



Submission to the

BOARD OF TAXATION

on

***The Definition of a
Charity***

contained in the Exposure Draft
of the

CHARITIES BILL 2003

By

**The Australian Associations of Christian Schools
(AACCS)**

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INTRODUCTION

The Australian Associations of Christian Schools includes two large member Associations, namely, Christian Schools Australia and Christian Parent Controlled Schools as well as many independent Christian schools. In total there are 253 Christian schools in membership. These schools educate 75,000 students and are located in every Australian State and Territory.

All Christian schools are co-educational with more than half of them serving regional, rural or remote Australian communities. The schools have been established by a Protestant church and/or a group of Protestant parents. Christian schools serve dominantly middle and working class Australian families. This is evidenced by their socio-economic status (SES) which defines their level of funding provided by the Commonwealth government.

Christian schools employ in excess of 5,000 teachers and staff. To be funded by the Commonwealth, it is a requirement that these schools are not for profit and are registered by the appropriate State/Territory education authority. Many of the schools include in their enrolments students with disabilities, indigenous students and students whose first language is not English.

CONSULTATION ON THE DEFINITION OF A CHARITY

AACS is responding to an invitation by the Board of Taxation, on behalf of the Federal Treasurer, to the proposed definition of a charity in the Exposure Draft of the Charities Bill 2003.

AACS has received and read the *Press Release* from the Treasurer, the *Explanatory Material* circulated with the authority of the Treasurer and the Exposure Draft of the *Charities Bill 2003*.

AACS through its Executive Officer participated in a consultation with officers from the Board of Taxation on the definition of a charity. This consultation took place in Canberra on 28 August 2003.

AACS has also considered the advice and recommendations of other non-government school and legal authorities in this regard. It is important, however, to emphasise that the opinions expressed in this submission are entirely those of its author.

A BILL FOR AN ACT TO DEFINE CHARITIES AND CHARITABLE PURPOSE, AND FOR RELATED PURPOSES

The parts of the Bill relevant to this AACS submission are:

- Part 2 Section 4(1)(d) - Core definition: disqualifying purposes;
- Part 2 Section 7(1)(c) and (2) - Public benefit: to a sufficient section of the general community and "numerically negligible"; and
- Part 2 Section 8(2)(c) - Disqualifying purposes: change the law or government policy.

CORE DEFINITION: DISQUALIFYING PURPOSE

The Bill in its current form excludes in its core definition of a charity "reference to an entity that" "does not have a disqualifying purpose". (Part 2 Section 4(1)(d))

Also in Part 2 under Section 8, disqualifying purposes are further described. Specifically, Part 2 Section 8(2)(c) identifies as a disqualifying purpose "attempting to change the law or government policy".

Associations such as AACS have as their primary objective the advancement of education. In pursuing that objective, AACS and like organisations be they educational, environmental, welfare or health, often have to engage in purposes, the outcome of which is designed to bring about change in the law or government policy.

In fact, it could be argued that in a democratic society such as Australia, improved legislation and government policy often results from the intervention and advocacy of groups committed to the advancement of education, health or welfare.

Therefore, AACS submits that: Part 2 Section 8(2)(c) be deleted.

PUBLIC BENEFIT

Section 7 of Part 2 describes in some detail what constitutes public benefit. This detail limits the application of public benefit to the general community which is further described as of "sufficient section", that is not, "numerically negligible". (Part 2 Section 7(1)(c) and (2).

Section 6 of Part 2 talks of an entity that has a “dominant purpose that is charitable”. Part 3 Section 10(1)(b) refers to the “advancement of education” as a charitable purpose.

Christian schools in membership with AACS and funded by the Commonwealth government have, as their dominant purpose, the “advancement of education”. These same schools are required by the Commonwealth, if they are to receive funding, to be “not for profit”.

Schools in Australia, be they non-government or government, have as their primary purpose the education of their students. If for geographical (isolation), special (students with disabilities), ethnic (indigenous) or behavioural reasons the school is not seen to benefit “a sufficient section of the general community”, it could fail to meet the definition of charity as defined in the Bill.

Therefore, AACS submits that: Part 2 Section 7(1)(c) and (2) be deleted.

Thank you for the opportunity to respond.

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