

Collins NFPADVISOR



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CHARITY GOVERNANCE



DGR REFORM PROPOSED

Treasury has released a consultation paper on the government's proposed deductible-gift-recipient reforms.

Proposed reforms include:

- The requirement of non-government organisations with DGR status to register with the ACNC as charities from 1 July 2019.
- Transition arrangements to support organisations with DGR status to register as charities.
- The commissioner of taxation's has discretion to exempt in limited circumstances organisations with DGR status from the requirement to register as charities.

- The abolition of certain public-fund requirements.

The government's package is intended to strengthen DGR governance arrangements, reduce administrative complexity and ensure appropriate oversight of DGR-status entities.

Submissions closed on 21 September.

The Australian Taxation Office and the ACNC will release guidance materials on the practical application of the proposed reforms.

RSL NATIONAL PRESIDENT STEPS DOWN

The president of registered charity The Returned and Services League of Australia Robert Dick resigned at the charity's board meeting on 19 July.

The announcement comes after an Australian Charities and Not-for-profits Commission's investigation into the organisation.

The ACNC has noted that Mr Dick's decision to resign from RSL National puts the interests of the charity and the RSL first. His decision acknowledges the need for new leadership and significant changes, the commission said.

In February, the ACNC issued a formal direction to RSL National requiring it to engage a governance expert to conduct a review of the charity's board and practices. RSL National engaged KPMG to carry out the work.

KPMG will set out a detailed action plan that RSL National must follow to improve its governance.

The commission will continue to work closely with the board of RSL National to ensure that it has the expertise to implement the plan.

ACNC commissioner Gary Johns said: 'The plan will contain a clear set of recommendations to address current, critical governance issues and the need for a broader, more strategic process of reform and improvement.

RSL National will soon have a clear path forward and know what steps it must take to get back on track. The ACNC will continue to work closely with it and monitor progress.

President of RSL ACT John King will take the role of RSL National chair until new appointments are made.

'RSL National is committed to improving its governance and accountability to fulfil our important role as the peak body of RSL in Australia,' said Mr King.

'We will soon appoint a new chair and board members.

Over the coming months the board, including newly appointed members, will focus on implementing the recommendations in the action plan.

Once governance and compliance are improved, RSL members can elect a new national president.



SENATE COMMITTEE INVESTIGATE CHARITY FUNDRAISING

The senate has established a select committee *on Charity Fundraising in the 21st Century* to inquire and report on charities' fundraising regulation and options for reform.

Its terms of reference are:

- Whether present fundraising regulation creates unnecessary problems for charities and organisations that rely on donations from Australian supporters.
- Whether fundraising laws meet the objectives that guided the decision to regulate donations.
- Whether fundraising compliance regimes allow charities to cultivate donor activity and make optimal use of donors' resources.
- To examine the loss in productivity for thousands of charities that try to meet the requirements of seven different fundraising regimes.
- Whether present investigation and enforcement are the best model for contemporary fundraising.
- To examine how federal, state and territory governments could

work together to provide charities with a nationally-consistent, contemporary and fit-for-purpose fundraising regime.

- To investigate donor-focused expectations and requirements, which should govern fundraising regulation in the 21st century.
- To investigate how Australian consumer law should apply to NFP fundraising activities.
- What are the best mechanisms to regulate third-party fundraisers and to ensure that the culture of third-party fundraisers matches community perceptions?
- To examine whether a harmonised, contemporary fundraising regime could help in addressing concerns about the potential influence of foreign money on civil society and political debate in Australia.
- To investigate the cost to the charity and NFP sector and the communities they serve of postponing fundraising reform.
- Any other related matters.

Submissions closed on 6 August. The committee is to report by 18 October.

ADVOCACY RISK FOR CHARITIES

The ACNC has responded to media stories on investigations into two registered charities – Catholic Education Melbourne and 350.org.

From Strict secrecy provisions in the ACNC Act often prohibit the commission from confirming or commenting on investigations.

The commission, however, is able to clarify matters about investigations to correct the public record. It needs permission from the charity to comment.

It is investigating Catholic Education Melbourne because of activities and statements made on behalf of the charity during a by-election for the federal seat of Batman.

The commission noted that the 'ACNC Act sets out disqualifying purposes that charities cannot have if they wish to be or remain registered. Charities have the right to advocate, but they cannot have a purpose of "promoting or opposing a political party or candidate for political office".'

The ACNC investigated 350.org after concerns were raised about the charity's high-profile activities. The charity has cooperated with the commission for 18 months.

The investigation ended in June, and 350.org was given regulatory advice that cannot be published on the ACNC charity register.

During and after the investigation, 350.org expressed a desire to work with the ACNC to ensure that it remained a registered charity.

It committed to ensuring that it continued to have only charitable purposes and did nothing — such as promoting or engaging in activities that are unlawful and promoting or opposing a political party or candidate — to disqualify it as a charity.

An ACNC spokesperson said: 'The ACNC supports charities carrying out their charitable purposes – however, charities must swim between the flags. To that end the ACNC often provides regulatory advice at the conclusion of an investigation where stronger action is not required. We also publish a great deal of guidance on our website to help charities understand and meet their obligations under the ACNC Act and governance standards.'

REMINDER ABOUT ACNC GOVERNANCE STANDARDS

In light of compliance issues and forthcoming 31 December year-ends, it is timely to look at the ACNC's governance rules.

While governance standards apply to charities and not non-charity NFPs, the latter should however consider the latter as best practice. Remember that the ACNC stands for the Australian Charities and Not-for-profit Commission.

Apart from a limited class of 'basic religious charities', charities must meet ACNC standards to remain registered.

Charities do not need to submit proof to the ACNC that they are meeting standards but must be able to provide it if requested.

The standards are a set of core, minimum principles that deal with how charities are run (including their processes, activities and relationships) and their governance.

They require charities to remain charitable, operate lawfully, and be run in an accountable and responsible way. Adherence to them helps charities to remain trusted by the public. Because the standards are high-level principles, not precise rules, your charity must decide how it will comply with them.

It must be able to demonstrate that the steps it has taken to comply are appropriate (considering factors such as size, purpose and activities).



STANDARD	REQUIREMENTS
Standard 1: Purposes and not-for-profit nature	Charities must be not-for-profit and work towards their charitable purpose. They must be able to demonstrate this and provide information about their purposes to the public.
Standard 2: Accountability to members	Charities that have members must take reasonable steps to be accountable to them, providing them with adequate opportunity to raise concerns about how the charity is governed.
Standard 3: Compliance with Australian laws	Charities must not commit a serious offence (such as fraud) under Australian law or breach a law that may result in a penalty of 60 penalty units (currently \$10,200) or more.
Standard 4: Suitability of responsible persons	Charities must take reasonable steps to: <ul style="list-style-type: none">■ Be satisfied that its responsible persons (such as board and committee members and trustees) are not disqualified from managing a corporation under the Corporations Act 2001 (Cth) or disqualified from being a responsible person of a registered charity by the ACNC commissioner.■ Remove any responsible person who does not meet these requirements.
Standard 5: Duties of responsible persons	Charities must take reasonable steps to make sure that responsible persons are subject to, understand and carry out the duties set out in this standard.

The ACNC expects that most charities meet governance principles and it will focus on those that have seriously or deliberately breached them by, for example:

- Diverting money to non-charitable purposes.
- Not disclosing serious conflicts of interest.
- Being grossly negligent with their finances.

For further information on how standards can be applied visit www.acnc.gov.au.

CONDUCT STANDARDS PROPOSED FOR CHARITIES OPERATING OVERSEAS

Treasury has released draft regulations and an explanatory statement on proposed external conduct standards for registered charities.

The standards aim to ensure that the public has confidence that an ACNC-registered charity has appropriate governance processes to address risks that might arise in their overseas activities.

There are four external-conduct standards:

- The activities and control of resources (including funds).
- Annual review of overseas activities and record-keeping.
- Anti-fraud and anti-corruption.
- The protection of vulnerable individuals.

They apply to registered entities that operate outside Australia or work with third parties that do.

Consistent with ACNC governance standards, the draft regulations are a principles-based set of minimum standards of conduct, governance and behaviour that registered charities must comply with when operating outside Australia.

The proposed standards will be implemented through regulations under the Australian Charities and Not-for-profits Commission Act 2012. The draft regulations give effect to the government's announcement in the 2017-18 MYEFO measure Philanthropy – managing risks of overseas philanthropy.

For more information see the appendix External conduct standards for charities registered with the ACNC.

Submissions closed on 21 September.



APPENDIX

INTRODUCTION

The purpose of the Australian Charities and Not-for-profits Commission Amendment Regulations (No. 2) 2018 is to prescribe external conduct standards for the purposes of Division 50 of the Act.

The external conduct standards provide a minimum level of assurance that registered entities meet appropriate standards of governance and behaviour when operating outside Australia.

These standards apply to the registered entity that is operating outside Australia or working with third parties that are operating outside Australia.

A third party, in relation to a registered entity, means an entity that formally or informally collaborates with the registered entity for the purpose of advancing the registered entity's purpose or purposes, and includes: an entity with which the registered entity has some form of membership, association or alliance, and an entity that has an arrangement with the registered entity.

The commencement date of the instrument is the later of: the commencement day referred to in section 50-20 of the Australian Charities and Not-for-profits Commission Act 2012; and 1 July 2019.

STANDARDS

TITLE	OBJECTIVE	STANDARD
Standard 1—Activities and control of resources (including funds)	<p>To give the public (including members, donors, employees, volunteers and benefit recipients of a registered entity to which the standard applies) trust and confidence that a registered entity is managed in a way that:</p> <ul style="list-style-type: none"> ■ Ensures that the registered entity remains solvent. ■ Minimises the risks to the entity's assets. ■ Ensures that the registered entity, and its resources, are furthering the registered entity's purposes. ■ Ensures that the registered entity is operating in a way that is consistent with its purpose and character as a NFP. 	<p>Take reasonable steps to ensure that its activities outside Australia are conducted consistent with its purpose and its character as a NFP.</p> <p>Maintain reasonable internal control procedures to ensure that resources (including funds) are used consistent with its purpose and character as a NFP.</p> <p>Take reasonable steps to ensure that the resources (including funds) given to third parties outside Australia (or within Australia for use outside Australia) are applied in accordance with the entity's purpose and character as a NFP, and with reasonable controls and risk management processes in place.</p> <p>Must comply with Australian laws relating to: money laundering, the financing of terrorism, sexual offences against children, slavery and slavery-like conditions, trafficking in individuals and debt bondage, people smuggling, international sanctions, taxation and bribery.</p> <p>Must maintain reasonable internal control procedures to ensure compliance with the Australian laws mentioned above.</p>
Standard 2— Annual review of overseas activities and record-keeping	<p>To ensure that a registered entity is transparent and accountable to the public (including members, donors, employees, volunteers and benefit recipients of the registered entity) for its activities conducted outside Australia.</p>	<p>Must obtain and keep records necessary to prepare a summary of its operations and activities outside Australia on a country by country basis (an overseas activities statement) for each financial year during which it: operated outside Australia; or gave resources (including funds) to third parties outside Australia (or within Australia for use outside Australia), other than resources provided to another registered entity.</p> <p>Example: Records should be obtained and kept about the following information:</p> <ul style="list-style-type: none"> ■ The kinds of operations and activities that the registered entity conducted outside Australia. ■ Details of how it's operations and activities outside Australia enabled it to pursue and achieve its purpose. ■ Details of any procedures and processes that the registered entity used to monitor its overseas operations and activities. ■ A list of the third parties that the registered entity worked with outside Australia. ■ Details of any documented claims of inappropriate behaviour by the registered entity's employees or responsible entities outside Australia, and subsequent actions taken by the registered entity as a result. ■ If the Commissioner requires it, the registered entity must provide an overseas activities statement as part of its annual information statement. ■ The records obtained and kept must include information on the registered entity's expenditure relating to its operations and activities outside Australia on a country by country basis for the financial year.

TITLE	OBJECTIVE	STANDARD
Standard 3— Anti-fraud and anti-corruption	<p>To give the public (including members, donors, employees, volunteers and benefit recipients of a registered entity to which the standard applies) trust and confidence that the registered entity is managed. That it:</p> <ul style="list-style-type: none"> Ensures that the registered entity remains solvent . Minimises the risks to its assets. Ensures that the registered entity, and its resources, are furthering its purposes. Ensures that it is operating consistent with its purpose and character as a NFP. 	<p>Take reasonable steps to:</p> <ul style="list-style-type: none"> Minimise any risk of corruption, fraud, bribery or other financial impropriety by its responsible entities, employees, volunteers and third parties outside Australia. Identify and document any perceived or actual material conflicts of interest for their employees, volunteers, third parties and responsible entities outside Australia. (A responsible entity of a registered entity must also disclose all material conflicts of interest as one of their duties under governance standard 5).
Standard 4— Protection of vulnerable individuals	<p>To ensure that when a registered entity to which the standard applies operates outside Australia, it operates in a manner that minimises the risk of abuse to vulnerable individuals.</p>	<p>Must take reasonable steps to ensure the safety of vulnerable individuals outside Australia in relation to those individuals being provided with services or accessing benefits under programs provided by the registered entity, or a third party in collaboration with the registered entity.</p> <p>Must take reasonable steps to ensure the safety of vulnerable individuals outside Australia who have been engaged by the registered entity or a third party in collaboration with the registered entity to provide services or benefits on behalf of the registered entity or the third party.</p>

COMPLIANCE

A registered entity is responsible for assessing its compliance with external-conduct standards.

Section 50-10 of the act specifies that an entity must comply with external-conduct standards to become registered or to remain entitled to be registered.

Because complying with standards is a condition of registration, compliance is ‘subject to monitoring’. Where a provision is ‘subject to monitoring’ the ACNC commissioner may use a range of powers under Chapter 4 of the act such as requesting information, entering premises and securing evidence.

Section 35-10 of the act allows the commissioner to revoke an entity’s registration after he or she has assessed several factors, including the nature, significance and persistence of any non-compliance. The commissioner may use all the enforcement powers contained in Chapter 4 when he or she reasonably believes that a registered entity has not complied with an external-conduct standard and is unlikely to comply.

ACNC ACTIVITIES

ACNC REVOKES CHARITIES' STATUSES

The ACNC has revoked the charity status of Lieu Quan Buddhist Association Incorporated, The Genevieve Audrey Foundation and Breaking Through Transitional Services Limited.

The organisations have lost the GST concession, income-tax exemption, and FBT rebate.

Breaking Through also lost deductible-gift-recipient status.

The commission is prevented from disclosing further details due to secrecy provisions in the ACNC Act.

Every month the commission receives around 100 concerns about charities, many of which are submitted by members of the public (acnc.gov.au/charityconcern, or by calling 13 ACNC (13 22 62)).



CHARITIES MUST OBEY THE LAW



The ACNC has reminded charities of their obligations to act lawfully and be run in an accountable and responsible way in the pursuit of their charitable purpose.

Basic religious charities (BRCs), however, are exempt from complying with the ACNC's governance standards.

They are exempted from supplying financial information in annual information statements and submitting annual financial reports. Exemption from governance principles means that the ACNC is unable to take compliance action.

An ACNC spokesperson says: 'This does not mean that charities are above the law. In addition to being pursued by law enforcement and other government agencies, unlawful activity can lead to revocation of charity status.'

The commission emphasises that registered charities cannot have a 'purpose of engaging in or promoting unlawful activity', which may be grounds for the revocation of charity status and loss of tax concessions.



MOUNTING SUCCESSFUL AGMs

Many registered charities will soon be holding AGMs, reporting to members on their activities and finances and electing members of governing committees.

ACNC's governance standards require charities to be open and transparent with their members – holding an AGM each year is a way of doing this.

The ACNC recently hosted a webinar aimed at helping charities hold AGMs. You may watch it at acnc.gov.au/webinars.

The commission also has a range of other guidance, tips and templates available at acnc.gov.au/AGM.

NEW REPORTING EXEMPTION FOR VICTORIAN CHARITIES

As of 1 July, annual reporting requirements for many Victorian incorporated associations have changed.

If an association is also an ACNC charity for any financial year of the association that ends on or after 30 June 2018, it will no longer need to lodge an annual statement with Consumer Affairs Victoria and pay a lodgement fee.

It continues to lodge an ACNC annual information statement and follow the commission's regulatory requirements.

The new reporting exemption applies only to annual reporting obligations. Incorporated associations must continue to notify CAV via myCAV of changes such as its name, details and rules.

The exemption is not retrospective. For financial years that end before 30 June, entities must still submit separate annual statements to the ACNC and CAV.



TREASURY PORTFOLIO ARRANGEMENTS CONFIRMED

Federal Treasurer Josh Frydenberg has confirmed that the Assistant to the Minister for Treasury and Finance Senator Zed Seselja will take responsibility for the not-for-profit sector, including the ACNC.

REPORTING CHANGES FOR NSW CHARITABLE ASSOCIATION

NSW associations also registered as a charity with the ACNC will no longer need to lodge an annual summary of financial affairs with NSW Fair Trading and pay a lodgement fee.

Charities must lodge the association's annual information statements (and financial statements if required) with the ACNC for each financial year.

The ACNC's annual information statement for NSW organisations has been updated to include additional questions that collect information on behalf of Fair Trading.

Associations' NSW registration number and registered name must be in the statement so that they may be correctly identified as being exempt. If an association chooses to decline to answer questions it will need to lodge an annual summary with Fair Trading and pay the lodgement fee.

This change only applies to annual financial reporting obligations to Fair Trading. Incorporated associations must continue to notify Fair Trading of changes such as the association's name, details, constitution and public officers.

If the association is not on the ACNC charities register, reporting obligations stay the same.

The change is not retrospective. Associations that must lodge annual summaries before 1 October must submit separate annual reports to both the ACNC and Fair Trading.

Associations must hold their AGM within six months of their financial year-end date, when financial statements must be submitted to members. Visit the Running an association webpage for more information about reporting obligations.

The change does not apply to charities approved by the ACNC to withhold details (for example, revenue and address) and financial reports from the ACNC register.

You can confirm your association's status by using the ACNC charities register.

It should be noted that red-tape amendments do not apply to financial-reporting obligations under the Charitable Fundraising Act 1991 (NSW) and the Charitable Fundraising Regulation 2015 (NSW).



RED TAPE CUT FOR NSW CHARITIES

NSW Fair Trading and the ACNC have signed a new agreement that reduces the administrative burden on registered charities.

NSW associations will from now on be required to submit their annual financial reports only to the ACNC, which will share the data with NSW Fair Trading.

NSW Fair Trading commissioner Rose Webb said that it was a positive move for about 4000 charities.

Ms Webb said: 'These associations have been spending extra time and money filling out the same forms twice. The new

report-once system will see a reduction in unnecessary regulatory obligations'.

The memorandum of understanding between the ACNC and Fair Trading marks the beginning of a new secure data-sharing arrangement between NSW public entities and the ACNC that will streamline reporting, reduce red tape and cut administrative costs for incorporated associations that are also registered charities.

ACNC commissioner Gary Johns said that it was a big win for registered NSW charities that are incorporated as associations.

Dr Johns said: 'These charities will no longer

need to spend considerable resources meeting duplicative reporting requirements. Instead, they can spend more time and energy on delivering services and support to the people of NSW.

'Most Australian registered charities now have streamlined reporting arrangements, and I hope to be able to make further announcements in the coming months.'

The new reporting arrangement is in line with Victorian, South Australian, Tasmanian and ACT reporting arrangements, and will be available to NSW associations from 1 October.



PROPOSALS TO STRENGTHEN THE ACNC

A review panel has made 30 recommendations to strengthen the ACNC's legislative framework.

Strengthening for Purpose: Australian Charities and Not-for-profits Commission Legislative Review 2018 aims to tighten the commission's legislative structure.

Recommendations focus on the ACNC's objectives, functions and powers, the regulatory framework itself, and how to reduce red tape.

TOPIC	RECOMMENDATIONS
Part A— Objectives, functions and powers	<p>Objectives</p> <ul style="list-style-type: none"> That the objectives in the Australian Charities and Not-for-profit Commission Act 2012 (Cth) not be changed. <p>Functions</p> <ul style="list-style-type: none"> That the ACNC Act be amended to include functions and duties that align with the objectives. That the ACNC should continue to prioritise its educational and research functions, including the use of behavioural insights and incentives. <p>Powers</p> <ul style="list-style-type: none"> That the ACNC Act be amended to replace the term 'responsible entity' with 'responsible person'. That the powers of the commissioner to replace a responsible person be removed (recommendation 5). That an executive committee, including the commissioner and assistant commissioners, be established to be responsible for the strategic direction and performance of the ACNC. That ACNC Act be amended to give the commissioner broader powers to delegate functions and powers to staff. <p>Advisory Board</p> <ul style="list-style-type: none"> That the advisory board be empowered to provide advice to the minister or commissioner on its own initiative and engage directly with the sector.



TOPIC	RECOMMENDATIONS
Part B—Regulatory framework	<p>Governance</p> <ul style="list-style-type: none"> ■ That ACNC governance standard 3 be repealed and governance standard 5 be amended to remove the word ‘perceived’ with a view to consistency with the Corporations Act. ■ That a registered entity be presumed to comply with the ACNC governance standards if it already complies with other comparable governance requirements (recommendation 10). ■ That the Corporations Act 2001 (Cth) be amended to ‘turn on’ the duties and other provisions previously ‘turned off’. <p>Reporting and proportionality</p> <ul style="list-style-type: none"> ■ That registered entities be required to report based on size, determined on rolling three-year revenue, with thresholds of less than \$1 million for a small entity, from \$1 million to less than \$5 million for a medium entity, and \$5 million or more for a large entity (recommendation 12). ■ That minimum reporting requirements for small registered entities be amended to allow in annual information statements an option to provide a simplified balance sheet or a statement of resources (recommendation 13). ■ That registered entities be required to disclose related-party transactions. ■ That large registered entities be required to disclose the remuneration paid to responsible persons and senior executives on an aggregated basis. <p>Basic religious charities</p> <ul style="list-style-type: none"> ■ That if recommendations 12 and 13 are adopted, the necessity for the exemption from financial reporting for basic religious charities be reviewed, and if recommendations 5 and 10 are also adopted, all exemptions for basic religious charities be reviewed. <p>Secrecy</p> <ul style="list-style-type: none"> ■ That the commissioner be given a discretion to disclose information about regulatory activities (including investigations) when it is necessary to protect public trust and confidence in the sector. ■ That the commissioner be authorised to collect the personal details of responsible persons involved in unlawful activity. <p>Advocacy</p> <ul style="list-style-type: none"> ■ That the ACNC be resourced to enable the commissioner to enforce and develop the law where registered entities engage in disqualifying purposes (within the meaning of the Charities Act 2013 (Cth)). ■ That test-case funding be made available to develop the law in matters of public interest, including disqualifying purposes. <p>Criminal misconduct</p> <ul style="list-style-type: none"> ■ That the ACNC’s regulatory approach to high-risk registered entities be further developed in partnership with the Australian Criminal Intelligence Commission (ACIC), the Australian Transactions Reports and Analysis Centre (AUSTRAC) and other Commonwealth departments and agencies. ■ That the ACNC be resourced to enhance its access to criminal intelligence databases, use of secondments and information-sharing with the ACIC and other agencies. ■ That the Australian Charities and Not-for-profit Commission Regulations 2013 (Cth) be changed to disqualify a person from being a responsible person if he or she has a conviction for terrorism, terrorism-financing, money-laundering, fraud, importation or distribution of illicit drugs or a child sexual offence under commonwealth, state and territory law. <p>Beyond charities</p> <ul style="list-style-type: none"> ■ That the ACNC Act be amended to provide that certain not-for-profits with annual revenue of \$5 million or more must be registered under the ACNC Act to be exempt from income tax and access to commonwealth tax concessions.
Part—C Red-tape reduction	<p>Fundraising</p> <ul style="list-style-type: none"> ■ That Australian consumer law be amended to clarify its application to charitable and not-for-profit fundraising and a mandatory code of conduct be developed. <p>One-stop—shop</p> <ul style="list-style-type: none"> ■ That using the charity passport by commonwealth departments and agencies be mandated. ■ That responsibility for the incorporation and all aspects of the regulation of companies that are registered entities be transferred from the ASIC to the ACNC, except for criminal offences. <p>A national scheme</p> <ul style="list-style-type: none"> ■ That a single national scheme for charities and not-for-profits be developed.
Part—d Additional amendments	<p>Legislative amendments</p> <ul style="list-style-type: none"> ■ That the interface between the ACNC Act and the Corporations Act be reviewed and additional amendments be considered. (These are described in Appendix B to the report.) ■ That the ACNC Act be consolidated and reviewed every five years.

FINANCIAL— REPORTING INSIGHT

NFP ACCOUNTING STANDARDS OPERATIVE

AASBs become operative for NFPs as follows:

AUSTRALIAN ACCOUNTING STANDARD	FOR ANNUAL REPORTING PERIODS BEGINNING ON OR AFTER	TO 31 DECEMBER YEAR-ENDS ON OR AFTER	TO 31 DECEMBER YEAR-ENDS ON OR AFTER
AASB 9 AND AASB 7	1 January 2018	31 December 2018	30 June 2019
AASB 15	1 January 2019	31 December 2019	30 June 2020
AASB 16	1 January 2019	31 December 2019	30 June 2020
AASB 1058	1 January 2019	31 December 2019	30 June 2020

Remember that comparative and third statements of financial positions are required.

New AASB staff FAQs can help. They are:

- Which standards are applicable to the recognition of income and revenue by NFP entities?
- If I early-adopt AASB 9, AASB 15, AASB 16 or AASB 1058, what is the impact?
- When would an NFP's revenue be within the scope of AASB 15 Revenue from Contracts with Customers?
- If my entity performs research activities, which standard do I apply when accounting for grants received and when do I recognise revenue?

Answers at www.aasb.gov.au.

The AASB has also released AASB 2018-3 Amendments to Australian Accounting Standards – Reduced Disclosure Requirements effective for annual periods beginning on or after 1 January.

The standard amends AASB 16 Leases (February 2016) and AASB 1058 Income of Not-for-Profit Entities (December 2016), establishing reduced-disclosure requirements for entities preparing general-purpose financial statements.





NFPs REPORTING RULES UNLIKELY TO CHANGE

The Australian Accounting Standards Board has decided that proposals in the invitation to comment 39, (consultation paper Applying the IASB's Revised Conceptual Framework and Solving the Reporting Entity and Special Purpose Financial Statement Problems) will apply only to for-profit entities.

As foreshadowed, an approach to removing special-purpose financial statements for NFP private-sector entities is dependent on ACNC legislation-review proposals and discussions on reporting requirements among the commission and states and territories.

After hearing feedback from the NFP sector and having had recent discussions with the ACNC and the other regulators, the AASB considers that proposals in ITC 39 are relevant for for-profit entities only.

The board will shift the focus of its roundtables this month to cover only the for-profit private sector.

While the aim to replace special-purpose financial statements with a simple, comparable, proportionate, transparent financial-reporting framework remains unchanged, the board has recognised that the journey for NFP private-sector entities will be very different from that of the for-profit private sector.

The AASB will continue to research optimal outcomes, collaborate with regulators, and regularly consult with NFPs to ensure a simple and fair framework and a smooth transition for NFP private-sector entities.

The impact of removing special-purpose statements is significant, options need to be considered, and more time is needed to consider the best outcome for the NFP private sector.

The AASB will soon release a document containing targeted proposals for NFP private-sector entities.

The removal of special-purpose financial statements is expected to have little impact in the NFP public sector. The AASB's preference is to pursue financial-reporting reform in the public sector via consultation based on discussion paper Improving Financial Reporting for Australian Public Sector.

NFPs should:

- In the short term – you have extra time to explore the recommendations set out in the ACNC legislation review and there is no need to comment on phase 2 of ITC 39 as this will apply only to for-profit entities.
- In the medium term – the AASB will issue a consultation document on reporting options open to NFP private-sector entities.
- In the long term – a simple, comparable, proportionate, transparent financial-reporting framework for NFPs will become available.

FRAUD AND NOCLAR

FINANCE OFFICE BANNED AND FINED

The Federal Court in Perth has disqualified for seven years the former finance officer of Murchison Regional Aboriginal Corporation Abul Fazad Mohammed Abdus Shahid.

On Mr Shahid was banned from managing Aboriginal and Torres Strait Islander corporations for seven years and ordered to pay the corporation compensation of \$207,956.75, a pecuniary penalty to the Commonwealth of \$100,000 and the proceedings' costs.

A court registrar investigated Mr Shahid's conduct during his tenure as finance officer between 1 July 2011 and 18 November 2014.



An investigation found that Mr Shahid had:

- Caused the corporation to pay him money that failed to advance the objects of the corporation and were not approved by its directors and members.
- Treated the payments as unsecured interest-free loans repayable by 30 June of each financial year.
- Failed to ensure that the payments were accurately and properly documented.
- Improperly documented the payments knowing that funding from the Department of Housing was to be discontinued.

Mr Shahid received 117 separate payments totalling \$1,371,413.55.

The court found that Mr Shahid had contravened subsections 265-1 and 265-5 of the CATSI Act by failing to discharge his duty to act with care and diligence, in good faith and in the best interests of the corporation.

Mr Shahid was also found to have contravened subsection 265-10 of the Corporations (Aboriginal and Torres Strait Islander) Act by improperly using his position to gain an advantage for himself and causing detriment to the corporation.

Delivering his judgment, Judge Michael Barker said: It is important that all persons subject to the obligation imposed by the CATSI Act in the management and operation of Aboriginal corporations are fully aware of their responsibilities and are not under any misapprehension that the revenue, assets and property of the corporations are at their private control.'



GOVERNMENTS AND ATO

FORMER PALM ISLAND CEO FINED

The former chief executive officer of Coolgaree Aboriginal Corporation Robert Bruce Beattie has been fined \$3000 and issued with a reparation order of \$3000 to the Commonwealth for dishonestly using his position to gain a personal financial advantage.

On 6 November 2014, Mr Beattie attended a charity event run on Magnetic Island in Queensland where he bid for and won tickets to the Clipsal 500 motorsport event being held in Adelaide in 2015.

Mr Beattie used the corporation's credit card to buy the tickets, though the charity event and purchases were not linked to the corporation's business and did not further its objectives.

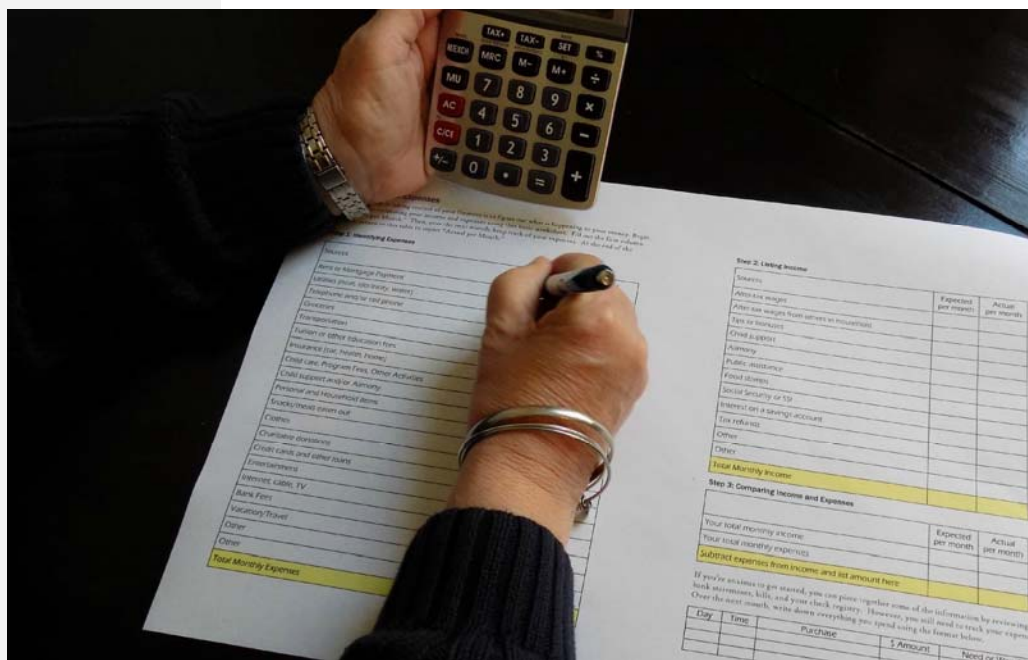
IS YOUR CHARITY ENTITLED TO A FRANKING CREDIT REFUND?

Registered charities that receive dividends or distributions from investments may be entitled to franking-credit refunds from the Australian Taxation Office.

Check your charity's dividend or distribution statements to see if you have received franked dividends and the amount of franking credits.

To be eligible for a refund, the ATO will need to have endorsed your charity as income-tax exempt or a deductible gift recipient. You will also need to meet certain residency requirements.

To find out if you're eligible, or for more information on how to apply, visit ato.gov.au/non-profit or call the ATO NFP advice line on **1300 130 248**.



NFPs AND THE COMMON REPORTING STANDARD

NFPs may be affected by the Common Reporting Standard (CRS).

The CRS is the single global standard for the annual collection, reporting and exchange of financial information on foreign tax residents.

The CRS requires 'financial institutions' to collect and report 'financial account' information on those deemed to be foreign tax residents.

Some NFPs will be financial institutions and may have obligations to report to the ATO. NFPs could be classified in this way either by possessing managed investments or by conducting an investment business.

Even if an NFP is not a financial institution, it may be asked by other entities for 'self-certification', which requires a financial institution to ask new (and some existing) financial account holders questions about their residence and entity status for tax purposes.

Where self-certification shows that an account holder is from a foreign jurisdiction, the financial account will have to be reported to the tax office.

If CRS applies, an NFP should have reported by 31 July on the period 1 July to 31 December last year. In the future, the reports will cover full calendar years.

DRAFT RULING ON 'IN AUSTRALIA' CONDITION

The ATO has published draft ruling TR 2018/D1 about the 'in Australia' requirement for certain deductible-gift recipients and income-tax-exempt entities.

The ruling explains what it means for:

- A DGR to be 'in Australia' as a condition of its endorsement.
- Certain entities to have a 'physical presence in Australia' as a condition for its income's being exempt from tax.
- A registered charity or DGR to have a 'physical presence in Australia' as a condition for their qualifying for a refund of franking credits.



SINGLE-TOUCH PAYROLL OUT OF THE BLOCKS

Thousands of employers have shifted to single-touch payroll in the first month of its operation.

Employers with 20 or more employees need to report STP information on paydays, be they weekly, fortnightly or monthly. They report simultaneously superannuation information.

ATO assistant commissioner John Shepherd said that the STP information would give employers a better picture of their tax position.

'Employees will be able to check their year-to-date tax and super information by logging into myGov and accessing ATO online services,' he said.

The STP rollout is being staggered, and the ATO expects to have around 60,000 of the 70,000 employers on-board and reporting each payday by December.

If you have failed to move to STP, talk to your software provider if you are unsure about what you need to do. Apply for a later start date if you need to.

The ATO has several factsheets, checklists, information packs and technical guidance available to download from the ATO website.

Need more information? Visit ato.gov.au/stp

ATO GUIDANCE ON NFPs COMPANY TAX

The ATO has issued guidance on company tax returns for NFPs.

The guide will help NFP clubs, societies and associations not exempt from income tax to complete their 2018 return.

CONTINUED FUNDING FOR ISLAMIC SCHOOL

Federal funding for Malek Fahd Islamic School Limited will continue if its board meets several conditions.

The Department of Education has advised that the school has corrected management issues, putting in place new governance and financial arrangements.

To remain an approved authority, the school will need to:

- Ensure that the board is demonstrably independent of the Australian Federation of Islamic Councils.
- Demonstrate that sale or lease arrangements for school land are commercially sound.
- Provide advance notice of new or changed arrangements with the federation.
- Maintain a separate bank account for its federal funding.



The department has reserved the right to consider compliance action if the conditions are not met.

Education Minister Dan Tehan said: 'The Australian Government will not tolerate the misuse of taxpayer dollars intended for schools. All school authorities must meet the requirements of the Education Act to ensure taxpayer dollars, as well as any private investment by parents, is spent to benefit Australian students.'

PROPOSED CHANGES TO THE CATSI ACT

The federal government is proposing amendments to the CATSI Act. They are:

TOPIC	SUMMARY OF PROPOSED AMENDMENT
Size Threshold	<ul style="list-style-type: none"> ■ Simplify the classification test to make it easier to determine a corporation's size. ■ Revise the thresholds for each classification to align the CATSI Act more closely with other legislative frameworks. ■ Make size alone determine reporting requirements.
Rule books	<ul style="list-style-type: none"> ■ Require that a corporation's rule book is easy to follow and comprehensive – that is, it covers all the topics known as 'replaceable rules'. ■ Allow the registrar to refuse to register a rule book if it is not 'fit for purpose'.
Business Structures	<ul style="list-style-type: none"> ■ Make it easier to create subsidiary and joint-venture entities.
Meeting and reporting	<ul style="list-style-type: none"> ■ Provide greater flexibility in the frequency and deferral of meetings and reporting, particularly for small corporations. ■ Increase members' access to reports of medium and large corporations.

Membership	<ul style="list-style-type: none"> ■ Make better use of alternative member contact details. ■ Increase a corporation's ability to protect personal information in certain circumstances.
Transparency of senior executives	<ul style="list-style-type: none"> ■ Provide access to information that allows greater scrutiny of senior management appointments and benefits.
Thresholds for related-party financial benefits	<ul style="list-style-type: none"> ■ Give corporations freedom to enter into some low-value related-third-party transactions. ■ Give the registrar discretion to allow other related-third-party transactions.
Special administrations	<ul style="list-style-type: none"> ■ Broaden and clarify the grounds for putting corporations into special administration. ■ Revise outdated processes in appointments. ■ Streamline the appointment process when a board unanimously requests it.
Voluntary deregistration	<ul style="list-style-type: none"> ■ Make criteria for voluntary deregistration more flexible.
Compliance powers	<ul style="list-style-type: none"> ■ Broaden investigation and compliance powers to address lower-level compliance problems.

Submission have closed. Changes to the act are planned to take effect from 1 July 2019.

SAVE THE DATE

OUR FIFTH ANNUAL NFP CONFERENCE IS TO BE HELD ON MARCH 14 2019 IN MELBOURNE CBD

Collins & Co invites the Board Members and all levels of Management and staff on NFP's to come on a journey with our speakers and learn from their practical approach to their specialist topics.

Can you afford to miss such a rare opportunity to learn from the experts their field?



The Not-For-Profit Conference is a fantastic opportunity to network with peers and other professionals in the Not-For-Profit Industry.

The Conference will also give attendees a chance to win a variety of door prizes!

We have locked in the following speakers for next years' conference.

- **The Hon Dr Gary Johns**—Commissioner of the Australian Charities and Not-for-profits Commission (ACNC)
- **Derek Mortimer**—DF Mortimer & Associates
- **Pamela Sutton-Legaud**—ASKRight
- **Steve Hubbard**—Do it for you Social
- **Raphael Goldsworthy**—Our Cat Herder
- **Bianca Crocker**—Fish Community Solutions
- **Randall Killip**—Profile for Media
- **Simon Oats**—Simon Oats Storyteller
- **Jenny Holiday**—NFP Training
- **Ryk Eksteen**—Collins & Co
- **Charlotte Francis**—Strategic Grants
- **Michael McGann**—Skysdesign Social Enterprise
- **Gordon Jenkins**—The Visible Guy
- **Kim Boswell**
- **Janie Alcock**



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