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Title: Has the *Charities Act 2013* changed the common law concept of charitable 'public benefit' and if so how?

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Abstract

In 2013 the *Charities Act 2013* (Cth) was enacted and it came into effect on 1 January 2014. This is the first time that there has been an enactment of a statutory definition of the legal concept of 'charity' in Australia. The definition is important for many areas of personal and commercial life however one of the most significant, at least from a legal point of view, is how this definition operates in the context of Australian taxation law. This is particularly relevant in view of the fact that charities are exempt from income tax and subject to many other tax concessions at federal, state and local government level. Under Australian common law a charitable entity was required to have a charitable purpose and be of benefit to the public. This paper introduces the statutory definition and how it confirms the common law definition of charity and charitable purpose in certain instances but also amends and expands these concepts. This discussion is provided as a context for the analysis of how the issue of public benefit has been dealt with under the statute. The paper concludes with an evaluation of how the Act has amended the application of the public benefit test to recipients of payments in respect of native title and traditional Indigenous lands.