

Commissioner's Policy Statement: Applying to keep charity size

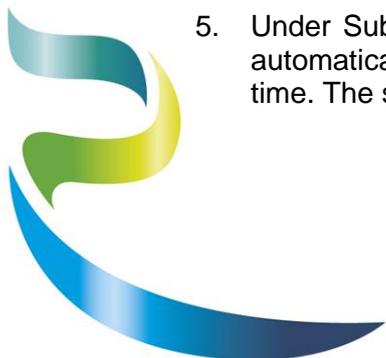
This Commissioner's Policy Statement is issued under the authority of the Commissioner and should be read together with the [ACNC Policy Framework](#), which sets out the scope, context and definitions common to our policies.

Policy Statement

1. This Commissioner's Policy Statement sets out the ACNC's policy in relation to applications by charities under section 205–25 of the ACNC Act to continue to be classified as a certain size if a charity moves into a higher reporting tier for just one reporting period.

Legislative context

2. Division 60 of the ACNC Act bases the reporting obligations of charities on the charity's size in terms of revenue. All charities are required to submit an Annual Information Statement. The 2013 Annual Information Statement asks all charities to provide the same information and does not collect financial information. The Annual Information Statement for the 2014 reporting period onwards will collect financial elements proportional to charity size. However, basic religious charities (as defined in section 205–35 of the ACNC Act) will not be required to provide financial information in Annual Information Statements.
3. Different requirements for financial reports also apply under this Division depending on the charity's annual revenue. For the 2014 reporting period onwards, the requirements that apply to categories of charities are:
 - for small charities (with annual revenue of less than \$250,000) and basic religious charities—no financial reports are required
 - for medium charities (with annual revenue of more than \$250,000 but less than \$1 million)—financial reports that are either reviewed or audited, and
 - for large charities (with annual revenue of more than \$1 million)—audited financial reports.
4. Charity size also affects the amount of time a charity has to notify the ACNC of certain changes including the charity's legal name, service address, responsible persons and governing rules or of a material error in an Annual Information Statement or financial report (sections 65-5 and 60-65).
5. Under Subdivision 175-C of the ACNC Act, administrative penalties are imposed automatically on charities for failing to lodge documents required under the Act on time. The size of the penalties depends in part upon the size of the charity.



6. Section 205–25 permits the Commissioner to continue to treat a charity as either a small, medium or large charity for a reporting period if the Commissioner is of the opinion that:
 - the charity was of that size for the previous reporting period; and
 - the charity, while not being of that size for the current reporting period, is likely to return to that size during the next financial year.
7. The ACNC will generally approve a request for a charity to be continued to be classified as a certain size where the charity provides information that satisfies the Commissioner that:
 - there has been an event or a small number of events that are unlikely to be repeated in the future (for example, a substantial bequest) that has resulted in the charity moving into a higher tier for the purposes of reporting to the ACNC for a reporting period, and
 - the charity is likely to return to its previous size in the next reporting period.
8. In considering a charity's request under section 205-25, the Commissioner will have regard to the Commissioner's Policy Statement on [Decision making](#) (CPS2012/03).

2013 reporting period

9. The ACNC will not consider applications under section 205–25 for the 2013 reporting period, as all charities have the same reporting requirements regardless of size. Further, administrative penalties for not lodging particular approved forms have been deferred until 31 December 2014 (see the Commissioner's Policy Statement on [Duties to notify—transitional](#)).

Principles

Principle 1: Balancing public trust and confidence against reducing unnecessary regulatory obligations

10. In performing her functions and exercising powers, the Commissioner must have regard to the need for transparency and accountability of the not-for-profit sector to the public (including donors, members and volunteers of charities) by ensuring the public has access to information about not-for-profit charities (subsection 15-10(b)) and the benefits gained from providing information to the public (subsection 15-10(c)). It is expected that greater transparency and accountability will lead to increased public trust and confidence in the sector.
11. The Commissioner will balance the need for public trust and confidence against the object of promoting the reduction of unnecessary regulatory obligations (section 15-5). Section 205–25 strikes this balance by enabling the Commissioner to continue to treat a charity as a certain size when there are unusual variations in a charity's annual revenue.

References

[Australian Charities and Not-for-profits Commission Act 2012 \(Cth\) Division 60, Subdivison 175–C, sections 205–25, 205–35](#)

[Form 4D: Apply to keep charity size](#)

[Commissioner's Policy Statement: Duties to notify – transitional \(CPS 2013/03\)](#)

[Commissioner's Policy Statement on Decision-making \(CPS 2012/03\)](#)

Version	Date of effect	Brief summary of change
Version 1 - Initial policy	15/01/2014	Initial policy endorsed by the Commissioner on 15/01/2014
Version 1.1 – Minor amendment to initial policy	02/04/2014	Minor amendment to reflect extension of time to lodge forms as part of amendment to Commissioner's policy statement: Duty to notify – transitional