

LEGAL LINK:NOT-FOR-PROFIT

COMPACT - REDUCING RED TAPE

In March 2010 the Federal Government launched the National Compact – a framework for partnership between the not-for-profit sector and government.

At the same time, Carroll & O'Dea hosted a presentation by Father Brian Lucas who as a member of the *National Compact Advisory Group*, spoke on current legal issues for the not-for-profit sector and the Compact's ability to reduce red tape.

Since the federal election in August, 2010, the Government has made two changes that are relevant to the National Compact and the not-for-profit sector.

Firstly, the portfolio of Parliamentary Secretary for Social Inclusion and the Voluntary Sector held by Senator Ursula Stephens, no longer exists. The Compact will now be taken up by Tanya Plibersek, as Minister for Social Inclusion within the department of Prime Minister and Cabinet.

Secondly, in line with the Gillard Government's election commitment, the *Non-Profit Sector Reform Council* will be established; initially for a period of one year to support the implementation of the Compact. The Council will provide advice on options for a national 'one-stop-shop' for the not-for-profit sector and advice on streamlining government tendering processes for government-funded not-for-profit organisations.

In view of the establishment of the new Council the *National Compact Advisory Group* will be wound up. The Government has indicated that any reforms will follow wide consultation. Carroll & O'Dea will be monitoring any developments and will keep you informed.



Josephine Heesh
Associate

Aid Watch Decision

On 1 December, 2010, the High Court delivered its decision in the case of AidWatch Incorporated v Commissioner of Taxation.

This decision is a significant development for the not for profit sector because it reflects a move to a more modern view of groups who seek to bring about change in policy for the benefit of those in need.

AidWatch researches and monitors the delivery of government overseas aid. It then advocates and campaigns on the delivery and effectiveness

of that aid. AidWatch had become endorsed as a tax concession charity in 2000.

The question before the court was whether the objects of AidWatch, including advocacy and campaigning for change to government policy, would disqualify AidWatch as a charity.

The Court found for AidWatch, determining that:

- » generating public debate about the lawful efficiency of foreign aid is itself a purpose beneficial to the community
- » In Australia there is no general doctrine which excludes 'political objects' from charitable purposes



Howard Harrison
Managing Partner



Patricia Monemvasitis
Associate

WILL GIFT FAILURE

While many people make gifts to charities in their Will, those gifts can often fail when it comes time for the executor to administer the estate.

To avoid the failure of a gift to a charity in a will three steps should be taken:

NOT FOR PROFIT



Michael O'Dea
Special Counsel

*this legacy shall not fail but my
Trustee shall pay it to the charitable
organisation that my Trustee considers
most nearly fulfils the objects that
I intended to benefit.*

I give \$[dollars]
to [Charity Name]
for the general
purposes of
the charity
and I direct
that the
receipt of the
Treasurer
for the time
being of that

Step 1. Identify the charity in as much detail as possible. Include the charity's full name, and its principal address, especially if the charity operated in more than one state, and it is intended that the gift go to one of the state divisions rather than the national organisation.

Step 2. Describe the purpose for which the charity is to apply the money eg "for the general purposes of the charity", or for example more specifically "for research into blood disorders in children".

Step 3. Should the charity no longer exist at the time of the estate's administration use the following words:

I give [dollars] to [ABC Charity] for the general purposes of the charity. I direct that the receipt of the Treasurer for the time being of that charity shall be sufficient discharge to my trustee. If at my death [ABC Charity] has:

- » *Ceased to exist*
- » *amalgamated with another charity*
- » *changed its name*

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