



Australian Government



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Committee Secretary
Not-for-profit entities—Tax assessments
Senate Standing Committees on Economics
PO Box 6100
Parliament House
Canberra ACT 2600

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Our reference: ACNC SUB2024/11

Dear Committee

1. The Australian Charities and Not-for-profits Commission (**ACNC**) appreciates the opportunity to comment on the implications for the ACNC of the changes to administration of not-for-profit organisations (**NFPs**) that self-assess as income tax exempt.
2. We set out below:
 - a. an overview of the changes as related to the charity registration process
 - b. the current implications of these changes including the impact on our workloads
 - c. steps we have taken
 - d. our expected future implications.

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**). The objects of the ACNC Act are to:
 - a. maintain, protect and enhance public trust and confidence in the Australian not-for-profit sector; and
 - b. support and sustain a robust, vibrant, independent and innovative Australian not-for-profit sector; and
 - c. promote the reduction of unnecessary regulatory obligations on the Australian not-for-profit sector.
4. Currently, we have oversight of around 61,000 registered charities. This does not include the wider not-for-profit sector. Charities vary considerably in size, role, and function and are a vital part of our community and economy. Registered charities employed 1.47 million people¹ and reported revenue of \$200 billion in the 2022 reporting

¹ ACNC, *Australian Charities Report - 10th edition* (2024) 32, <<https://www.acnc.gov.au/tools/reports/australian-charities-report-10th-edition>>.



period.² While some charities are large and well-known entities, most charities are very small, volunteer-run organisations.³

Overview of the changes

5. Changes to the administration of NFPs that self-assess as income tax exempt mean that non-charitable NFPs with an active ABN that have been self-assessing must now submit an annual NFP self-review return to the Australian Taxation Office (**ATO**).
6. This has led to an increase in applications for charity registration by organisations which had been self-assessing. All not-for-profits that meet the legal definition of a charity must be registered with the ACNC and be endorsed by the ATO to be income tax exempt.
7. Organisations seeking charity registration must apply through our online Charity Portal. Our recently revised registration application form (see further below) requires organisations to provide information about the following:
 - a. organisation information (including ABN, name, contact details)
 - b. legal structure
 - c. governing document
 - d. details of all Responsible People
 - e. date of establishment and requested date of registration
 - f. operating locations
 - g. activities
 - h. charity subtypes
 - i. financial and governance information
 - j. tax concessions and, if sought, deductible gift recipient endorsement application (collected on behalf of the ATO and is optional).
8. Applications are assigned to a team member to assess against the requirements set out in the ACNC Act, which are that the organisation must:⁴
 - a. have an ABN
 - b. be not-for-profit
 - c. comply with the ACNC Governance Standards and (where applicable) External Conduct Standards
 - d. not be covered by a decision in writing made by an Australian government agency under an Australian law that provides for entities to be characterised on the basis of them engaging in, or supporting, terrorist or other criminal activities, and
 - e. meet the definition of a charity as set out in the *Charities Act 2013* (Cth), which are that the entity must:
 - i. have only charitable purposes that are for the public benefit
 - ii. not have any disqualifying purposes, and
 - iii. not be an individual, political party or government entity.

² Ibid, 18.

³ Ibid, 19-21.

⁴ ACNC Act, s 25-5.



9. As a result of the significant increase in applications (see further below), currently the wait time to be assigned to a team member can be up to three months.
10. Where necessary, we may request that applicants provide further information. The new registration form, which was launched in June 2024, has been designed to ensure all necessary information is provided as part of the online submission. We have already seen it reduce the number of requests we need to make for additional information (requests extend the time frame for finalising an application).
11. We aim to register new eligible entities within 15 business days of receiving all information necessary to make a decision.
12. We pass on information to the ATO regarding successful applicants who also applied for charity tax concessions. This ensures that charities only complete one form to obtain both charity registration and relevant Commonwealth tax concessions.
13. Registered charities must:
 - a. lodge an Annual Information Statement within six months of the end of their financial year (unless exempt)
 - b. maintain their entitlement to registration
 - c. notify us of any change to their legal name, address for service, Responsible People, or governing document
 - d. keep financial and operational records, and
 - e. comply with the ACNC Governance Standards and (where applicable) External Conduct Standards.

Immediate implications

14. For the 2023-24 year, we received 6,286 registration applications, an increase of 751 (14%) compared to 2022-23, and the highest number received since our establishment in 2012.
15. In March 2024, we began asking applicants to indicate whether their application was a result of the changes to NFP reporting requirements. From April to June 2024, 947 applications (around 44% of all applications) self-designated as being a result of these changes. This trend has remained stable from July to September 2024.
16. Analysis of our phone and email enquiries indicates that:
 - a. in the 140 days from 1 April 2024 until 19 August 2024, we received 489 enquiries relating to the changes in the reporting requirements. This represented 4% of all enquiries received for this period (total: 12,050)
 - b. 78% of enquires were from unregistered NFPs. Most NFPs wanted to assistance in determining their eligibility to register as charity and steps to apply
 - c. 10% of enquires received from revoked charities looking to re-register as a result of the changes, and



- d. 12% of enquires came from registered charities looking to confirm if the changes impacted them.
17. If projections about the number of NFPs that will need to register with the ACNC are correct, we may see up to a 25% increase in the number of registered charities (from a total of about 60,000 to, over time, about 75,000). We expect that the majority of registered charities will remain small (annual revenue of under \$500,000), volunteer run organisations.

Steps taken by the ACNC

18. To manage the impacts across the ACNC, we have temporarily engaged approximately 25 new staff. These positions are funded by the ATO and ACNC. We thank the Commissioner of Taxation for his support.
19. We have analysed the escalation in enquiries and registration applications to develop stakeholder engagement and communication strategies, and guidance materials.

Guidance

20. We have developed a range of resources to support organisations applying for charity registration, including:
- a. a web page with guidance for NFPs (available at <https://www.acnc.gov.au/organisations-have-been-self-assessing-income-tax-exempt>). From 1 January to 30 September 2024, this page has had 23,509 views
 - b. an online tool to help NFPs determine eligibility for charity registration and prepare an application (available at <https://www.acnc.gov.au/charity-registration-self-assessment>). Since this tool went live in July 2024, this page has had 7,707 views, and
 - c. tailored webinars, including with the ATO, such as <https://www.acnc.gov.au/tools/webinars/charities-not-for-profits-and-maintaining-income-tax-exemption>.
21. We also meet with the ATO regularly to share information and discuss communication strategies, including where customer enquiries indicate confusion that could be addressed between the ACNC and ATO such as misdirected referrals.
22. We also provide 1:1 support for organisations which contact us through our online enquiries page or by calling us. Many NFPs that self-assess as income tax exempt are small and can require significant support due to never having to formally report to government before. Our data shows that small charities make up the majority of the registered charities which engage with us. This year from 1 January 2024 to 2 October 2024, of the 22,806 enquiries received, 16,506 were from registered charities. Of those, 9,556 were from small charities.

**Example**

A small organisation in a rural area contacted us after receiving a letter from the ATO and contact from their peak body. This organisation had voluntarily revoked their charity registration several years ago but had continued to operate. In one month alone, there were 21 enquiries from this organisation regarding re-registering as a charity. We provided support through online enquiries, phone calls, and emails by:

- assisting the organisation's volunteers to access the Charity Portal
- helping the organisation complete their Annual Information Statements for the period that they had not been registered, to ensure that they could backdate their charity registration
- providing further guidance to assist in completing the registration application form.

Registration

23. To effectively manage the significant increase in registration applications, we have:

- a. revised our registration application form which validates data as it is filled out and asks for more information upfront (as detailed above). We have also revised our application guidance.⁵
- b. supported 63 peak bodies by:
 - i. developing a bulk registration process, to provide a streamlined process for similar member organisations to apply for registration. We continue to make individual decisions for each member's application.
 - ii. engaging with these bodies to offer tailored support, such as guidance and webinars, and
- c. developed processes to capitalise on workflow efficiencies created by high volumes of similar applications.

⁵ ACNC, *Registration application checklist and guide*, <https://www.acnc.gov.au/tools/guides/registration-application-checklist-and-guide>.



Examples

1. We engaged with a peak body in July 2024 regarding registration of their approximately 60 members. We met with their representatives and determined that around 9 members were eligible for registration, as the remaining were sub-entities or did not have an ABN. The eligible entities went through a bulk registration process and were registered within 11 business days.
2. Landcare Victoria has over 600 members, of which 80% have an ABN, and the majority were not registered charities. The ACNC worked with Landcare Victoria to develop a range of educational resources to support members to understand what had changed, and what they needed to do for registration with the ACNC. This included developing FAQs, fact sheets, delivering a tailored webinar and a fast-track application process.

Future implications

24. We anticipate that a proportion of the organisations lodging the self-assessment form with the ATO will indicate that they have, or may have, a charitable purpose or that they are unsure. As a result, we expect that this escalation in our registration workload will continue. We appreciate the assistance provided by the ATO to smooth the transition of applications, including extending the deadline to March 2025. We also continue to identify and engage with peak bodies to support their members to register.
25. We also expect that these charities will require ongoing support to meet their obligations, as our past experience has shown that small, volunteer run organisations often require additional support. For example, our data shows that small charities were twice as likely to submit their 2023 Annual Information Statement late when compared to large charities.
26. To assist charities, we provide detailed guidance on our website. Charities can also contact us for support.

**Example**

A Responsible Person of a small wildlife rescue group called for help with registration because of the new reporting changes, saying that they could handle scared and injured wildlife but had trouble with technology and government forms.

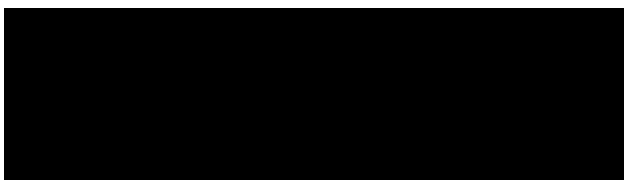
We helped them with:

- signing up to and navigating the Charity Portal, during a phone call
- providing detailed instructions on submitting the Annual Information Statements, including an email with screenshots, links to resources on our website, and ways that they could contact us for assistance when submitting an Annual Information Statement.

27. We expect that the significant increase in the number of small, volunteer run charities will also lead to an increase in phone and online enquiries regarding ongoing obligations, potentially resulting in a flow through increase in our compliance and enforcement work. We are considering how we can meet this demand efficiently, having regard to our current resourcing.

Next steps

28. If you have queries about this submission, please contact Rachel Smith [REDACTED] who will be Acting Commissioner from 23 October while I am attending an international meeting of charity regulators.



Sue Woodward AM

Commissioner

Australian Charities and Not-for-profits Commission