

Charities Alert

August 2013

ACNC governance standards for charities now in force

These standards came into force on 1 July 2013 substantially in accordance with the analysis contained in previous editions of *Charities Alert*. They are compulsory compliance for all charities that are registered entities under the *Australian Charities and Not for Profits Commission Act 2012 (Cth)* (**ACNC Act**).

Compliance with the standards requires statement of and commitment to the charity's purposes and its not for profit nature; accountability to members; compliance with Australian law; ensuring responsible persons that govern the charity meet certain minimum suitability criteria and ensuring that the responsible persons comply with specified duties in carrying out their duties.

For companies limited by guarantee registered under the *Corporations Act 2001 (Cth)* (**Corporations Act**), many of the obligations in the Corporations Act no longer apply to its directors. However, breaches of duties that constitute a criminal offence under the Corporations Act still apply, as do many other provisions of the Corporations Act.

[Click here](#) to view text of the *Australian Charities and Not for Profits Commission Amendment Regulation 2013 (No. 1)*.

Financial reporting

The *Australian Charities and Not for Profits Commission Amendment Regulation 2013 (No. 3)* specifies the

requirements for annual financial reports to be submitted by registered charities for the 2013/14 financial year and later years. The financial statements for medium and large charities must basically comply with Australian Accounting Standards. There are special provisions for:

- accounting for additional reports and joint and collective reporting authorised under the ACNC Act where special rules apply if compliance with the accounting standards may be inappropriate or impractical; and
- to assist registered charities that are not currently required to comply with accounting standards, for the 2013/14 year they will only need to provide the financial information required in their 2014 annual information statement given to ACNC – effectively, they have an extra year until they need to comply with the accounting standards.

[Click here](#) to access this regulation.

Limiting published information about private ancillary funds

The *Australian Charities and Not for Profits Commission Amendment Regulation 2013 (No. 2)* specifies circumstances in which the ACNC Commissioner should withhold personal identifying information on the ACNC register in relation to private ancillary funds. This is intended to protect the privacy of individual donors and philanthropists and prevent an unreasonable administrative burden being placed on these entities from

being inundated by donation requests from other not for profit entities.

[Click here](#) to access this regulation.

Statutory definition of 'Charity'

The *Charities Act 2013* (Cth) has been proclaimed to commence on 1 January 2014. The Act as passed is substantially in accordance with our analysis in the June 2013 edition of *Charities Alert* that may be accessed [here](#). The legislation as passed may be accessed [here](#).

The *Charities (Consequential Amendments and Transitional Provisions) Act 2013* (Cth) makes changes to a number of Commonwealth tax and other Acts as well as managing how, for ACNC legislation, existing and new charities will be slotted into appropriate charity entity types matching the expanded categories in the Charities Act. Most of

those consequential provisions will also commence on 1 January 2014. The Coalition has announced that if it is elected to government, it will repeal this package of legislation.

In other developments, Pro Bono Australia has reported that the coalition has told an Associations Forum conference in Sydney that the Coalition wants a new NFP 'philosophy' and that it is committed to abolishing the Australian Charities and Not for Profits Commission and will instead establish a new small centre for excellence.

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