

# REGULATION OF CHARITIES ACROSS AUSTRALIA

This factsheet provides an overview of some common responsibilities that charities may have and a list of the relevant regulators in each state and territory.

## Obligations to the ACNC

Charities registered with the Australian Charities and Not-for-profits Commission (ACNC) have ongoing obligations to maintain their registration as a charity, including to:

- remain not-for-profit and pursue a charitable purpose
- notify the ACNC of certain changes
- keep records
- report each year
- comply with governance standards (except basic religious charities).

## Obligations to other government departments

In addition to the ACNC, your charity may have obligations to other Commonwealth, state, territory or local government agencies.

Your charity might have obligations or benefits related to:

- its legal structure (for example, as an incorporated association or company limited by guarantee)
- how it raises money (for example, grants or fundraising such as street collections or raffles)
- what it does (for example, specific sectors such as aged care, housing, childcare and education or reporting for grants from the government)
- the exemptions, concessions or other benefits it may receive from government (for example, for certain Commonwealth, territory and local government taxes).

Some charities also choose to meet voluntary standards set by professional associations or peak bodies such as codes of conduct or codes of ethical practice. You should be familiar with all the obligations your charity has to government agencies and know what you have to do to meet them.

See the table at the back for a list of other regulators that may affect charities and their contact details or visit our website at [acnc.gov.au](http://acnc.gov.au) to find out more.

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## Taxation

A number of tax or other benefits may be available to charities from Commonwealth, state, territory and local government agencies. Charities must meet certain requirements to receive tax benefits from these government agencies. Charities may also have obligations to collection agencies.

### Commonwealth taxes

The Australian Taxation Office (ATO) is responsible for deciding eligibility for Commonwealth charity tax benefits. Charities can apply to the ATO for a number of tax benefits including:

- income tax exemption and franking credits
- goods and services tax (GST) concessions
- fringe benefits tax (FBT) rebates and exemptions
- deductible gift recipient (DGR) status.

 To find out more visit the ATO website [ato.gov.au](http://ato.gov.au).

### State/territory taxes

Charities may also be eligible to receive exemptions from taxes collected by state and territory governments such as payroll tax, land tax and stamp duty.

See the table at the back for a list of government agencies responsible for state and territory taxes.

### Local government

Some local government authorities may offer concessions to charities. For more information, contact the local government authority in the areas where you operate.

### Legal structures

There are several types of legal structures used by charities. Different obligations apply to each type. Your charity's legal structure affects many things, such as:

- its reporting and governance requirements to the government agency that incorporated (registered) it
- its ability to operate outside the state it is registered in without further registration
- its eligibility for certain tax concessions.

The types listed here are examples of the most common legal structures, but there are others (such as trusts and unincorporated associations).



## Incorporated associations

The majority of charities have the legal structure of 'incorporated associations' and are regulated by state and territory governments. These charities have 'Inc.' or 'Incorporated' at the end of their name. Incorporated associations may have obligations to their state or territory governments such as providing annual reports or keeping financial records.

To be registered as a charity with the ACNC your association must have clear and specific objects that set out how it is charitable. This may be more than is required for incorporation.

See the table at the back for a list of the government agencies responsible for incorporated associations.

The Western Australian Department of Commerce produces a guide on how to run an incorporated association in Western Australia called 'Inc.- a guide for incorporated associations'. You can access the guide at [commerce.wa.gov.au/associationsguide](http://commerce.wa.gov.au/associationsguide).

Not-for-profit Law at Justice Connect (formerly PILCH Connect) has developed some general guidance for incorporated associations in Victoria including information on legal obligations.

This can be accessed at [pilch.org.au/legal\\_info/](http://pilch.org.au/legal_info/).

## Companies

Charities that are incorporated as companies, registered Australian bodies and foreign companies are regulated by the Australian Securities and Investments Commission (ASIC). Charities are most commonly incorporated as companies limited by guarantee.

Registered charities that are incorporated as companies or registered with ASIC will have many of their notification and reporting obligations to ASIC replaced by obligations to the ACNC.



To find out more visit the ASIC website [asic.gov.au](http://asic.gov.au) or call 1300 300 630.

## Indigenous corporations

Charities that are registered as Aboriginal and Torres Strait Islander corporations are regulated by the Office of the Registrar of Indigenous Corporations (ORIC).

Aboriginal and Torres Strait Islander corporations are a particular type of corporation registered according to the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth) (CATSI Act). These corporations are controlled by Aboriginal and Torres Strait Islander people.

The ACNC and ORIC are working together to try to reduce the number of times organisations have to report. For example, annual reports lodged with ORIC will satisfy your corporation's Annual Information Statement (AIS) and financial reporting obligations to the ACNC until at least 2014–15 so that your organisation will only need to report once. Find out more about how the ACNC affects organisations registered with ORIC at [acnc.gov.au](http://acnc.gov.au).



To find out more visit the ORIC website [oric.gov.au](http://oric.gov.au) or call 1800 662 431



## Cooperatives

Some charities are incorporated using the legal structure of ‘cooperative’ and are regulated by state and territory governments. A cooperative is a type of organisation that is owned, controlled and used by its members. There are different kinds of cooperatives.

See the table at the back for a list of the government agencies responsible for cooperatives across Australia.

## Fundraising

Charities that undertake activities to raise money (fundraising) may be required to meet obligations (such as applying for a permit or license to fundraise) to a fundraising regulator in the state or territory in which they operate.

Charities that conduct fundraising through gaming activities (such as lotteries or raffles) may have obligations to the gaming regulator in the state or territory they are conducting the activity in.

See the table at the back for a list of government agencies responsible for regulating fundraising and gaming across Australia.

## Other general obligations

There are a number of other laws that affect the operation of charities covering areas such as employment, trading, occupational health and safety and anti-discrimination. For example, charities are required to meet obligations under work health and safety legislation in every state and territory.

Some charities may have responsibilities that are specific to their area of work. For example, charities that provide aged care services may need to meet other obligations or hold accreditations as part of working in this field, and charities that work with young people may require their staff and volunteers to undertake a working with children check or police check.

## Contact the ACNC

**phone** 13 ACNC (13 22 62) | **email** [advice@acnc.gov.au](mailto:advice@acnc.gov.au) | **fax** 1300 232 569

**mail** Advice Services, Australian Charities and Not-for-profits Commission, GPO Box 5108, Melbourne VIC 3001

State or territory	State or territory taxes	Incorporated associations & cooperatives	Fundraising	Lotteries/raffles
ACT	<b>ACT Revenue Office</b> revenue.act.gov.au (02) 6207 0028	<b>Access Canberra</b> accesscanberra.gov.au 13 22 81	<b>Access Canberra</b> accesscanberra.gov.au 13 22 81	<b>Gambling and Racing Commission</b> gamblingandracing.act.gov.au (02) 6207 0361
NSW	<b>Office of State Revenue</b> ors.nsw.gov.au (02) 9689 6200	<b>NSW Fair Trading</b> fairtrading.nsw.gov.au 13 32 20	<b>NSW Fair Trading</b> fairtrading.nsw.gov.au 13 32 20	<b>Office of Liquor Gaming and Racing</b> liquorandgaming.justice.nsw.gov.au 1300 024 720
NT	<b>Territory Revenue Office</b> revenue.nt.gov.au 1300 305 353	<b>Licencing NT</b> https://nt.gov.au (08) 8999 1800	<b>Department of Attorney-General and Justice</b> https://nt.gov.au (08) 8999 1800	<b>Department of Attorney-General and Justice</b> https://nt.gov.au (08) 8999 1800
SA	<b>Revenue SA</b> revenuesa.gov.au (08) 8226 3750	<b>Consumer and Business Services</b> cbs.sa.gov.au 131 882	<b>Consumer and Business Services</b> cbs.sa.gov.au 131 882	<b>Consumer and Business Services</b> cbs.sa.gov.au 131 882
QLD	<b>Office for State Revenue</b> osr.qld.gov.au 1300 300 734	<b>Office for Fair Trading</b> qld.gov.au/law/fair-trading 13 74 68	<b>Office of Fair Trading</b> qld.gov.au/law/fair-trading 13 74 68	<b>Office of Liquor Gaming Regulation</b> business.qld.gov.au/ industry/liquor-gaming 13 74 68
TAS	<b>State Revenue Office</b> sro.tas.gov.au (03) 6233 8070	<b>Office of Consumer Affairs and Fair Trading</b> consumer.tas.gov.au 1300 65 44 99	<b>Office of Consumer Affairs &amp; Fair Trading</b> consumer.tas.gov.au 1300 65 44 99	<b>Tasmania Liquor and Gaming Commission</b> Via: treasury.tas.gov.au (03) 6166 4040
VIC	<b>State Revenue Office</b> sro.vic.gov.au 13 21 61	<b>Consumer Affairs Victoria</b> consumer.vic.gov.au 1300 55 81 81	<b>Consumer Affairs Victoria</b> consumer.vic.gov.au 1300 55 81 81	<b>Commission for Gambling and Liquor Regulation</b> vcglr.vic.gov.au 1300 182 457
WA	<b>Department of Finance</b> finance.wa.gov.au (08) 6551 1000	<b>Department of Commerce</b> Via: commerce.wa.gov.au (08) 9282 4373	<b>Department of Commerce</b> Via: commerce.wa.gov.au (08) 9282 4373	<b>Department of Racing, Gaming and Liquor</b> rgl.wa.gov.au (08) 9425 1888

