

**FACT SHEET**

# **Operational Statement**

## **Charities and donee organisations:**

### **Part 2 Donee organisations**

Issued: 10 October 2022

OS 22/04 - Part 2 FS

This fact sheet accompanies *Operational Statement Charities and donee organisations: Part 2 Donee organisations*, which assists entities in the not-for-profit sector to understand their tax obligations and available tax benefits. For charities that have donee status, donors may receive favourable tax treatments such as donation tax credits, payroll giving tax credits and income tax gift deductions.

*Operational Statement Charities and donee organisations: Part 2 Donee organisations* explains the types of entity that can become a donee organisation, including registered charities, entities requiring the Commissioners approval as a donee organisation, donee organisations by definition and donee organisations approved by Parliament. It also describes the tax benefits of being a donee organisation including tax credits and gift deductions for charitable or other public benefit gifts made by donors and FBT concessions.

All paragraph references (in this Fact Sheet) are to *Operational Statement Charities and donee organisations: Part 2 Donee organisations*.

## **Key provisions**

All section references are to the Income Tax Act 2007 (ITA) unless otherwise specified. Other key provisions are included in the Charities Act 2005 (Charities Act) where indicated.

## What is a donee organisation and donee status

“Donee organisation” is defined in s YA 1 as summarised below in Key terms.

An organisation that meets the definition of donee organisation is referred to as having “donee status”.

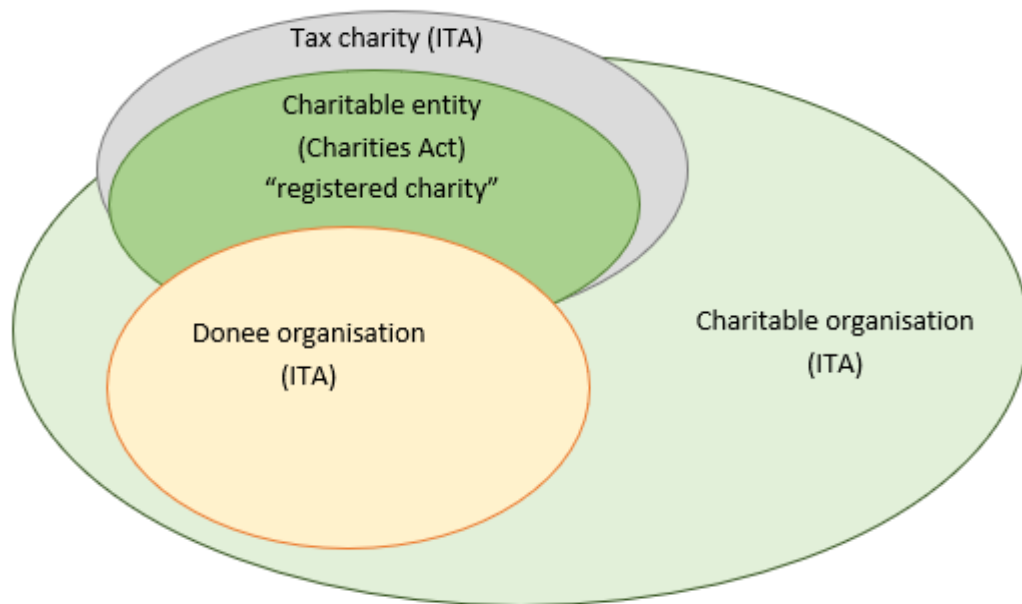
For a more detailed discussion of what is a donee organisation and donee status, see [10] – [13].

### Key terms

<p><b>donee organisation</b></p>	<p>Defined in ss YA 1 and LD 3(2) (Meaning of charitable or other public benefit gift):</p> <ul style="list-style-type: none"> <li>• a society*, institution*, association*, organisation*, or trust*;             <ul style="list-style-type: none"> <li>○ that is not carried on for the private pecuniary profit of an individual;</li> <li>○ whose funds are applied wholly or mainly to charitable, benevolent, philanthropic, or cultural purposes within New Zealand;</li> </ul> </li> <li>• certain community housing entities, public institutions*, boards constituted under the Education and Training Act 2020, tertiary education institutions, funds,* and public funds*;</li> <li>• an entity approved by Parliament and listed in schedule 32 (Recipients of charitable or other public benefit gifts)</li> <li>• an entity that no longer meets the requirements of donee organisation because it is removed from the charities register (for a limited time while appeal is pending)</li> </ul> <p><i>* these entities must be a registered charity, if eligible</i></p>
<p><b>donee status</b></p>	<p>The status of an organisation that meets the definition of donee organisation</p>
<p><b>charity</b></p>	<p>Not defined in the ITA or Charities Act, but common law has established the hallmarks of a charity are that:</p>

	<ul style="list-style-type: none"> <li>the purpose of the charity is for the public benefit; and</li> <li>the purpose is charitable</li> </ul>
<b>charitable entity (referred to as a "registered charity")</b>	<p>Defined in the Charities Act:</p> <ul style="list-style-type: none"> <li>a society, institution or the trustee of a trust</li> <li>that is registered as a charitable entity under the Charities Act</li> </ul>
<b>charitable organisation</b>	<p>Defined in the ITA s YA 1, for a quarter or an income year:</p> <ul style="list-style-type: none"> <li>an association, fund, institution, organisation, society or trust; <ul style="list-style-type: none"> <li>that is not carried on for the private pecuniary profit of an individual; and</li> <li>whose funds are applied wholly or mainly to charitable, benevolent, philanthropic, or cultural purposes within New Zealand;</li> </ul> </li> <li>an entity approved by Parliament and listed in schedule 32 (Recipients of charitable or other public benefit gifts);</li> <li>an entity that has been removed from the register of charitable entities (for a limited time while appeal is pending);</li> <li>does not include a local authority, a public authority or a university</li> </ul>
<b>tax charity</b>	<p>Defined in the ITA ss YA 1 and CW 41(5) – generally:</p> <ul style="list-style-type: none"> <li>a registered charity (including a deregistered entity for a limited time while appeal of deregistration is pending); and</li> <li>any non-resident entity carrying out charitable purposes overseas the Commissioner has approved as a tax charity</li> </ul>

**Figure 1: Relationship between overlapping definitions in the ITA and Charities Act**



## Types of donee organisations

To qualify for donee status, an entity must satisfy at least one of the descriptions of a donee organisation set out in s LD 3(2) or be approved by Parliament and listed in schedule 32 as a recipient of charitable or other public benefit gifts.

The four types of donee organisation are:

- entities registered with Charities Services that receive donations and that apply its funds “wholly or mainly” to charitable, benevolent, philanthropic or cultural purposes within New Zealand, see from [17] – [24]. In administration of the wholly or mainly requirement, the Commissioner uses a “safe harbour” basis of 75% or more. To maintain donee status, an entity may calculate the percentage of funds applied in New Zealand by using a rolling three-year average. However, if in any year it applies less than 50% of its funds to charitable, benevolent, philanthropic or cultural purposes within New Zealand, it needs to notify Inland Revenue immediately, as it no longer has donee status, see [49] – [59];
- entities not eligible to register under the Charities Act that have benevolent, philanthropic or cultural purposes, which can be approved as donee organisations by the Commissioner upon application, see from [25] – [92];
- entities that automatically qualify by satisfying specific definitions, such as certain community housing entities, board of trustees constituted under the Education and

Training Act 2020 that is not carried on for the private pecuniary profit of any individual and certain tertiary education institutions, see [93] – [95]; and

- entities that apply funds for other than charitable, benevolent, philanthropic or cultural purposes in New Zealand, approved by Parliament and listed in schedule 32, see [96] – [108].

## Tax benefits of being a donee organisation

The main advantage of being a donee organisation is the benefit it brings to the donors who make charitable or other public benefit gifts of \$5 or more. Individuals who make such gifts may qualify for tax benefits (such as donation tax credits or payroll giving tax credits), while companies and Māori authorities can qualify for tax benefits (such as income tax gift deductions). These tax benefits are subject to maximum limits.

A donee organisation that is a tax charity may qualify for various income tax exemptions for its business and non-business income, see *Part 1 Charities*.

A donee organisation that meets the definition of charitable organisation may be eligible for resident withholding tax (RWT) exemption, fringe benefit tax (FBT) exclusion and interest-free student loans for overseas volunteers. Donee organisations that are non-profit bodies (as defined in s 2(1) of the Goods and Services Tax Act 1985) may also qualify for goods and services tax (GST) concessions, see *Part 1 Charities*.

For a more detailed discussion of the tax benefits of being a donee organisation, see [109] – [139].

## Record keeping

All donee organisations should keep sufficient records in English or te reo Māori to calculate any tax liability and to demonstrate eligibility for tax exemptions or concessions. Donee organisations must keep a record of the sources of any donations made to it and how its funds have been used, within New Zealand or overseas.

If the Commissioner requests, a donee organisation may be required to provide a breakdown of donations received, including donor details, respective payment dates and payment methods.

If a donee organisation is registered for GST, it must keep records as required under s 75 of the Goods and Services Tax Act 1985.

Records should be kept for a minimum of seven years, even if the donee organisation ceases operating.

For a more detailed discussion of the record keeping requirements, see [155] – [161].

## Requirement to self-assess and notify changes

A donee organisation must continually self-assess, on an annual basis at a minimum, to determine whether it continues to meet the donee status requirements.

If a donee organisation determines that it no longer meets the requirements, it must immediately cease issuing donation tax receipts and inform the Commissioner of its change in circumstances.

The entity will then be removed from the Commissioner's list of Approved donee organisations (if it was included there). If the entity is listed in schedule 32, the Commissioner will inform Parliament that the entity no longer qualifies for inclusion and Parliament will take the necessary steps to remove it from the schedule.

For a more detailed discussion of the requirement to self-assess and notify changes, see [162] – [164].

## Winding up, deregistration and removal of donee status

On winding up, a donee organisation's remaining income and/or assets should be applied to charitable, benevolent, philanthropic or cultural purposes within New Zealand. The donee organisation's rules or constitution should contain provisions outlining what will happen to remaining income and assets on winding up.

A donee organisation may have other statutory requirements that apply on winding up (for example, requirements on liquidation or dissolution).

Donee organisations that are registered charities that become deregistered lose donee status. If it appeals the deregistration, it should notify the Commissioner.

If the deregistered charity does not appeal the deregistration, donors will not be able to claim a donation tax credit or income tax gift deduction for any donations made during the period of deregistration.

A deregistered charity must ensure its donation tax receipts, websites and newsletters clearly state that donations made after the date of deregistration will not qualify a donor for a donation tax credit or an income tax deduction.

The deregistered charity may make a written application to the Commissioner to again be a donee organisation, demonstrating its benevolent, philanthropic or cultural purpose and satisfaction of the other requirements for donee status.

The Commissioner’s decision to remove an organisation’s donee status is a “disputable decision” that can be challenged through the disputes process.

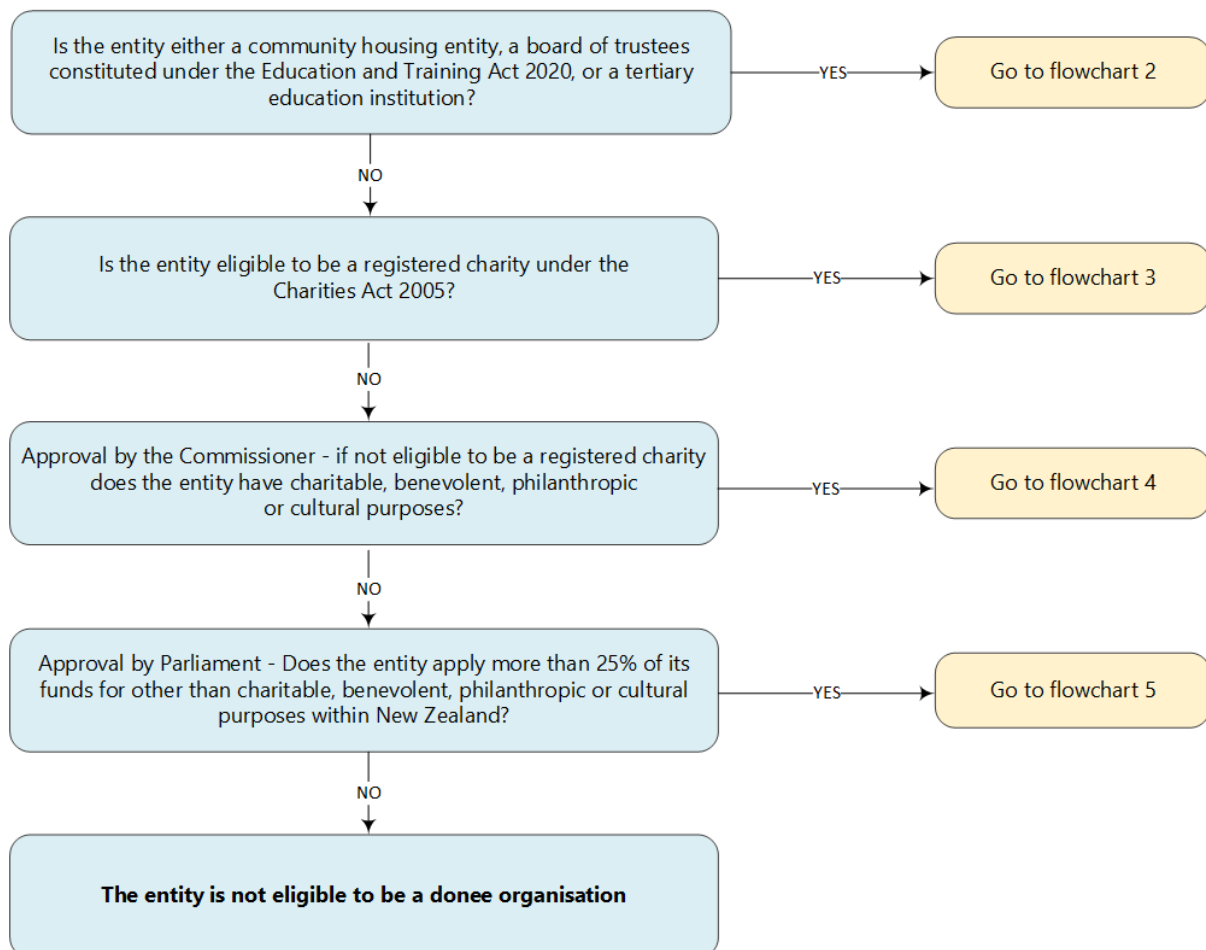
For a more detailed discussion of winding up, deregistration and removal of donee status, see [167] – [173] of *Part 2 Donee organisations*.

## RELATED DOCUMENTS

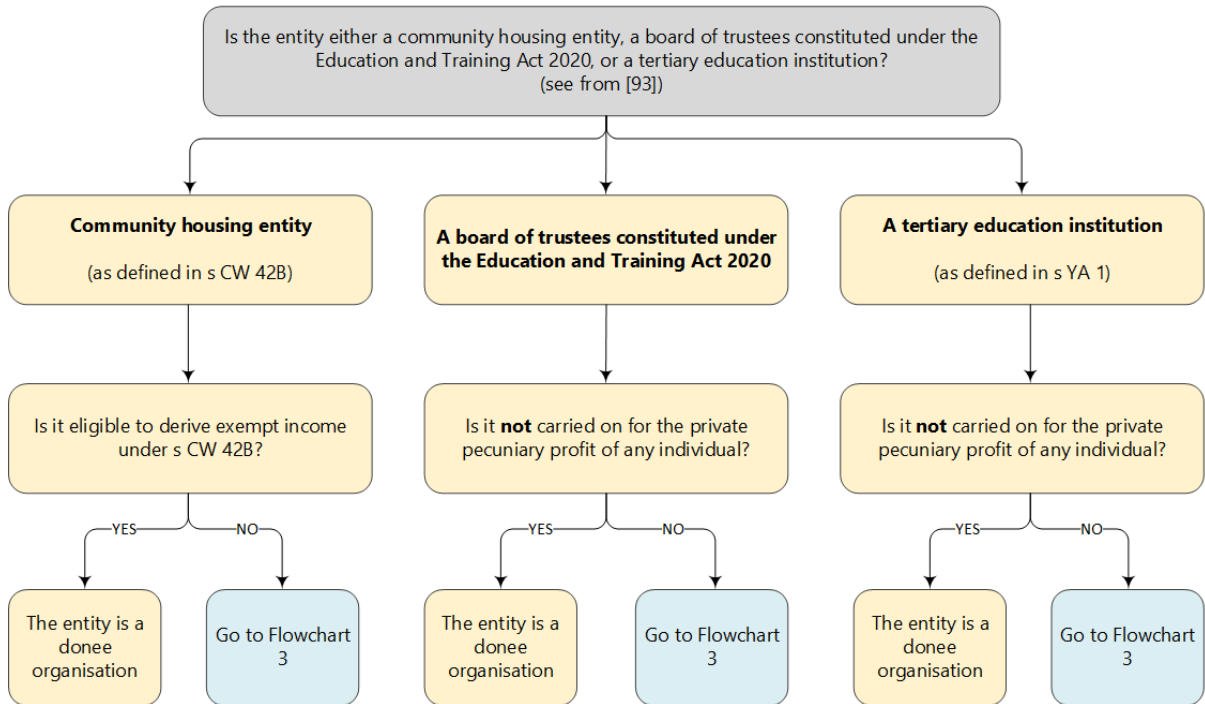
For more information on charities, see:

- *Operational Statement Charities and donee organisations: Part 1 Charities.*

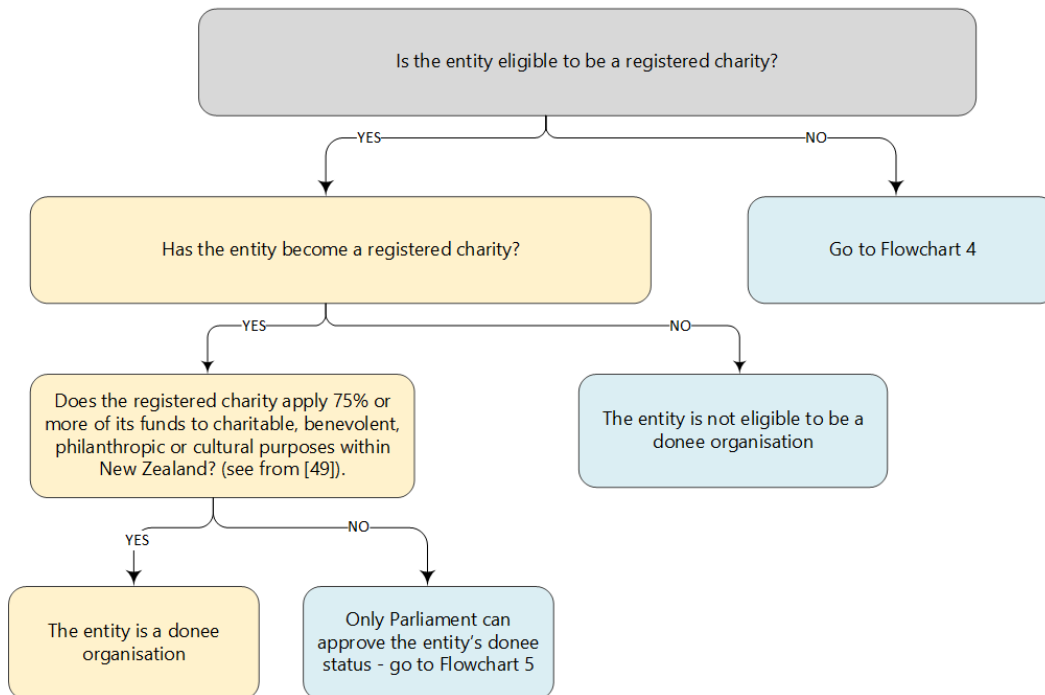
### Flowchart 1 – Is the entity eligible to be a donee organisation?



**Flowchart 2 – Donee status by definition  
(following on from Flowchart 1)**

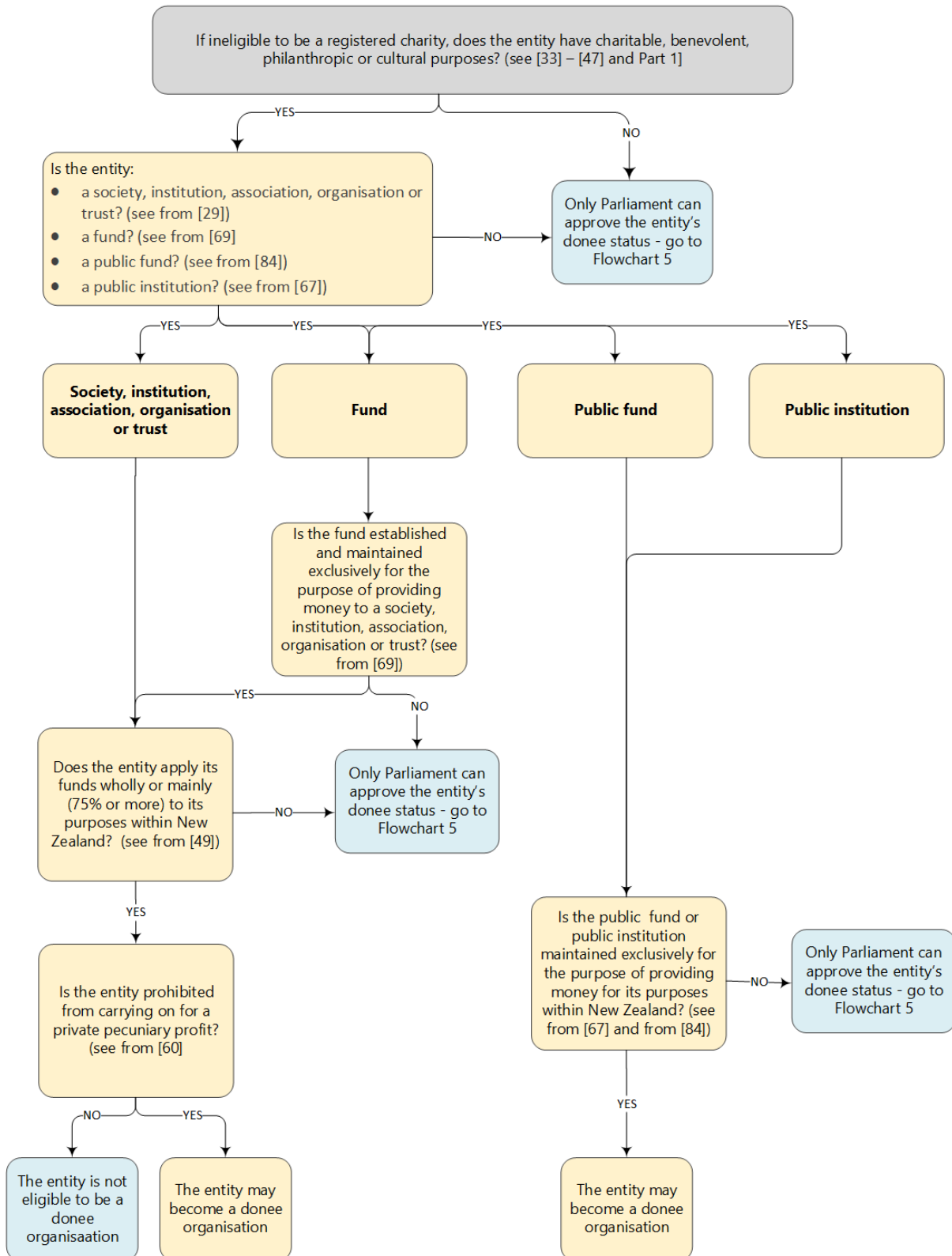


**Flowchart 3 – Donee status by registering under Charities Act 2005  
(following on from Flowchart 1 or Flowchart 2 (donee status by definition))**

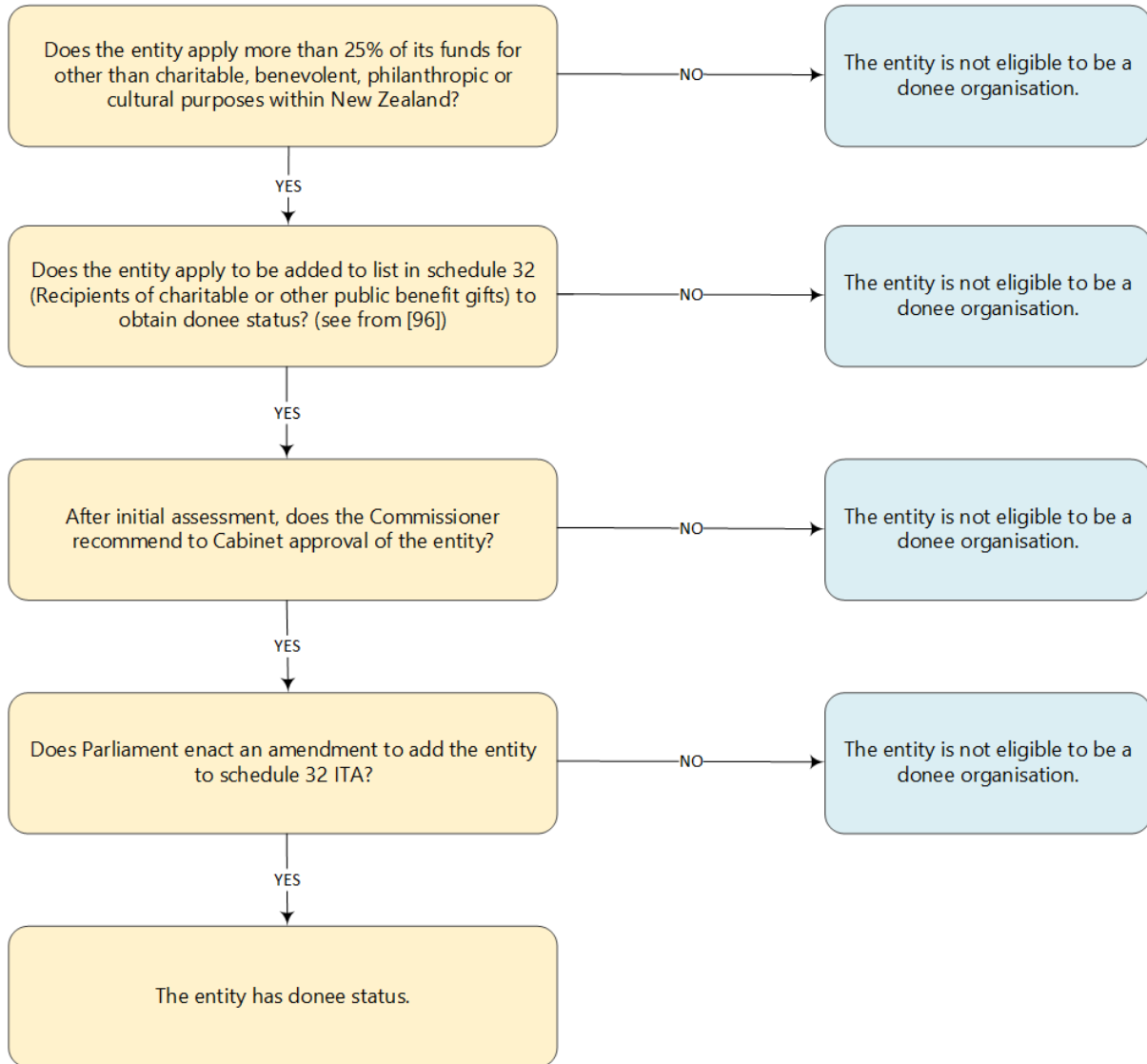




**Flowchart 4 – Donee status by Commissioner approval**  
**(following on from Flowchart 1 or Flowchart 3 (donee status by registering under the Charities Act))**



**Flowchart 5 – Donee status enactment by Parliament  
(following on from Flowchart 1 or Flowchart 3 (donee status by registering under Charities Act) or Flowchart 4 (donee status by Commissioner approval))**



## About this document

Some of our longer or more complex items are accompanied by fact sheets, which summarise and explain the main points. To fully understand the guidance, a fact sheet should be read alongside the full item.