

24 August 2023

Department of Justice
Office of the Secretary
GPO Box 825
Hobart TAS 7001

Submitted Online: [REDACTED]

Our reference: EXT2023/19

1. The Australian Charities and Not-for-profits Commission (**ACNC**) welcomes the opportunity to comment on the Charities and Associations Law (Miscellaneous) Amendment Bill 2023 (**the Bill**).
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. Based on the most recent edition of the [Australian Charities Report](#), 1,053 charities had an address in Tasmania. In the 2021 reporting period, these charities reported \$3.2 billion in revenue, employed around 30,000 people and were assisted by over 48,000 volunteers.¹

¹ Australian Charities and Not-for-profits Commission, *Australian Charities Report* (9th ed), 2023, 15.



Existing collaboration with the Department of Justice

7. To reduce the regulatory burden on charities, the ACNC has signed a Memorandum of Understanding (**MoU**) with the Department of Justice (**DoJ**).
8. As part of this MoU, we regularly share data with the DoJ. For example, incorporated associations registered with the ACNC as charities can now report directly to the ACNC via the Annual Information Statement. The ACNC then shares this information with the DoJ.

Cross-border recognition model for registered charities

9. The ACNC strongly supports the implementation of the cross-border recognition model in Tasmania.
10. This model will reduce red tape for charities in Australia by allowing registered charities to receive automatic authority to fundraise in Tasmania.
11. We recommend that charities be able to notify the ACNC directly of their intention to fundraise through the registration application form or the Annual Information Statement (section 6A(1) of the *Collections for Charities Act 2001* (TAS) (**CC Act**)). The ACNC can then pass this notification on to the DoJ.
12. This will streamline the process for charities of notifying DoJ, mitigate the risk that the DoJ is not notified that a charity intends to fundraise and reduce the risk of a severe penalty being levied on a charity.
13. The ACNC has successfully implemented data sharing arrangements with other jurisdictions that have adopted this (or a similar) model.
14. We look forward to working with the DoJ to ensure that DoJ can administer this model efficiently and effectively. We can also provide financial information to assist DoJ in its regulatory responsibilities.

Definition of charitable purpose

15. The Bill includes the following amendment to the definition of charitable purpose in the CC Act:

charitable purpose means a benevolent, philanthropic or patriotic purpose that includes, but is not limited to, a purpose such as helping individuals, the welfare of animals or the protection of the environment

16. As you may be aware, the *Charities Act 2013* (Cth) (**Charities Act**) defines “charity” and “charitable purpose” for the purposes of Commonwealth law.



17. The Charities Act definitions are largely based on existing common law principles but include minor modifications to modernise and clarify the common law.²
18. Given the proposed cross-border model for registered charities, we consider there is merit in adopting the Charities Act definition.
19. This would be a step toward harmonising the definition nationally and would provide greater clarity for registered charities that fundraise in Tasmania.

Recognition of the National Fundraising Principles

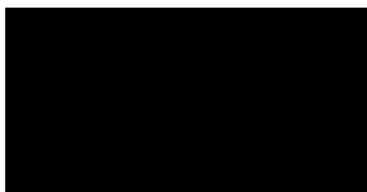
20. While the ACNC does not directly regulate fundraising, we recognise that the charity sector faces significant regulatory burden when complying with different fundraising requirements across Australia.
21. Implementation of the fit-for-purpose National Fundraising Principles will save the charity sector millions of dollars each year and allow charities to redirect the money toward their charitable purpose.
22. The ACNC stands willing to provide any support that helps all states and territories to implement these principles.

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, we support harmonised reporting thresholds across the broader not-for-profit sector in Tasmania.
24. These reforms will reduce red tape for the broader not-for-profit sector and provide consistency for the entire sector.

Next steps

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

² Explanatory memorandum to Charities Act, [1.16].