



08 September 2023

Department of Government Services

### Submitted Online via the Engage Victoria website

Our reference: EXT2023/20

1. The Australian Charities and Not-for-profits Commission (**ACNC**) welcomes the opportunity to comment on the Associations Incorporation Reform Regulations 2023 (**the Regulations**).
2. We have provided comments that we consider are relevant to the ACNC's objects.

### About the ACNC and the charity sector

3. The ACNC is the national regulator of charities established by the *Australian Charities and Not-for-profits Commission Act 2012* (Cth) (**ACNC Act**).
4. The objects of the ACNC Act are to:
  - maintain, protect and enhance public trust and confidence in the Australian not-for-profit sector; and
  - support and sustain a robust, vibrant, independent and innovative Australian not-for-profit sector; and
  - promote the reduction of unnecessary regulatory obligations on the Australian not-for-profit sector.
5. Currently, the ACNC has oversight of around 60,000 registered charities. While some charities are large and well-known entities, most charities are very small and run by volunteers.
6. In the 2021 reporting period, over 4,900 charities reported being an incorporated association in Victoria (**charitable associations**). These charities reported \$5.5 billion in revenue, employed around 63,500 people and were assisted by over 219,000 volunteers.
7. Importantly, 47% of charitable associations operated without any paid staff. 38% of the 4,900 charities reported revenue of less than \$50,000. Another 27% reported revenue between \$50,000 and \$250,000.



## Model rules and fees

8. Not-for-profit organisations (including registered charities) can apply to the Australian Taxation Office for [deductible gift recipient](#) (DGR) status. Unless an exception applies, an organisation will need to be a registered charity to receive DGR status.
9. Organisations with DGR status are entitled to receive gifts which are deductible from the donor's income tax.
10. As of the date of this submission, we estimate that 41% of Victorian charitable associations have DGR status.
11. Where registered charities seek DGR status, they will need to ensure that the governing document includes a suitable DGR revocation clause. This clause ensures that surplus assets are transferred to another DGR, with similar objects, which is charitable at law.
12. [An example clause](#) provided by the ATO is below:

*If the organisation is wound up or its endorsement as a deductible gift recipient is revoked (whichever occurs first), any surplus of the following assets shall be transferred to another organisation with similar objects, which is charitable at law, to which income tax deductible gifts can be made:*

- *gifts of money or property for the principal purpose of the organisation*
  - *contributions made in relation to an eligible fundraising event held for the principal purpose of the organisation*
  - *money received by the organisation because of such gifts and contributions.*
13. We note that the proposed model rules do not include a DGR revocation clause.
  14. We raise this issue in the context of the proposed increase in fees when an association applies to Consumer Affairs Victoria to alter the rules in the governing document.
  15. Based on the 2023-24 fee unit of \$15.90, this would represent a potential increase in fees from \$198.75 to \$413.40. These are the highest fees (to alter rules) in Australia.
  16. To reduce red tape and save time and money for charitable associations (who intend to apply for DGR status), we recommend that:
    - the model rules include an optional DGR revocation clause
    - guidance on Consumer Affairs Victoria's website be updated to explicitly include a reference to DGR status and the DGR revocation clause.



17. These recommendations will reduce the number of applications to alter the model rules. This will reduce the resource impact on Consumer Affairs Victoria, who need to dedicate staff and resources to approve any changes.
18. While the associated Regulatory Impact Assessment outlines the rationale for any fee unit increase (noting that some fees remain unchanged and some fees will decrease), we encourage the Department of Customer Service to reconsider any fee increase based on the data we have provided at paragraph 7 of this submission and current cost-of-living pressures.
19. In particular, we note that charities are not immune to increases in the costs of goods and services, which can place strains on charity income, expenses and operations. Donations may decrease due to donors experiencing their own financial pressures and can coincide with charities themselves experiencing increased costs to deliver their services.
20. These challenges are exacerbated by a simultaneous increase in demand among people experiencing vulnerability, who turn to charities for help when impacted by cost-of-living pressures.

#### **Flexibility in the use of technology**

21. The ACNC supports an update to the model rules to provide charitable associations with flexibility in the way they use technology.
22. These improvements will assist charitable associations to comply with the model rules.

#### **Harmonisation of reporting thresholds for all not-for-profits**

23. While the ACNC's remit is currently limited to charities as defined under the *Charities Act 2013* (Cth), we support harmonised reporting thresholds for all incorporated associations in Victoria.
24. These reforms will reduce red tape for the broader not-for-profit sector and provide consistency for the entire sector.



**Further questions**

25. If you have queries about this submission please contact [REDACTED], Manager, Reporting, Red Tape Reduction and Corporate Services at [REDACTED]



[REDACTED]

Acting Assistant Commissioner – General Counsel  
Australian Charities and Not-for-profits Commission