

# TASMANIA

---

## **CHARITIES AND ASSOCIATIONS LAW (MISCELLANEOUS) AMENDMENT BILL 2024**

---

### **CONTENTS**

#### **PART 1 – PRELIMINARY**

1. Short title
2. Commencement

#### **PART 2 – ASSOCIATIONS INCORPORATION ACT 1964 AMENDED**

3. Principal Act
4. Section 24 amended (Accounts and audit)
5. Section 24B amended (Annual returns)

#### **PART 3 – COLLECTIONS FOR CHARITIES ACT 2001 AMENDED**

6. Principal Act
7. Section 3 amended (Interpretation)
8. Section 4A inserted
  - 4A. Functions of Commissioner
9. Section 5 amended (Permissible soliciting)
10. Section 6 amended (Approval of organisations for soliciting)
11. Section 6A inserted
  - 6A. ACNC-registered entity not to solicit without notifying
12. Section 7 amended (Requirement for licence or authority in another jurisdiction)
13. Sections 9 and 10 repealed

- 14. Sections 12 and 13 repealed
- 15. Sections 17, 17A, 17B, 17C, 17D, 17E and 17F inserted
  - 17. Codes of practice
  - 17A. Contravention of code of practice
  - 17B. Injunctions for breaches of code of practice
  - 17C. Infringement notices
  - 17D. Annual returns
  - 17E. Proceedings for offences
  - 17F. Liability of body corporates
- 16. Section 18 amended (Regulations)

#### **PART 4 – REPEAL OF ACT**

- 17. Repeal of Act

# **CHARITIES AND ASSOCIATIONS LAW (MISCELLANEOUS) AMENDMENT BILL 2024**

This Public Bill originated in the House of Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

LAURA ROSS, *Clerk of the House*  
26 November 2024

*(Brought in by the Minister for Small Business and Consumer  
Affairs, the Honourable Michael Darrel Joseph Ferguson)*

## **A BILL FOR**

**An Act to amend the *Collections for Charities Act 2001* and  
the *Associations Incorporation Act 1964***

Be it enacted by Her Excellency the Governor of Tasmania, by  
and with the advice and consent of the Legislative Council and  
House of Assembly, in Parliament assembled, as follows:

## **PART 1 – PRELIMINARY**

### **1. Short title**

This Act may be cited as the *Charities and  
Associations Law (Miscellaneous) Amendment  
Act 2024*.

### **2. Commencement**

This Act commences on a day to be proclaimed.

*Charities and Associations Law (Miscellaneous) Amendment Act*  
2024  
*Act No. of 2024*

s. 3

Part 2 – Associations Incorporation Act 1964 Amended

---

**PART 2 – ASSOCIATIONS INCORPORATION ACT  
1964 AMENDED**

**3. Principal Act**

In this Part, the *Associations Incorporation Act 1964*\* is referred to as the Principal Act.

**4. Section 24 amended (Accounts and audit)**

Section 24(1C) of the Principal Act is amended as follows:

- (a) by omitting “registered entity” and substituting “incorporated association”;
- (b) by omitting paragraph (a) and substituting the following paragraph:
  - (a) \$500 000; or

**5. Section 24B amended (Annual returns)**

Section 24B(1) of the Principal Act is amended as follows:

- (a) by inserting “, in such form as the Commissioner requires,” after “with the Commissioner”;
- (b) by omitting from paragraph (d) “year.” and substituting “year; and”;

---

\*No. 64 of 1964

*Charities and Associations Law (Miscellaneous) Amendment Act*  
2024  
*Act No. of 2024*

Part 2 – Associations Incorporation Act 1964 Amended

**s. 5**

---

(c) by inserting the following paragraph after paragraph (d):

(e) such other information as the Commissioner requires.

*Charities and Associations Law (Miscellaneous) Amendment Act*  
2024  
*Act No. of 2024*

s. 6

Part 3 – Collections for Charities Act 2001 Amended

---

**PART 3 – COLLECTIONS FOR CHARITIES ACT 2001  
AMENDED**

**6. Principal Act**

In this Part, the *Collections for Charities Act 2001*\* is referred to as the Principal Act.

**7. Section 3 amended (Interpretation)**

Section 3 of the Principal Act is amended as follows:

- (a) by inserting the following definitions before the definition of *administrator* in subsection (1):

**ACNC** means the Australian Charities and Not-for-profits Commission established under the *Australian Charities and Not-for-profits Commission Act 2012* of the Commonwealth;

**ACNC-registered entity** means an entity registered under Part 2-1 of the *Australian Charities and Not-for-profits Commission Act 2012* of the Commonwealth;

- (b) by omitting the definition of *charitable purpose* from subsection (1) and substituting the following definitions:

---

\*No. 28 of 2001

*Charities and Associations Law (Miscellaneous) Amendment Act*  
2024  
*Act No. of 2024*

Part 3 – Collections for Charities Act 2001 Amended

s. 7

---

***charitable purpose*** means a benevolent, philanthropic or patriotic purpose that includes, but is not limited to, a purpose such as helping individuals, the welfare of animals or the protection of the environment;

***code of practice*** means a code of practice prescribed by the regulations;

- (c) by inserting “, fundraised” after “donated” in the definition of *donation* in subsection (1);
- (d) by inserting the following definition after the definition of *donation* in subsection (1):

***infringement offence*** means an offence against this Act or the regulations that is prescribed by the regulations to be an infringement offence;

- (e) by omitting “media;” from paragraph (g) of the definition of *solicit* in subsection (1) and substituting “media.”;
- (f) by omitting the definition of *sunset* from subsection (1);
- (g) by omitting the table from subsection (3) and substituting the following table:

*Charities and Associations Law (Miscellaneous) Amendment Act  
2024  
Act No. of 2024*

s. 8

Part 3 – Collections for Charities Act 2001 Amended

---

*Charitable Collections Act 1946* of Western Australia;

*Charitable Fundraising Act 1991* of New South  
Wales;

*Collections Act 1966* of Queensland;

*Charitable Collections Act 2003* of the Australian  
Capital Territory;

*Collections for Charitable Purposes Act 1939* of  
South Australia;

*Fundraising Act 1998* of Victoria.

**8. Section 4A inserted**

After section 4 of the Principal Act, the  
following section is inserted:

**4A. Functions of Commissioner**

In addition to any functions under any  
other Act, the Commissioner has the  
following functions for the purposes of  
this Act:

- (a) to advise the Minister in relation  
to the administration of this Act  
or matters arising under this Act;
- (b) to inform the public about such  
matters relating to the operation  
of this Act as the Commissioner  
considers appropriate;



*Charities and Associations Law (Miscellaneous) Amendment Act*  
2024  
*Act No. of 2024*

Part 3 – Collections for Charities Act 2001 Amended

**s. 9**

- (c) to facilitate training and education in respect of matters under this Act;
- (d) any other function determined by the Minister or prescribed by the regulations.

**9. Section 5 amended (Permissible soliciting)**

Section 5(2) of the Principal Act is amended by inserting after paragraph (a) the following paragraph:

- (ab) an ACNC-registered entity; or

**10. Section 6 amended (Approval of organisations for soliciting)**

Section 6(1) of the Principal Act is amended by inserting “, other than an ACNC-registered entity,” after “an organisation”.

**11. Section 6A inserted**

After section 6 of the Principal Act, the following section is inserted:

**6A. ACNC-registered entity not to solicit without notifying**

- (1) An ACNC-registered entity, other than an association incorporated in Tasmania or a corporation whose principal office is

*Charities and Associations Law (Miscellaneous) Amendment Act  
2024  
Act No. of 2024*

s. 12

Part 3 – Collections for Charities Act 2001 Amended

---

located in Tasmania, must not solicit for any charitable purpose unless it has first –

- (a) notified the Commissioner of its intention to do so; or
- (b) notified the ACNC of that intention in order for the ACNC to notify the Commissioner.

Penalty: Fine not exceeding 50 penalty units.

- (2) The Commissioner may impose such conditions as the Commissioner thinks fit on the soliciting for a charitable purpose by an ACNC-registered entity.

**12. Section 7 amended (Requirement for licence or authority in another jurisdiction)**

Section 7 of the Principal Act is amended by inserting “, other than an ACNC-registered entity,” after “An organisation”.

**13. Sections 9 and 10 repealed**

Sections 9 and 10 of the Principal Act are repealed.

*Charities and Associations Law (Miscellaneous) Amendment Act*  
2024  
*Act No. of 2024*

Part 3 – Collections for Charities Act 2001 Amended

**s. 14**

---

**14. Sections 12 and 13 repealed**

Sections 12 and 13 of the Principal Act are repealed.

**15. Sections 17, 17A, 17B, 17C, 17D, 17E and 17F inserted**

After section 16 of the Principal Act, the following sections are inserted:

**17. Codes of practice**

- (1) The Governor, on the recommendation of the Minister, may make regulations prescribing a code of practice.
- (2) Before a code of practice is prescribed under subsection (1), the Minister is to –
  - (a) prepare a draft of the code of practice; and
  - (b) in respect of the draft code of practice, arrange for consultation with, and invite submissions from –
    - (i) the public; and
    - (ii) any other person, body or organisation who the Minister believes would have an interest in the terms of the proposed code of practice.

*Charities and Associations Law (Miscellaneous) Amendment Act  
2024  
Act No. of 2024*

**s. 15**

Part 3 – Collections for Charities Act 2001 Amended

---

- (3) A person must not contravene or fail to comply with a provision of a code of practice.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 100 penalty units; or
- (b) an individual, a fine not exceeding 20 penalty units.

**17A. Contravention of code of practice**

- (1) The Director, under the *Consumer Affairs Act 1988*, may make a recommendation to the Commissioner that an order be applied for under this section in respect of an alleged contravention of a code of practice if –
- (a) the Director investigates, under that Act, a complaint in respect of the code of practice; and
  - (b) as a result of the investigation, the Director is satisfied that a person has contravened a provision of the code of practice.
- (2) The Commissioner may, on the Commissioner's own initiative or at the recommendation of the Director under subsection (1), apply to a magistrate for

*Charities and Associations Law (Miscellaneous) Amendment Act*  
2024  
*Act No. of 2024*

Part 3 – Collections for Charities Act 2001 Amended

**s. 15**

---

an order under this section in respect of an alleged contravention of a provision of the code of practice.

- (3) If a magistrate is satisfied that a person has contravened a provision of a code of practice, the magistrate may order that the person –
- (a) cease contravening that provision; and
  - (b) rectify any consequence of the contravention of that provision.
- (4) In addition to any order made under subsection (3) in respect of a contravention of a provision of a code of practice, a magistrate may make either or both of the following additional orders:
- (a) an order prohibiting the person from continuing to consent to, or connive at, the contravention;
  - (b) an order prohibiting the person from consenting to, or conniving at, a similar contravention by any other body corporate of which the person is a director or in the management of which the person is concerned.
- (5) An order may only be made under subsection (4) in respect of a

*Charities and Associations Law (Miscellaneous) Amendment Act*  
*2024*  
*Act No. of 2024*

s. 15

Part 3 – Collections for Charities Act 2001 Amended

---

contravention of a provision of a code of practice if –

- (a) the contravention is by a body corporate; and
  - (b) the magistrate is satisfied that it occurred with the consent or connivance of a person who, at the time of the contravention, was a director of the body corporate or a person concerned in its management.
- (6) An order under this section may be made for such period and subject to such conditions as the magistrate making the order thinks fit, including, but not limited to –
  - (a) conditions relating to the future conduct of the person who is the subject of the order; and
  - (b) conditions relating to the actions to be taken to rectify the consequences of the contravention which is the subject of the order.
- (7) It is a defence in any proceedings in respect of a failure to comply with a code of practice if the defendant establishes that compliance was effected by means other than those specified in the code of practice.

*Charities and Associations Law (Miscellaneous) Amendment Act*  
2024  
*Act No. of 2024*

Part 3 – Collections for Charities Act 2001 Amended

s. 15

---

**17B. Injunctions for breaches of code of practice**

- (1) The Director, under the *Consumer Affairs Act 1988*, may apply to the Supreme Court for an injunction under this section.
- (2) The Supreme Court may grant an injunction under this section if the Court is satisfied that a person has engaged in conduct that constitutes, or is proposing to engage in conduct that would constitute –
  - (a) a contravention of a provision of an order of a magistrate under section 17A; or
  - (b) attempting to contravene such a provision; or
  - (c) aiding, abetting, counselling or procuring a person to contravene such a provision; or
  - (d) inducing, or attempting to induce, whether by threats or promises or otherwise, a person to contravene such a provision; or
  - (e) being in any way, directly or indirectly, knowingly concerned in, or party to, the contravention by a person of such a provision; or

*Charities and Associations Law (Miscellaneous) Amendment Act*  
2024  
*Act No. of 2024*

s. 15

Part 3 – Collections for Charities Act 2001 Amended

---

- (f) conspiring with others to contravene such a provision.
- (3) An injunction granted under subsection (2) may be granted –
  - (a) on such terms as the Court considers appropriate in the circumstances; or
  - (b) as either –
    - (i) a permanent injunction; or
    - (ii) an interim injunction, with or without an undertaking being required as to damages or costs.

**17C. Infringement notices**

- (1) An authorized officer, within the meaning of the *Consumer Affairs Act 1988*, may issue and serve an infringement notice on a person if the officer reasonably believes that the person has committed an infringement offence.
- (2) An infringement notice may not be served on an individual who has not attained the age of 18 years.
- (3) An infringement notice –



*Charities and Associations Law (Miscellaneous) Amendment Act*  
2024  
*Act No. of 2024*

Part 3 – Collections for Charities Act 2001 Amended

**s. 15**

- 
- (a) is to be in accordance with section 14 of the *Monetary Penalties Enforcement Act 2005*; and
    - (b) is not to relate to more than 3 offences.
  - (4) The regulations –
    - (a) may prescribe, for infringement offences, the penalties payable under infringement notices; and
    - (b) may prescribe different penalties for bodies corporate and individuals.
  - (5) The penalty prescribed for any infringement offence is not to exceed 20% of the maximum penalty that could be imposed on an individual by a court in respect of the offence.

**17D. Annual returns**

- (1) The Commissioner may require an organisation to provide to the Commissioner, within 6 months after the end of the financial year, an annual return containing such information as the Commissioner may require.
- (2) An organisation is not required to provide an annual return under this

*Charities and Associations Law (Miscellaneous) Amendment Act  
2024  
Act No. of 2024*

s. 15

Part 3 – Collections for Charities Act 2001 Amended

---

section for a financial year if the organisation –

- (a) was an ACNC-registered entity for all or part of the financial year; and
- (b) has, in respect of the financial year, complied with the financial and reporting requirements of the *Australian Charities and Not-for-profits Commission Act 2012* of the Commonwealth.

**17E. Proceedings for offences**

Proceedings for an offence against this Act –

- (a) may, with the consent of the Commissioner, be commenced by an authorized officer, within the meaning of the *Consumer Affairs Act 1988*; and
- (b) must be commenced within –
  - (i) 3 years after the date on which the offence is alleged to have been committed; and
  - (ii) 6 months after the date on which evidence of the alleged offence first came

*Charities and Associations Law (Miscellaneous) Amendment Act*  
2024  
*Act No. of 2024*

Part 3 – Collections for Charities Act 2001 Amended

**s. 15**

---

to the attention of the  
Commissioner.

**17F. Liability of body corporates**

- (1) If a body corporate contravenes a provision of this Act, a person who is concerned in, or takes part in, the management of the body corporate is taken to have contravened that provision.
- (2) It is a defence in proceedings in respect of a contravention referred to in subsection (1) for a person to prove that –
  - (a) the body corporate contravened the provision without the person's knowledge; or
  - (b) the person was not in a position to influence the conduct of the body corporate in relation to the contravention; or
  - (c) the person, if in such a position, attempted to prevent the contravention by the body corporate.
- (3) A person referred to in subsection (1) may be convicted of a contravention of a provision of this Act whether or not the body corporate has been convicted of its contravention.

*Charities and Associations Law (Miscellaneous) Amendment Act*  
*2024*  
*Act No. of 2024*

**s. 16**

Part 3 – Collections for Charities Act 2001 Amended

---

- (4) Nothing in this section affects the liability of a body corporate for an offence committed by it against a provision of this Act.

**16. Section 18 amended (Regulations)**

Section 18(2) of the Principal Act is amended by inserting after paragraph (d) the following paragraph:

- (da) provide for the making of codes of practice; and

*Charities and Associations Law (Miscellaneous) Amendment Act  
2024*

*Act No. of 2024*

Part 4 – Repeal of Act

**s. 17**

---

**PART 4 – REPEAL OF ACT**

**17. Repeal of Act**

This Act is repealed on the first anniversary of the day on which it commenced.