of a depreciating asset

- (1) This subsection applies to an amount of expenditure in relation to an income year if:
 - (a) the expenditure is included in the first element of cost of a depreciating asset; and

- (b) you can deduct the expenditure under a provision of a taxation law (other than section 328-465 of this Act) whether or not in, or wholly in, the income year in which the expenditure is incurred; and
 - (c) you start to use the asset, or have it installed ready for use, for any purpose after 30 June 2023 but before 1 July 2024; and
 - (d) you start to use the asset, or have it installed ready for use, for a taxable purpose at a time (the **start time**) that is:
 - (i) in the income year; and
 - (ii) after 30 June 2023 but before 1 July 2024; and
 - (e) you are a small business entity, or an entity covered by subsection (4), for the income year that includes the start time; and
 - (f) subsection (2) (about eligible energy assets) applies to the asset; and
 - (g) neither the expenditure nor the asset is excluded under subsection (6); and
 - (h) the only balancing adjustment events that occur for the asset at a time during the period starting on 1 July 2023 and ending on 30 June 2024 occur because you stop holding the asset because of an event or circumstance referred to in subsection 40-365(2) (about involuntary disposals) of the *Income Tax Assessment Act 1997*.
- (2) This subsection applies to an asset if:
- (a) the asset uses electricity and one or more of the following apply:
 - (i) a new reasonably comparable depreciating asset that uses a fossil fuel (other than a use of which that is merely incidental) is available in the market at the start time;
 - (ii) if the asset is being acquired by way of replacement of or substitution for another depreciating asset—the asset is more energy efficient than the other asset;
 - (iii) if the asset is not being acquired by way of replacement of or substitution for another depreciating asset—the asset is more energy efficient than a new reasonably

comparable depreciating asset that is available in the market at the start time; or

- (b) the asset enables one or more of the following:
 - (i) a depreciating asset (other than an asset excluded under subsection (6)) that uses electricity, or energy that is generated from a renewable source, to be more energy efficient;
 - (ii) electricity, or energy that is generated from a renewable source, to be stored;
 - (iii) electricity, or energy that is generated from a renewable source, to be used at a different time;
 - (iv) the use of electricity, or energy that is generated from a renewable source, by another depreciating asset to be monitored.

Certain expenditure that is included in the second element of cost of a depreciating asset

- (3) This subsection applies to an amount of expenditure in relation to an income year if:
 - (a) the amount is included in the second element of a depreciating asset's cost under paragraph 40-190(2)(a) of the *Income Tax Assessment Act 1997*; and
 - (b) you can deduct the expenditure under a provision of a taxation law (other than section 328-465 of this Act) whether or not in, or wholly in, the income year in which the expenditure is incurred; and
 - (c) the expenditure is incurred:
 - (i) in the income year; and
 - (ii) after 30 June 2023 but before 1 July 2024; and
 - (d) you are a small business entity, or an entity covered by subsection (4), for the income year in which the expenditure is incurred; and
 - (e) the expenditure enables one or more of the following:
 - (i) if the asset could use a fossil fuel (other than a use of which that is merely incidental)—the asset to only use electricity, or energy that is generated from a renewable source;

- (ii) if the asset uses electricity, or energy that is generated from a renewable source—the asset to be more energy efficient;
 - (iii) the asset to store electricity, or energy that is generated from a renewable source;
 - (iv) the asset to use electricity, or energy that is generated from a renewable source, at a different time;
 - (v) the asset to monitor its use of electricity, or energy that is generated from a renewable source; and
- (f) neither the expenditure nor the asset is excluded under subsection (6); and
- (g) the only balancing adjustment events that occur for the asset at a time during the period starting on 1 July 2023 and ending on 30 June 2024 occur because you stop holding the asset because of an event or circumstance referred to in subsection 40-365(2) (about involuntary disposals) of the *Income Tax Assessment Act 1997*.

Businesses with turnover under \$50 million

- (4) An entity is covered by this subsection for an income year if:
- (a) the entity is not a small business entity for the income year; and
 - (b) the entity would be a small business entity for the income year if:
 - (i) each reference in Subdivision 328-C of the *Income Tax Assessment Act 1997* (about what is a small business entity) to \$10 million were instead a reference to \$50 million; and
 - (ii) the reference in paragraph 328-110(5)(b) of that Act to a small business entity were instead a reference to an entity covered by this subsection.

Working out whether you can deduct expenditure

- (5) For the purposes of paragraph (1)(b) or (3)(b), in working out whether you can deduct an amount of expenditure assume that:
- (a) you will continue to hold the asset throughout its effective life; and

- (b) throughout that effective life, you will use it for a taxable purpose:
 - (i) for the purposes of paragraph (1)(b)—to the same extent as you use it, or have it installed ready for use, for a taxable purpose in the income year in which you start to use it, or have it installed ready for use, for a taxable purpose; or
 - (ii) for the purposes of paragraph (3)(b)—to the same extent as you use it for a taxable purpose in the income year in which the expenditure is incurred.

Excluded assets and expenditure

- (6) The following kinds of assets and expenditure are excluded by this subsection:
 - (a) an asset that can use a fossil fuel (other than a use of which that is merely incidental);
 - (b) expenditure (other than expenditure referred to in subparagraph (3)(e)(i)) on an asset that can use a fossil fuel (other than a use of which that is merely incidental);
 - (c) an asset that solely or predominantly generates electricity from a renewable source (for example, photovoltaic cells) or expenditure on such an asset;
 - (d) an asset, or expenditure, being capital works for which you can deduct an amount under Division 43 of the *Income Tax Assessment Act 1997*;
 - (e) a motor vehicle or expenditure on a motor vehicle;
 - (f) an asset, or expenditure on an asset, where expenditure on the asset is allocated to a software development pool;
 - (g) financing costs, including interest, payments in the nature of interest and expenses of borrowing.

Note: Subsections (1) and (3) also do not apply to an item of trading stock because such an asset is not a depreciating asset: see section 40-30 of the *Income Tax Assessment Act 1997*.

Schedule 3—New class of deductible gift recipients

Part 1—Amendment of the Income Tax Assessment Act 1997

Income Tax Assessment Act 1997

1 Section 30-105

Omit all the words before the table, substitute:

- (1) This table sets out general categories of other recipients.

Other recipients—General			
Item	Fund, authority or institution	Special conditions—fund, authority or institution	Special conditions—gift
13.1.1	a *community charity trust to which section 30-110 applies	the community charity trust must be a *registered charity	none
13.1.2	a *community charity corporation to which section 30-110 applies	the community charity corporation must be a *registered charity	none

- (2) This table sets out specific other recipients.

2 At the end of Subdivision 30-B

Add:

30-110 Community charities

- (1) For the purposes of item 13.1.1 of the table in subsection 30-105(1), this section applies to a *community charity trust if the trust is established and maintained under a will or instrument of trust:
- (a) for the purposes covered by:
- (i) subsections (3) and (4) of this section; or

Schedule 3 New class of deductible gift recipients

Part 1 Amendment of the Income Tax Assessment Act 1997

- (ii) subsections (3), (4) and (5) of this section; and
 - (b) for no other purposes.
- (2) For the purposes of item 13.1.2 of the table in subsection 30-105(1), this section applies to a *community charity corporation if the corporation is operated:
 - (a) for the purposes covered by:
 - (i) subsections (3) and (4) of this section; or
 - (ii) subsections (3), (4) and (5) of this section; and
 - (b) for no other purposes.

Mandatory purposes

- (3) This subsection covers the purpose of providing money, property or benefits to a fund, authority or institution if:
 - (a) gifts to the fund, authority or institution are deductible under item 1 of the table in section 30-15; and
 - (b) the fund, authority or institution is described (whether or not by name) in an item of a table in this Subdivision (other than item 13.1.1 or 13.1.2 of the table in subsection 30-105(1)); and
 - (c) the money, property or benefits are so provided to the fund, authority or institution for any purposes set out in the item of that table in which the fund, authority or institution is described.
- (4) This subsection covers the purpose of engaging in an activity that:
 - (a) is the principal activity of a fund, authority or institution described (but not by name) in an item of a table in this Subdivision (other than item 13.1.1 or 13.1.2 of the table in subsection 30-105(1)); or
 - (b) involves pursuing the principal purpose of a fund, authority or institution described (but not by name) in an item of a table in this Subdivision (other than item 13.1.1 or 13.1.2 of the table in subsection 30-105(1)).

Permitted purpose

- (5) This subsection covers the purpose of establishing a fund, authority or institution described (whether or not by name) in an item of a
-

table in this Subdivision (other than item 13.1.1 or 13.1.2 of the table in subsection 30-105(1)).

3 Paragraph 30-125(1)(d)

Repeal the paragraph, substitute:

- (d) in the case of an *ancillary or community charity trust fund—the fund and all of its trustees comply with the rules in the *applicable trust fund guidelines; and
- (e) in the case of a *community charity corporation—the corporation and all of its directors comply with the rules in the *community charity corporation guidelines.

4 Section 30-315 (after table item 34AA)

Insert:

34AAA	Community charity corporations	item 13.1.2
34AAB	Community charity trusts	item 13.1.1

5 Subsection 995-1(1)

Insert:

ancillary or community charity trust fund means:

- (a) a *public ancillary fund; or
- (b) a *private ancillary fund; or
- (c) a *community charity trust.

applicable trust fund guidelines means:

- (a) in relation to a *public ancillary fund—the *public ancillary fund guidelines; or
- (b) in relation to a *private ancillary fund—the *private ancillary fund guidelines; or
- (c) in relation to a *community charity trust—the *community charity trust guidelines.

community charity corporation has the meaning given by section 426-180 in Schedule 1 to the *Taxation Administration Act 1953*.

Schedule 3 New class of deductible gift recipients

Part 1 Amendment of the Income Tax Assessment Act 1997

community charity corporation guidelines has the meaning given by section 426-185 in Schedule 1 to the *Taxation Administration Act 1953*.

community charity trust has the meaning given by section 426-117 in Schedule 1 to the *Taxation Administration Act 1953*.

community charity trust guidelines has the meaning given by section 426-118 in Schedule 1 to the *Taxation Administration Act 1953*.

Part 2—Amendment of the Taxation Administration Act 1953

Taxation Administration Act 1953

6 Paragraph 298-5(c) in Schedule 1

Omit “or 426-120”, substitute “, 426-120 or 426-195”.

7 Subsection 355-65(8) in Schedule 1 (cell at table item 6, column headed “and the record or disclosure ...”)

Repeal the cell, substitute:

- (a) is of information that relates to non-compliance of:
 - (i) an ^{*}ancillary or community charity trust fund; or
 - (ii) a ^{*}community charity corporation; or
 - (iii) a charity (other than a charity already covered by subparagraph (i) or (ii));with an ^{*}Australian law; and
- (b) is for the purpose of the administration of an Australian law governing trusts and charities.

8 Section 426-1 in Schedule 1

Omit:

Subdivision 426-D deals with types of philanthropic trust funds known as *public ancillary funds* and *private ancillary funds*.

substitute:

Subdivision 426-D deals with types of philanthropic trust funds known as *public ancillary funds*, *private ancillary funds* and *community charity trusts*.

Subdivision 426-E deals with certain philanthropic companies known as *community charity corporations*.

9 Subdivision 426-D in Schedule 1 (heading)

Repeal the heading, substitute:

Subdivision 426-D—Ancillary and community charity trust funds

10 Section 426-100 in Schedule 1

Repeal the section, substitute:

426-100 What this Subdivision is about

This Subdivision deals with types of philanthropic trust funds known as *public ancillary funds*, *private ancillary funds* and *community charity trusts*.

The Minister must make guidelines determining when such trust funds are entitled to be endorsed as deductible gift recipients.

This Subdivision also provides for:

- (a) penalties for trustees who fail to comply with the applicable trust fund guidelines, and the liability of directors of trustees to pay those penalties in certain circumstances; and
- (b) powers for the Commissioner to suspend or remove trustees who breach their obligations.

11 After section 426-115 in Schedule 1

Insert:

Community charity trusts

426-117 Community charity trusts

- (1) A trust is a *community charity trust* if:

- (a) the trust is specified in a declaration in force under subsection (3); and
 - (b) each trustee of the trust is a *constitutional corporation; and
 - (c) each trustee has agreed, in the *approved form given to the Commissioner, to comply with the rules in the *community charity trust guidelines, as in force from time to time; and
 - (d) none of the trustees has revoked that agreement in accordance with subsection (2).
- (2) A trustee may revoke an agreement mentioned in paragraph (1)(c) only by giving the revocation to the Commissioner in the *approved form.
- (3) The Minister may, by legislative instrument, declare one or more trusts for the purposes of paragraph (1)(a).

426-118 Community charity trust guidelines

The Minister must, by legislative instrument, formulate guidelines (the *community charity trust guidelines*) setting out:

- (a) rules that *community charity trusts and their trustees must comply with if the trusts are to be, or are to remain, endorsed as *deductible gift recipients; and
- (b) the amount of the administrative penalty, or how to work out the amount of the administrative penalty, under subsection 426-120(1) in relation to community charity trusts.

426-119 Australian Business Register must show community charity trust status

- (1) If a *community charity trust has an *ABN, the *Australian Business Registrar must enter in the *Australian Business Register in relation to the trust a statement that it is a community charity trust.

Note 1: An entry (or lack of entry) of a statement required by this section does not affect whether a trust is a community charity trust.

Note 2: The Australian Business Register will also show if a community charity trust is endorsed as a deductible gift recipient: see section 30-229 of the *Income Tax Assessment Act 1997*.

- (2) The *Australian Business Registrar must take reasonable steps to ensure that a statement appearing in the *Australian Business Register under this section is true. For this purpose, the Registrar may:
- (a) change the statement; or
 - (b) remove the statement from the Register if the statement is not true.

12 Section 426-120 in Schedule 1 (heading)

Omit “ancillary funds”, substitute “ancillary and community charity trust funds”.

13 Paragraph 426-120(1)(a) in Schedule 1

Omit “*ancillary fund”, substitute “*ancillary or community charity trust fund”.

14 At the end of subsection 426-120(1) in Schedule 1

Add:

Note: The Commissioner is required to give written notice of the penalty (see section 298-10).

15 Subsection 426-120(3) in Schedule 1

Repeal the subsection, substitute:

- (3) The amount of the penalty is:
- (a) the amount specified in the *applicable trust fund guidelines for the purposes of subsection (1); or
 - (b) the amount worked out in accordance with the method specified in the applicable trust fund guidelines for the purposes of subsection (1).

The guidelines may specify different penalties or methods for different circumstances.

16 Subsection 426-125(1) in Schedule 1

Omit “*ancillary fund”, substitute “*ancillary or community charity trust fund”.

17 Paragraph 426-125(1)(a) in Schedule 1

Repeal the paragraph, substitute:

- (a) the *applicable trust fund guidelines; or

18 Subsection 426-125(6) in Schedule 1

Omit “*ancillary fund”, substitute “*ancillary or community charity trust fund”.

19 Paragraph 426-125(6)(a) in Schedule 1

Repeal the paragraph, substitute:

- (a) the *applicable trust fund guidelines; or

20 Subsection 426-130(1) in Schedule 1

Omit “*ancillary fund”, substitute “*ancillary or community charity trust fund”.

21 Subsection 426-130(2) in Schedule 1

Omit “*ancillary fund”, substitute “*ancillary or community charity trust fund”.

22 Subsection 426-130(3) in Schedule 1

Omit the second sentence.

23 Subsection 426-130(5) in Schedule 1

Repeal the subsection, substitute:

Acting trustee must have agreed to comply with guidelines

- (5) An entity may only be appointed as acting trustee if the entity has agreed, in accordance with paragraph 426-102(1)(b), 426-105(1)(b) or 426-117(1)(c), to comply with the rules in the *applicable trust fund guidelines as in force from time to time.

24 Paragraph 426-135(1)(b) in Schedule 1

Omit “*ancillary fund’s”, substitute “*ancillary or community charity trust fund’s”.

25 Subsection 426-135(2) in Schedule 1

Omit “*ancillary fund”, substitute “*ancillary or community charity trust fund”.

26 Subsection 426-150(1) in Schedule 1

Omit “*ancillary fund”, substitute “*ancillary or community charity trust fund”.

27 Subsection 426-150(3) in Schedule 1

Omit “*ancillary fund”, substitute “*ancillary or community charity trust fund”.

28 Paragraph 426-155(b) in Schedule 1

Omit “*ancillary fund’s”, substitute “*ancillary or community charity trust fund’s”.

29 Subsection 426-160(1) in Schedule 1

Omit “*ancillary fund”, substitute “*ancillary or community charity trust fund”.

30 Paragraph 426-165(1)(a) in Schedule 1

Omit “*ancillary fund”, substitute “*ancillary or community charity trust fund”.

31 Paragraph 426-165(2)(a) in Schedule 1

Omit “*ancillary fund”, substitute “*ancillary or community charity trust fund”.

32 Group heading before section 426-170 in Schedule 1

Repeal the heading, substitute:

Limitation on certain transfers

33 Section 426-170 in Schedule 1

Repeal the section, substitute:

426-170 Limitation on ancillary and community charity trust funds making certain transfers

- (1) An *ancillary fund must not provide money, property or benefits to another ancillary fund unless permitted to do so by the *public ancillary fund guidelines or the *private ancillary fund guidelines (whichever are applicable) for the first-mentioned fund.
- (2) A *community charity trust must not provide money, property or benefits to:
 - (a) another community charity trust; or
 - (b) an *ancillary fund; or
 - (c) a *community charity corporation;unless permitted to do so by the *community charity trust guidelines.

34 At the end of Part 5-35 in Schedule 1

Add:

Subdivision 426-E—Community charity corporations

Guide to Subdivision 426-E

426-175 What this Subdivision is about

This Subdivision deals with philanthropic companies known as *community charity corporations*.

The Minister must make guidelines determining when community charity corporations are entitled to be endorsed as deductible gift recipients.

This Subdivision also provides for penalties for failures to comply with the guidelines.

Table of sections

Community charity corporations

426-180 Community charity corporations

- 426-185 Community charity corporation guidelines
426-190 Australian Business Register must show community charity corporation status

Administrative penalties

- 426-195 Administrative penalties for community charity corporations

Limitation on certain transfers

- 426-200 Limitation on community charity corporations making certain transfers

Community charity corporations

426-180 Community charity corporations

- (1) A company is a *community charity corporation* if:
- (a) the company is:
 - (i) a *constitutional corporation; or
 - (ii) a body corporate that is not a constitutional corporation; and
 - (b) the company is specified in a declaration in force under subsection (3); and
 - (c) each director of the company has agreed, in the *approved form given to the Commissioner, to comply with the rules in the *community charity corporation guidelines, as in force from time to time; and
 - (d) none of the directors of the company has revoked that agreement in accordance with subsection (2).
- (2) A director may revoke an agreement mentioned in paragraph (1)(c) only by giving the revocation to the Commissioner in the *approved form.
- (3) The Minister may, by legislative instrument, declare one or more companies for the purposes of paragraph (1)(b).

426-185 Community charity corporation guidelines

The Minister must, by legislative instrument, formulate guidelines (the *community charity corporation guidelines*) setting out:

- (a) rules that *community charity corporations and their directors must comply with if the corporations are to be, or are to remain, endorsed as *deductible gift recipients; and
- (b) the amount of the administrative penalty, or how to work out the amount of the administrative penalty, under subsection 426-195(1) in relation to community charity corporations.

426-190 Australian Business Register must show community charity corporation status

- (1) If a *community charity corporation has an *ABN, the *Australian Business Registrar must enter in the *Australian Business Register in relation to the corporation a statement that it is a community charity corporation.

Note 1: An entry (or lack of entry) of a statement required by this section does not affect whether a company is a community charity corporation.

Note 2: The Australian Business Register will also show if a community charity corporation is endorsed as a deductible gift recipient: see section 30-229 of the *Income Tax Assessment Act 1997*.

- (2) The *Australian Business Registrar must take reasonable steps to ensure that a statement appearing in the *Australian Business Register under this section is true. For this purpose, the Registrar may:
 - (a) change the statement; or
 - (b) remove the statement from the Register if the statement is not true.

Administrative penalties

426-195 Administrative penalties for community charity corporations

Administrative penalty

- (1) All of the directors of a *community charity corporation are jointly and severally liable to an administrative penalty if:

Schedule 3 New class of deductible gift recipients

Part 2 Amendment of the Taxation Administration Act 1953

- (a) the corporation, or a director of the corporation, holds out that the corporation is endorsed as a *deductible gift recipient and the corporation is not so endorsed; or
- (b) the corporation, or a director of the corporation, holds out that the corporation is entitled to remain endorsed as a deductible gift recipient and the corporation is not so entitled; or
- (c) the corporation, or a director of the corporation, holds out that the corporation will be endorsed, as a deductible gift recipient, at a particular time and the corporation is not so endorsed at that time.

Note: The Commissioner is required to give written notice of the penalty (see section 298-10).

- (2) The amount of the penalty is:
 - (a) the amount specified in the *community charity corporation guidelines for the purposes of subsection (1); or
 - (b) the amount worked out in accordance with the method specified in the community charity corporation guidelines for the purposes of subsection (1).

The guidelines may specify different penalties or methods for different circumstances.

- (3) A director who is liable to the penalty must not be reimbursed the penalty from the corporation.

Note: Division 298 in this Schedule contains machinery provisions for administrative penalties.

Defences for directors

- (4) Subsection (1) does not apply to a director if:
 - (a) the director was not aware of the holding out mentioned in paragraph (1)(a), (b) or (c) (whichever applicable) and it would not have been reasonable to expect the director to have been aware of that holding out; or
 - (b) the director took all reasonable steps to ensure that the holding out mentioned in that paragraph did not occur; or
 - (c) there were no such steps that the director could have taken.

- (5) In determining what is reasonable for the purposes of paragraph (4)(a), (b) or (c), have regard to all relevant circumstances.
- (6) A person who wishes to rely on subsection (4) bears an evidential burden in relation to the matters in that subsection.

Power of courts to grant relief

- (7) Section 1318 of the *Corporations Act 2001* (power of Court to grant relief in case of breach of director's duty) does not apply to a liability of a director under this section.

Limitation on certain transfers

426-200 Limitation on community charity corporations making certain transfers

A *community charity corporation must not provide money, property or benefits to:

- (a) another community charity corporation; or
- (b) an *ancillary fund; or
- (c) a *community charity trust;

unless permitted to do so by the *community charity corporation guidelines.

Part 3—Other amendments

A New Tax System (Australian Business Number) Act 1999

35 Paragraph 26(3)(ga)

Omit “or 426-115”, substitute “, 426-115, 426-119 or 426-190”.

Schedule 4—Deductible gift recipients— specific listings

Income Tax Assessment Act 1997

1 Subsection 30-45(2) (table item 4.2.44, column headed “Special conditions”)

Omit “9 March 2023”, substitute “9 March 2028”.

2 Section 30-90 (table item 10.2.9, column headed “Special conditions”)

Omit “and before 1 July 2023”.

3 In the appropriate position in subsection 30-105(2) (table)

Insert:

13.2.38	Justice Reform Initiative Limited	the gift must be made after 30 June 2023 and before 1 July 2028
13.2.39	Transparency International Australia	the gift must be made after 30 June 2023

4 Section 30-315 (after table item 64AA)

Insert:

64AB	Justice Reform Initiative Limited	item 13.2.38
------	-----------------------------------	--------------

5 Section 30-315 (after table item 116AA)

Insert:

116AB	Transparency International Australia	item 13.2.39
-------	--------------------------------------	--------------

Schedule 5—Exemption for Global Infrastructure Hub Ltd

Income Tax Assessment Act 1997

1 Section 50-40 (table item 8.4, column headed “Special conditions”, paragraph (b))

Omit “1 July 2023”, substitute “1 July 2024”.

Note: Table item 8.4 of section 50-40 will be repealed on 1 July 2025: see Part 2 of Schedule 4 to the *Tax and Superannuation Laws Amendment (2015 Measures No. 1) Act 2015*.

Schedule 6—Income tax amendments for updates to accounting standards for general insurance contracts

Part 1—Main amendments

Income Tax Assessment Act 1997

1 Section 321-10 (heading)

Repeal the heading, substitute:

321-10 Assessable income to include amount for reduction in adjusted liability for incurred claims

2 Paragraph 321-10(a)

Repeal the paragraph, substitute:

- (a) the value, at the end of the previous income year, of the company's adjusted *liability for incurred claims under *general insurance policies; exceeds

3 Section 321-15 (heading)

Repeal the heading, substitute:

321-15 Deduction for increase in adjusted liability for incurred claims

4 Paragraph 321-15(a)

Repeal the paragraph, substitute:

- (a) the value, at the end of the current year, of the company's adjusted *liability for incurred claims under *general insurance policies; exceeds

5 Section 321-20

Repeal the section, substitute:

321-20 How the value of adjusted liability for incurred claims is worked out

Work out the value, at the end of an income year, of a *general insurance company's adjusted *liability for incurred claims under *general insurance policies in this way:

Method statement

- Step 1. Use the *applicable insurance contracts accounting standard to measure, at the end of the income year, the company's *liability for incurred claims under *general insurance policies, but when doing so disregard any claims handling costs that are neither attached to, nor directly attributable to, a particular claim.
- Step 2. Using that standard, reduce the result from step 1 by so much of that result as the company expects at the end of the income year to recover under a reinsurance contract:
- (a) within the meaning of that standard; but
 - (b) that is not one to which subsection 148(1) of the *Income Tax Assessment Act 1936* (about reinsurance with non-residents) applies.

6 Section 321-45

Omit “or receivable”.

7 Section 321-50 (heading)

Repeal the heading, substitute:

321-50 Assessable income to include amount for reduction in adjusted liability for remaining coverage

8 Paragraph 321-50(a)

Omit “unearned premium reserve”, substitute “adjusted *liability for remaining coverage under *general insurance policies”.

9 Paragraph 321-50(b)

Omit “reserve”, substitute “liability”.

10 Section 321-55 (heading)

Repeal the heading, substitute:

321-55 Deduction for increase in adjusted liability for remaining coverage

11 Paragraph 321-55(a)

Omit “unearned premium reserve”, substitute “adjusted *liability for remaining coverage under *general insurance policies”.

12 Paragraph 321-55(b)

Omit “reserve”, substitute “liability”.

13 Section 321-60

Repeal the section, substitute:

321-60 How the value of adjusted liability for remaining coverage is worked out

Work out the value, at the end of an income year, of a *general insurance company’s adjusted *liability for remaining coverage under *general insurance policies in this way:

Method statement

- Step 1. Use the *applicable insurance contracts accounting standard to measure, at the end of the income year, the company’s *liability for remaining coverage under *general insurance policies, but when doing so disregard that standard’s treatment of loss components and loss-recovery components of onerous contracts (within the meaning of that standard).
- Step 2. Using that standard, reduce the result from step 1 by any *asset for insurance acquisition cash flows.

Schedule 6 Income tax amendments for updates to accounting standards for general insurance contracts

Part 1 Main amendments

- Step 3. Using that standard, reduce the result from step 2 by any premiums paid or payable by the company, in that or an earlier income year, for the reinsurance of risks covered by those *general insurance policies in respect of later income years, except:
- (a) reinsurance premiums that the company cannot deduct because of subsection 148(1) of the *Income Tax Assessment Act 1936* (about reinsurance with non-residents); and
 - (b) reinsurance premiums that were paid or payable in respect of a particular class of *insurance business if, under the reinsurance contract (within the meaning of that standard), the reinsurer agreed to pay, in respect of a loss incurred by the company that is covered by the relevant policy, some or all of the excess over an agreed amount.
- Step 4. Using that standard, add to the result from step 3 any reinsurance commissions received or receivable by the company that relate to reinsurance premiums counted under step 3.

14 Subsection 995-1(1)

Insert:

applicable insurance contracts accounting standard means:

- (a) unless paragraph (b) applies—*accounting standard AASB 17, as in force on 31 December 2022; or
- (b) if the regulations prescribe another accounting standard (which may be AASB 17 as in force at another time)—that accounting standard.

asset for insurance acquisition cash flows has the same meaning as in the *applicable insurance contracts accounting standard.

liability for incurred claims has the same meaning as in the *applicable insurance contracts accounting standard.

Note: For how to work out the adjusted liability for incurred claims, see section 321-20.

liability for remaining coverage has the same meaning as in the *applicable insurance contracts accounting standard.

Note: For how to work out the adjusted liability for remaining coverage, see section 321-60.

Part 2—Other amendments

Income Tax Assessment Act 1997

15 Section 10-5 (table item headed “general insurance companies and companies that self insure”)

Repeal the item, substitute:

general insurance companies and companies that self insure

gross premiums.....	321-45
reduction in value of adjusted liability for incurred claims	321-10
reduction in value of adjusted liability for remaining coverage	321-50
reduction in value of outstanding claims liability	321-80

16 Section 12-5 (table item headed “general insurance companies and companies that self insure”)

Repeal the item, substitute:

general insurance companies and companies that self insure

claims paid.....	321-25 and 321-95
increase in value of adjusted liability for incurred claims	321-15
increase in value of adjusted liability for remaining coverage	321-55
increase in value of outstanding claims liability	321-85

17 Paragraph 705-70(1AC)(c)

Repeal the paragraph, substitute:

(c) the liability is either of the following:

- (i) the *liability for incurred claims of a *general insurance company or of a private health insurer (within the meaning of the *Private Health Insurance (Prudential Supervision) Act 2015*) under *general insurance policies;

- (ii) the *liability for remaining coverage of a general insurance company or of a private health insurer (within the meaning of that Act) under general insurance policies; or

18 Paragraph 713-710(a)

Omit “the outstanding claims liability of a *general insurance company”, substitute “a *general insurance company’s adjusted *liability for incurred claims”.

19 Paragraph 713-710(b)

Omit “the unearned premium reserve of a general insurance company”, substitute “a general insurance company’s adjusted *liability for remaining coverage”.

20 Section 713-710 (note 1)

Omit “the outstanding claims liability of a general insurance company”, substitute “a general insurance company’s adjusted liability for incurred claims”.

21 Section 713-710 (note 2)

Omit “the unearned premium reserve of a general insurance company”, substitute “a general insurance company’s adjusted liability for remaining coverage”.

22 Subsection 713-725(4)

Repeal the subsection, substitute:

- (4) The things are the *general insurance company’s:
- (a) *assets for insurance acquisition cash flows to the extent that they are used to measure the company’s adjusted *liability for remaining coverage; and
 - (b) deferred reinsurance expenses to the extent that they are used to measure the company’s adjusted liability for remaining coverage; and
 - (c) recoveries receivable, or potential recoveries, measured under the *applicable insurance contracts standard to the extent that they relate to insurance contracts or reinsurance contracts; and
-

Schedule 6 Income tax amendments for updates to accounting standards for general insurance contracts

Part 2 Other amendments

- (d) claims handling costs that are neither attached to, nor directly attributable to, a particular claim, to the extent that these costs are used to measure the company's adjusted *liability for incurred claims; and
- (e) loss components and loss-recovery components of onerous contracts to the extent that they are used to measure the company's adjusted liability for remaining coverage.

23 Subsection 995-1(1) (definition of *outstanding claims*)

Repeal the definition.

Part 3—Application and transitional provisions

24 Definition

In this Part:

start year means the first income year starting on or after 1 January 2023.

25 Application of amendments

The amendments made by this Schedule apply in relation to assessments for the start year and later income years.

26 Transitional—first income year for which amendments apply

Scope

- (1) This item applies to a general insurance company unless the company elects for item 27 to apply in the manner set out in that item.

Provision for, and payment of, claims by general insurance companies

- (2) In applying Subdivision 321-A of the *Income Tax Assessment Act 1997* (as amended by this Schedule) to a general insurance company's assessment for the start year:
- (a) treat paragraphs 321-10(a) and 321-15(b) of that Act as referring to the value, at the end of the previous income year, of the company's liability for outstanding claims under general insurance policies; and
 - (b) that value is to be worked out:
 - (i) under section 321-20 of that Act as in force immediately before the commencement of this Schedule; and
 - (ii) not under that section as amended by this Schedule.

- (3) Subitem (2) does not affect paragraph 321-10(b) of that Act.

Note: That paragraph refers to the value, at the end of that first income year, of the company's adjusted liability for incurred claims under general insurance policies.

Schedule 6 Income tax amendments for updates to accounting standards for general insurance contracts

Part 3 Application and transitional provisions

Premium income of general insurance companies

- (4) In applying Subdivision 321-B of the *Income Tax Assessment Act 1997* (as amended by this Schedule) to a general insurance company's assessment for the start year:
- (a) treat paragraphs 321-50(a) and 321-55(b) of that Act as referring to the value, at the end of the previous income year, of the company's unearned premium reserve; and
 - (b) that value is to be worked out:
 - (i) under section 321-60 of that Act as in force immediately before the commencement of this Schedule; and
 - (ii) not under that section as amended by this Schedule.
- (5) Subitem (4) does not affect paragraph 321-50(b) of that Act.

Note: That paragraph refers to the value, at the end of that first income year, of the company's adjusted liability for remaining coverage under general insurance policies.

27 Transitional—special provision for certain income years

Election for this item to apply

- (1) This item applies to a general insurance company for the following income years (each a **relevant income year**) if the company chooses for this item, instead of item 26, to apply to the company:
- (a) the start year;
 - (b) the following 4 income years.
- (2) The choice:
- (a) is irrevocable; and
 - (b) must be made in the approved form by the earlier of:
 - (i) the day by which the company's income tax return for the start year is due to be lodged; and
 - (ii) the day on which that income tax return is lodged.

Note: The Commissioner may defer the time for giving the choice: see section 388-55 in Schedule 1 to the *Taxation Administration Act 1953*.

Interaction with other amendments

- (3) This item has effect in addition to the operation of the *Income Tax Assessment Act 1997*, as amended by this Schedule, provided for by item 25 of this Schedule.

Provision for, and payment of, claims by general insurance companies

- (4) If:
- (a) the value, at the end of the income year before the start year, of the company's liability for outstanding claims under general insurance policies as worked out:
 - (i) under section 321-20 of the *Income Tax Assessment Act 1997* as in force immediately before the commencement of this Schedule; and
 - (ii) not under that section as amended by this Schedule; exceeds
 - (b) the value, at the end of the income year before the start year, of the company's adjusted liability for incurred claims under general insurance policies as worked out under section 321-20 of that Act as amended by this Schedule;

the company's assessable income for each relevant income year includes an amount equal to one-fifth of the excess.

- (5) If:
- (a) the value, at the end of the income year before the start year, of the company's adjusted liability for incurred claims under general insurance policies as worked out under section 321-20 of the *Income Tax Assessment Act 1997* as amended by this Schedule; exceeds
 - (b) the value, at the end of the income year before the start year, of the company's liability for outstanding claims under general insurance policies as worked out:
 - (i) under section 321-20 of that Act as in force immediately before the commencement of this Schedule; and
 - (ii) not under that section as amended by this Schedule;

the company can deduct for each relevant income year an amount equal to one-fifth of the excess.

Premium income of general insurance companies

- (6) If:
- (a) the value, at the end of the income year before the start year, of the company's unearned premium reserve as worked out:
 - (i) under section 321-60 of the *Income Tax Assessment Act 1997* as in force immediately before the commencement of this Schedule; and
 - (ii) not under that section as amended by this Schedule; exceeds
 - (b) the value, at the end of the income year before the start year, of the company's adjusted liability for remaining coverage under general insurance policies as worked out under section 321-60 of that Act as amended by this Schedule;

the company's assessable income for each relevant income year includes an amount equal to one-fifth of the excess.

- (7) If:
- (a) the value, at the end of the income year before the start year, of the company's adjusted liability for remaining coverage under general insurance policies as worked out under section 321-60 of the *Income Tax Assessment Act 1997* as amended by this Schedule; exceeds
 - (b) the value, at the end of the income year before the start year, of the company's unearned premium reserve as worked out:
 - (i) under section 321-60 of that Act as in force immediately before the commencement of this Schedule; and
 - (ii) not under that section as amended by this Schedule;

the company can deduct for each relevant income year an amount equal to one-fifth of the excess.

Company ceases to carry on insurance business

- (8) However, if the company ceases in a relevant income year to carry on an insurance business:
- (a) subitems (4) to (7) do not apply for that income year or any future income years; and

- (b) instead, for that income year, so much of any excess referred to in any of those subitems as has not been included in the company's assessable income, or allowed as a deduction, for any previous relevant income years is to be included in that assessable income or allowed as a deduction (as the case requires).

Schedule 7—Non-arm's length expenses of superannuation funds

Income Tax Assessment Act 1997

1 Subsection 295-545(2)

Repeal the subsection, substitute:

- (2) If an entity is not of a kind referred to in paragraph 295-550(8)(a) (about certain small entities), the *non-arm's length component* for an income year is the entity's *non-arm's length income for that year less any deductions to the extent that they are attributable to that income.
- (2A) If the entity is of a kind referred to in paragraph 295-550(8)(a) (about certain small entities), the *non-arm's length component* for an income year is the lesser of:
 - (a) the sum of:
 - (i) each amount of the entity's *non-arm's length income under subsection 295-550(1), (2), (4) or (5) for that year less any deductions to the extent that they are attributable to that income; and
 - (ii) each amount of the entity's non-arm's length income under subsection 295-550(8) or (9) for that year; and
 - (b) the entity's taxable income for the income year:
 - (i) less the contributions that are included in the entity's assessable income under Subdivision 295-C for the income year; and
 - (ii) plus any deductions to the extent that they are attributable to those contributions.

2 Paragraphs 295-550(1)(b) and (c)

Repeal the paragraphs, substitute:

- (b) if the entity is of a kind referred to in paragraph (8)(a) (about certain small entities):
 - (i) in gaining or producing the income, the entity incurs a loss, outgoing or expenditure of an amount that is less

than the amount of a loss, outgoing or expenditure that the entity might have been expected to incur if those parties had been dealing with each other at arm's length in relation to the scheme; and

- (ii) subsection (8) does not apply to the loss, outgoing or expenditure;
- (c) if the entity is of a kind referred to in paragraph (8)(a) (about certain small entities):
 - (i) in gaining or producing the income, the entity does not incur a loss, outgoing or expenditure that the entity might have been expected to incur if those parties had been dealing with each other at arm's length in relation to the scheme; and
 - (ii) subsection (9) does not apply to the loss, outgoing or expenditure that the entity might have been expected to incur.

3 Paragraphs 295-550(5)(b) and (c)

Repeal the paragraphs, substitute:

- (b) if the entity is of a kind referred to in paragraph (8)(a) (about certain small entities)—in acquiring the entitlement or in gaining or producing the income, the entity incurs a loss, outgoing or expenditure of an amount that is less than the amount of a loss, outgoing or expenditure that the entity might have been expected to incur if those parties had been dealing with each other at arm's length in relation to the scheme;
- (c) if the entity is of a kind referred to in paragraph (8)(a) (about certain small entities)—in acquiring the entitlement or in gaining or producing the income, the entity does not incur a loss, outgoing or expenditure that the entity might have been expected to incur if those parties had been dealing with each other at arm's length in relation to the scheme.

4 At the end of section 295-550

Add:

Certain small entities—general expenses

(8) If:

(a) a *complying superannuation entity is:

- (i) a *regulated superannuation fund with no more than 6 members; or
- (ii) a *self managed superannuation fund; and

(b) as a result of a *scheme the parties to which were not dealing with each other at *arm's length in relation to the scheme:

- (i) in gaining or producing the *ordinary income and *statutory income of the entity (but not in gaining or producing income in relation to any particular asset or assets of the entity), the entity incurs a loss, outgoing or expenditure of an amount; and
- (ii) the amount is less than the amount of a loss, outgoing or expenditure that the entity might have been expected to incur if those parties had been dealing with each other at arm's length in relation to the scheme;

an amount of the entity's ordinary income and statutory income equal to twice the difference between the amount that the entity did incur and the amount that the entity might have been expected to incur is ***non-arm's length income*** of the entity.

(9) If:

(a) a *complying superannuation entity is of a kind referred to in paragraph (8)(a) (about certain small entities); and

(b) as a result of a *scheme the parties to which were not dealing with each other at *arm's length in relation to the scheme, in gaining or producing the *ordinary income and *statutory income of the entity (but not in gaining or producing income in relation to any particular asset or assets of the entity), the entity does not incur a loss, outgoing or expenditure that the entity might have been expected to incur if those parties had been dealing with each other at arm's length in relation to the scheme;

an amount of the entity's ordinary income and statutory income equal to twice the amount that the entity might have been expected to incur is ***non-arm's length income*** of the entity.

5 Application of amendments

- (1) The amendments of the *Income Tax Assessment Act 1997* made by this Schedule apply in relation to income derived in the 2018-19 income year or a later income year.
- (2) Despite subitem (1), the amendments do not apply in relation to:
 - (a) a loss, outgoing or expenditure that is incurred before the 2018-19 income year; and
 - (b) a loss, outgoing or expenditure that was not incurred before the 2018-19 income year, but might have been expected to be incurred before the 2018-19 income year.
- (3) To avoid doubt, the amendments of the *Income Tax Assessment Act 1997* made by Schedule 2 to the *Treasury Laws Amendment (2018 Superannuation Measures No. 1) Act 2019* do not apply, and are taken never to have applied, in relation to:
 - (a) a loss, outgoing or expenditure that is incurred before the 2018-19 income year; and
 - (b) a loss, outgoing or expenditure that was not incurred before the 2018-19 income year, but might have been expected to be incurred before the 2018-19 income year.

Schedule 8—AFCA scheme

Part 1—Main amendments

Corporations Act 2001

1 Section 9 (definition of *superannuation complaint*)

Omit “subsections 1053(3) and (4)”, substitute “section 1053”.

2 Section 761A (definition of *superannuation complaint*)

Omit “subsection 1053(3)”, substitute “section 1053”.

3 Subsection 1051(4) (note)

Omit “The complaints may be complaints relating to superannuation or complaints relating to other financial services.”.

4 Subdivision A of Division 3 of Part 7.10A (heading)

Repeal the heading, substitute:

Subdivision A—Preliminary

5 Section 1053 (heading)

Repeal the heading, substitute:

1053 Meaning of *superannuation complaint*

6 Subsection 1053(1)

Omit “A person may, subject to section 1056, make a complaint relating to superannuation under the AFCA scheme only if the complaint is a complaint”, substitute “Subject to subsection (4), a complaint made under the AFCA scheme is a *superannuation complaint* if the complaint is”.

7 Subsection 1053(1) (note 1)

Repeal the note.

8 Subsection 1053(1) (note 2)

Omit “2”.

9 Subsection 1053(3)

Repeal the subsection.

10 At the end of Subdivision A of Division 3 of Part 7.10A

Add:

1053B This Division does not restrict ability to make other complaints

To avoid doubt, this Division does not limit the ability of a person to make a complaint under the AFCA scheme (including a complaint relating to superannuation) that is not a superannuation complaint.

Note: Schedule 8 to the *Treasury Laws Amendment (Support for Small Business and Charities and Other Measures) Act 2024*, which added this section, was enacted as a response to the decision of the Federal Court of Australia in *MetLife Insurance Limited v Australian Financial Complaints Authority Limited* [2022] FCAFC 173.

Part 2—Application provision

Corporations Act 2001

11 In the appropriate position in Chapter 10

Insert:

Part 10.73—Application provisions relating to Schedule 8 to the Treasury Laws Amendment (Support for Small Business and Charities and Other Measures) Act 2024

1703 Application provision

- (1) The amendments made by Part 1 of Schedule 8 to the *Treasury Laws Amendment (Support for Small Business and Charities and Other Measures) Act 2024* apply in relation to a complaint made under the AFCA scheme, whether the complaint was made before, on or after the commencement of this section.
- (2) To avoid doubt, a reference in subsection (1) of this section to a complaint made under the AFCA scheme includes a reference to a complaint that:
 - (a) was purportedly made under the AFCA scheme before that commencement; and
 - (b) was a complaint relating to superannuation but was not a superannuation complaint.
- (3) Despite subsection (1), the amendments do not affect the validity (or invalidity) of a determination, made or purportedly made by AFCA before that commencement, of a complaint made under the AFCA scheme.

Part 3—Other amendments

Treasury Laws Amendment (2023 Law Improvement Package No. 1) Act 2023

12 Item 555 of Schedule 2 (heading)

Omit “2”.

*[Minister’s second reading speech made in—
House of Representatives on 13 September 2023
Senate on 27 November 2023]*

(113/23)

No. 52, 2024 *Treasury Laws Amendment (Support for Small Business and Charities
and Other Measures) Act 2024* 49