


# Charities and Associations Law (Miscellaneous) Amendment Bill 2023

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- Amends the *Collections for Charities Act 2001* and the *Associations Incorporation Act 1964*.
  - Commences on proclamation.
  - Priority Areas
    - Align Tasmania with national registration and harmonisation reforms.
    - Reduce the regulatory burdens on charities, particularly those operating and reporting across jurisdictions.
    - Strengthen enforcement powers to enhance public confidence in the charitable fundraising sector.



## **Priority 1 - Implement Cross Border Recognition Model for Charitable Fundraisers**

- Registration with the Australian Charities and Not-for profits Commission (ACNC) automatically authorises charities to fundraise in participating jurisdictions.
- State regulators retain ability to apply extra conditions and require fundraisers to comply with local financial auditing requirements (including annual returns) or to obtain copies of information from ACNC.



## Priority 2 - Recognise National Fundraising Principles

- Proposes implementation of the 16 National Fundraising Principles through a new mandatory Code of Practice.
- Implemented through regulations made under the *Collections for Charities Act 2001*.
- Charities and organisations soliciting donations in Tasmania, including online, would be required to comply with the Code of Practice.
- Penalties may apply for non-compliance.




## **National Fundraising Principles**


The 16 high-level fundraising principles seek to establish broad conduct and processes for employees, volunteers and contractors undertaking fundraising activities.

Charitable organisations required to ensure their employees, volunteers, contractors and anyone else who they engage to raise funds complies with the Principles.

# National Fundraising Principles

1. Always explain the purpose of their charity and the purpose to which the funds raised will be applied in ways that are appropriate for the audience.
2. Always be clearly, and individually, identifiable by the public (including to display identification that contains the individual's name, whether they are a volunteer, employee or acting in some other capacity for a charitable organisation or commercial fundraising organisation, and that organisation's name and contact details).
3. Always make and keep written records of fundraising activities that can be easily read and understood.
4. Always acknowledge and comply with a:
  - a. refusal to make a donation
  - b. request not to receive future solicitations (including marketing and promotional materials)
  - c. request to be contacted at a more convenient time or by a different means
  - d. request to limit the number, type or frequency of solicitations.


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5. Never conduct door-to-door or telephone fundraising activity at the following times:
    - before 9am or after 5pm on a weekend
    - before 9am or after 6pm (door-to-door) or 8pm (telephone) on a weekday
    - on a public holiday, unless the public holiday is closely connected with a fundraiser's charitable purpose.
  6. Never mislead, deceive or knowingly use false or inaccurate information when fundraising.
  7. Never place undue or unreasonable pressure on a person when fundraising, or act unconscionably in any way to obtain a donation.

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8. Never exploit the trust, lack of knowledge, lack of capacity, apparent need for care and support, or vulnerable circumstances of any donor.
  9. Always make it clear whether a donation is a one-off or an ongoing donation, and clearly explain how to end an ongoing donation.
  10. For commercial fundraisers engaged to fundraise for a charitable organisation, never accept a donation without having explained that they are part of an organisation that makes a profit from fundraising as well as how they are paid.

## **At all times, charitable organisations must:**

11. Conduct all reasonable due diligence when engaging third parties to assist, support or deliver fundraising activities on its behalf.
12. Make and keep written records of the total funds raised and the purpose for which funds are applied.



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13. Take all reasonable measures to protect the health, safety and wellbeing of fundraisers employed or directly engage by them, as well as members of the public, when fundraising.
  14. Establish and maintain a complaints process that allows for proper investigation and redress of fundraising complaints that may be made by the public and encourage anyone with concerns about a fundraising activity conducted by or on behalf of the charity to contact them.
  15. Ensure information covered by the Privacy Act 1998 (the Act) is collected, used and managed in accordance with the Australian Privacy Principles where required under the Act.
  16. Always ensure remuneration to commercial fundraisers engaged to fundraise for a charitable organisation is not excessive when compared to money or goods received for the charitable purpose of the fundraising.



## Priority 3 – Harmonise Reporting Thresholds for Charities

- Increases auditing thresholds from \$250 000 to \$500 000 for small incorporated organisations not registered with the ACNC.
- Aligns with thresholds under the *Australian Charities and Not-for profits Commission Act 2012 (Commonwealth)*.
- Reduces administrative burden.



## **Priority 4 - Strengthening Enforcement Provisions**

### **New offences**

- ACNC registered entity soliciting without notifying Commissioner.
- Contravening or failing to comply with Code of Practice.
- Repeal of redundant offences (sections 9 and 10) and introduction of new offences consistent with Code of Practice.

### **Infringement notice offence provisions**



## **Contravention of Code of Conduct Provisions**

- Suspected contraventions investigated by Director (Consumer Affairs).
- Director can recommend Commissioner applies for order.
- Commissioner can apply to Magistrate for order.
- Magistrate may:
  - order person to cease and rectify; and
  - for a body corporate, prohibit management from consenting or continuing with the behaviour.
- Director can apply to Supreme Court for injunction.
- Supreme Court can grant permanent or interim injunction.



## Miscellaneous Matters

New functions for Commissioner

- Facilitate training and education
- Inform public about operation of Act
- Advise Minister on administration of and matters arising under Act
- Any other functions determined by Minister or prescribed



Submissions close: **25 August 2023**

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