

FACT SHEET

Charities and Associations Law (Amendment) Bill 2023

The Bill will amend the *Collections for Charities Act 2001* (Charities Act) and the *Associations Incorporation Act 1964* (Associations Act).

The Bill provides for Tasmania to align with national registration and harmonisation reforms to reduce regulatory burdens on charities, particularly those operating and reporting across jurisdictions. The Bill will also strengthen enforcement powers.

Key Components of the Bill

The Bill reflects four priority areas:

- Priority 1 – Implement the agreed cross-border recognition model for charitable fundraisers
 - Under this model, registration with the ACNC automatically authorises a charity to fundraise in each participating jurisdiction. State regulators retain the ability to apply additional conditions and can require the fundraiser to comply with the local financial auditing requirements or obtain copies of financial information from the ACNC. ACNC registered entities (except those located in Tasmania) are required to notify the Commissioner or the ACNC of their intention to solicit for any charitable purpose in Tasmania.
- Priority 2 – Recognise National Fundraising Principles (NFPs)
 - Implementation of the 16 high-level NFPs in Tasmania will be through a new Mandatory Code of Practice to be prescribed through regulations under the Charities Act. Any charity or organisation soliciting donations in Tasmania, including online, will be required to comply with the Code of Practice and penalties may apply for non-compliance. Current offences in the Act that are covered by the NFP requirements are therefore removed.
- Priority 3 – Harmonise the reporting thresholds for all charities
 - Increasing the auditing threshold for small organisations that are incorporated, to align with the thresholds in ACNC legislation (from \$250,000 to \$500,000) will reduce the regulatory burden on those organisations.
- Priority 4 – Strengthen the enforcement provisions of the Charities Act
 - The amendments provided in the Bill will complement the investigative provisions provided under the *Consumer Affairs Act 1988* and the proposed Code of Practice and give effect to the NFPs.

This Bill provides the Commissioner may apply to the Magistrates Court for an order, and if necessary the Director of Consumer Affairs and Fair Trading may apply for an injunction to the Supreme Court for breaches of the Code of Practice. An injunction can be granted in the event the Court is satisfied that a contravention or an attempt to contravene an order issued by a

magistrate has occurred. Additionally, the Court can issue an injunction if, for example it is satisfied that the conduct of a person constitutes aiding, abetting, inducing, conspiring, counselling or procuring a person to contravene such a provision.

The Bill also aligns Tasmania with other jurisdictions in the implementation of the 16 high-level National Fundraising Principles (NFPs), in addition to other harmonisation measures and strengthening the functions of the Commissioner for Corporate Affairs when taking enforcement action against charities and incorporated associations.

The Bill has been finalised with minor amendments following consultation.

The Bill is to commence on proclamation.