



# Not-for-profit sector reform

## The Department of Treasury and Finance is consulting on the Exposure Draft – *Statutes Amendment (Commonwealth Registered Entities) Bill 2013 (SA)*

### Australian Charities and Not-for-profits Commission

The Commonwealth Government's national not-for-profit sector regulator, the Australian Charities and Not-for-profits Commission (ACNC) was established by the *Australian Charities and Not-for-profits Commission Act 2012* (ACNC Act) and commenced operation on 3 December 2012.

The ACNC is responsible for determining an entity's charitable and other not-for-profit status for all Commonwealth purposes. It is also responsible for providing education and support to the sector, implementing a 'report-once use-often' general reporting framework for charities and establishing a public information portal.

The ACNC is one part of the Commonwealth Government's not-for-profit sector reforms announced in May 2011. The reforms also include:

- A statutory definition of charity in the *Charities Act 2013*.
- Better targeting of tax concessions for not-for-profit organisations.

From 1 July 2014, charities registered with the ACNC will be required to report annual financial information.

### Exposure Draft – *Statutes Amendment (Commonwealth Registered Entities) Bill 2013 (SA)*

The Department of Treasury and Finance is undertaking public consultation on the Exposure Draft – *Statutes Amendment (Commonwealth Registered Entities) Bill 2013 (SA)* (the Exposure Draft).

The Exposure Draft proposes changes to the *Collections for Charitable Purposes Act 1939* and the *Associations Incorporation Act 1985*.

The amendments will eliminate regulatory duplication for charities fundraising in South Australia if they are formally registered with the ACNC.

The Exposure Draft also includes amendments to the *Collections for Charitable Purposes Act 1939* to improve compliance and reporting on which consultation occurred in 2010.

The key proposed amendments to the *Collections for Charitable Purposes Act 1939* and the *Associations Incorporation Act 1985* are discussed below.

### Key Points

- Regulatory duplication with the *Australian Charities and Not-for-Profits Commission Act 2012* (ACNC Act) will be eliminated for charities fundraising in South Australia if they are registered under the ACNC Act.
- Charities registered under the ACNC Act and collecting for a charitable purpose in South Australia as defined under the *Collections for Charitable Purposes Act 1939* will not be required to hold a licence under the Act and report to Consumer and Business Services (CBS) if they comply with the ACNC's regulatory requirements.
- Prescribed associations registered under the ACNC Act and incorporated under the *Associations Incorporation Act 1985* will not be required to provide financial reports to CBS in certain circumstances.



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## **Collections for Charitable Purposes Act 1939**

### Definitions

- The definition of charitable purpose will be changed to:
  - ensure that collections associated with the provision of health services within the meaning of the *Health Care Act 2008* or research require a licence (clause 7(1), new section 4(aa)); and
  - recognise that the provision of health services also includes assistance or support (clause 7(2), section 4(a)).

### Recognition

- A charity registered under the ACNC Act is authorised to act as a collector in South Australia on giving notice in writing to the Minister of its intention to undertake such work (clause 8(2), new section 6(3)).
- Under clause 8(2), new section 6(3)), the requirements of the Minister may include that the notice be provided by the ACNC.

### Red-tape reduction

- Licence classes for entertainments and collection agents have been removed (clauses 9 and 12).

### Eliminating duplication

- A charity registered under the ACNC Act and authorised to act as a collector in South Australia shall be exempt from reporting requirements where financial information has been provided to the ACNC (clause 18(3), new section 15(9)).

### Improve compliance and enforcement

- Clauses 8 and 17 provides the Minister with power to:
  - place conditions on a deemed licensee (new section 6(5)(b));
  - vary, revoke or add conditions (new section 6(6));
  - revoke or suspend the authority to act as a collector on various grounds (new section 6(7));
  - suspend for specified period or until fulfilment of stipulated conditions (new section 6(8));

- request information from the Commissioner of Police (new section 14A); and
- request records, documents or other information connected with the activity (new section 14B).

### Improve disclosure

- Clauses 18 and 20 provides the Minister with the power to:
  - request specified financial information (new section 15(3));
  - publish any financial information received by the Minister on the website maintained by the Minister (new section 15(6)); and
  - disclose information gained in the course of administration of the *Collections for Charitable Purposes Act 1939* to authorities in other jurisdictions or any other person the Minister considers appropriate (new section 17B).

### Other technical amendments

- Provide the Minister with the power to enter into an agreement with the Commissioner of the ACNC for the disclosure of information relating to Commonwealth registered entities (clause 20, new section 17A).
- Increase penalties (Schedule 2).

## **Associations Incorporation Act 1985**

### Reporting

- The changes apply to prescribed associations under the *Associations Incorporation Act 1985*, which are incorporated associations with gross receipts in excess of \$500,000 in the previous financial year.
- Prescribed associations that are required to report to the SA Corporate Affairs Commission (which is a part of CBS) and are registered under the ACNC Act will be exempt from submitting financial reports to the Corporate Affairs Commission if certain requirements are met, these are that:
  - financial information and any auditor's or reviewer's report has been submitted under the ACNC Act; and



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- any other information required by the Corporate Affairs Commission is submitted (clause 4, new section 34(1)).
- Prescribed associations that are registered under the ACNC Act will still be required to lay certain information before members of the association at the annual general meeting of the association as well as causing a report of the committee to be prepared disclosing any benefits received (clause 4, new sections 34(2) and 34(3)).

## Information sharing

- Information sharing provisions enable the ACNC Commissioner and Corporate Affairs Commission the ability to share information (clause 4, new sections 34A and 34B).

## Other technical amendments

- There is a general regulation making power to exempt incorporated associations that are registered under the ACNC Act from the application of the *Associations Incorporation Act 1985* (clause 6, new section 67(2)(ab)).
- The time for prescribed associations registered under the ACNC Act to have an annual general meeting is extended to within 6 months after the end of the financial year of the association to make it consistent with the ACNC Act (clause 5, new section 39(1)).

## How to make a submission

- Submissions that address this Exposure Draft should be sent by email or post by no later than 4 October 2013 to:
  - e-mail: [regulatorypolicy@sa.gov.au](mailto:regulatorypolicy@sa.gov.au)
  - post: Regulatory Policy  
Department of Treasury and Finance  
GPO Box 1045  
Adelaide SA 5001
- Submissions received will be placed on the Department of Treasury and Finance website and may be quoted.
- [View the Exposure Draft on the Treasury website](#)