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CHARITIES AND ASSOCIATIONS LAW (MISCELLANEOUS) AMENDMENT BILL 2025 (No. 65)

Second Reading

[2.55 p.m.]

Mr BARNETT (Lyons - Minister for Small Business, Trade and Consumer Affairs) -
Honourable Speaker, I move -

That the bill now be read the second time.

This bill will amend the *Collection for Charities Act 2001* and the *Associations Incorporation Act 1964*. The bill will align Tasmania with national registration and harmonisation reforms, reducing the regulatory burden on charities, particularly those operating and reporting across jurisdictions, and will also strengthen enforcement powers to enhance public confidence in the charitable fundraising sector. The bill is the same as the bill that was before this place last year, and I would like to thank the former ministers holding the consumer affairs portfolio for all their work on progressing this important reform.

When Tasmanians donate generously to causes important to them, they need confidence that their donations are being used for its intended purpose and their generosity is not misplaced. The nature of charities and fundraising in Australia has undergone significant transformation in recent times. Charities have expanded in size, complexity and operation and are conducting activities across multiple jurisdictions. In addition, fundraising has been progressively integrated into online platforms, including third-party websites. This bill ensures that our legislation remains contemporary and in line with the changing nature of how charities operate.

Reducing red tape for charities will ultimately lead to a reduced cost for charities to operate administratively across jurisdictions, meaning a greater percentage of donations will

be used for the intended cause. All jurisdictions have agreed to take steps to streamline and harmonise the broad conduct requirements of charitable fundraising, and these steps will give charities and donors a clear understanding of appropriate conduct. Our government has been working with all jurisdictions and the Australian Charities and Not-for-profits Commission to ensure our legislative framework is contemporary and fit for purpose.

I'd like to thank the various groups and individuals who contributed to the development of the bill through the consultation process that occurred during 2023. Various improvements were made to the bill in consideration of their feedback. I note that the bill was last introduced into parliament on 11 September 2024 and passed the House of Assembly on 26 November 2024. The bill was read for the first time in the Legislative Council on 27 November 2024 and later lapsed due to the calling of the 2025 Tasmanian state election. The bill I now table is in the same form that passed the House in November 2024.

I will now discuss the national fundraising principles that the bill will support. The 16 national fundraising principles will require charitable organisations to ensure that their employees, volunteers, contractors, and anyone else who they engage or arrange to raise funds on their behalf, adhere to the principles. The national fundraising principles will be implemented through a new mandatory code of practice to be made as regulations under the *Collection for Charities Act 2001*. These principles, in general terms, cover a range of areas. They require employees, volunteers and contractors of a charity to always explain the purpose of the charity they are fundraising for, in addition to how the funds will be used.

These individuals must be clearly and individually identifiable by members of the public. This means that individuals fundraising on behalf of an organisation must display identification that details their name, whether they are a volunteer, employee, contractor or acting in some other capacity on behalf of an organisation, and the organisation's name and contact details. Written records must be kept by organisations who fundraise. Clear principles guiding the behaviour of individuals soliciting donations are clearly defined. An organisation and its representative must acknowledge and comply with an individual's refusal to donate or advise that they wish to limit solicitation or do not wish to receive future solicitations.

As is the case under the act, there are limits on times at which soliciting can be undertaken. Door-to-door and telephone fundraising is prohibited before 9.00 a.m. and 5.00 p.m. on a weekend. It is also prohibited before 9.00 a.m. on a weekday. The latest time allowed for soliciting on a weekday is 6.00 p.m. for door to door or 8.00 p.m. by telephone.

Fundraising activities must not be carried out on a public holiday unless that public holiday is closely connected with the organisation charitable purpose. An example of this is the Anzac Day public holiday and fundraising activities being undertaken by an organisation such as Legacy.

Individuals who undertake fundraising activities must not mislead, deceive or use false or misleading information in soliciting for donations. An organisation or their representative may not place undue or unreasonable pressure on an individual or act unconscionably in any way in an effort to obtain a donation.

I recognise that Tasmanians willingly donate to various organisations who fundraise and it is essential that advantage is not taken of the trust, apparent need for care and support, an individual's capacity or decision-making ability, or an individual's vulnerability. Those who

undertake fundraising activities must be clear whether a donation is a one-off payment or if the donation is ongoing. In the event it is ongoing, a clear explanation must be provided on how to end the ongoing donation.

Importantly, commercial fundraisers who have been engaged to fundraise on behalf of an organisation must never accept a donation without clearly explaining to the potential donor that they are part of an organisation that receives profit from fundraising, as well as how they are paid.

The principles also placed requirements on the administration of charitable organisations who undertake fundraising in Tasmania. For instance, charitable organisations must undertake appropriate due diligence when engaging third parties to assist, support or deliver services on their behalf.

At all times, charitable organisations must take reasonable measures to protect the health, safety and wellbeing of fundraisers employed or directly engaged by them as well as members of the public when fundraising. They must also establish and maintain a complaints process that allows for proper investigation and redress of fundraising complaints that may be made by members of the public and encourage anyone with concerns about fundraising activity to contact the charity.

Charitable organisations are required to ensure that information collected under the *Privacy Act 1998* is collected, used and managed in accordance with the Australian Privacy Principles where required. The National Fundraising Principles also require that charitable organisations must at all times ensure that remuneration to commercial fundraisers engaged to fundraise on their behalf is not excessive when compared to money or goods received for the charitable purpose of the fundraising.

Some of the National Fundraising Principles overlap with existing provisions of the *Collection for Charities Act 2001*. The bill reflects amendments to remove any inconsistencies or duplication between the requirements of the act, such as offences in relation to conduct that will now be prohibited under the code of practice. There are some areas of the *Collections for Charities Act 2001* that are not replicated in the National Fundraising Principles, so these are retained in the bill.

The act will continue to provide that an organisation must not permit any donation given for any charitable purpose to be used for any purpose other than the purpose it was obtained for, with the exception of reasonable expenses incurred in the administration of the organisation, or reasonable payments to agents, contractors, officers or employees of that organisation for expenses incurred in its administration.

As I've indicated, any charity or organisation or person soliciting donations in Tasmania for charitable purposes, including online, will be required to comply with the code of practice and penalties may apply for non-compliance. The bill provides for consultation on the code of practice before it is made. While the clear object of the bill is to ensure charities are to be subject to the national fundraising principles without unnecessary additional requirements, it is important the final regulations are available for consultation in the usual way with the sector.

Other harmonisation reform initiatives the bill makes include the cross-border recognition model for charitable fundraisers. The Council on Federal Financial Relations

endorsed a cross-border recognition model for charities developed by Consumer Affairs Australia and New Zealand officials. Under this model, registration with the Australian Charities and Not-for-profits Commission automatically authorises a charity to fundraise in each participating jurisdiction.

State regulators retain the ability to apply additional conditions on ACNC-registered entities and can require them to comply with the local financial auditing requirements or obtain copies of financial information from the ACNC. To support and clarify the act in this regard, an amendment to 'donation' clarifies that the act's reference to donations includes fundraised money. A minor amendment to the definition of 'charitable purpose' clarifies that it applies to all benevolent philanthropic and patriotic purposes.

As the protection of animals and the environment have always been recognised under the act, those terms are included as examples of such purposes. The definition is considered consistent with the scope of the definition of 'charitable purposes' that applies to ACNC-registered charities.

ACNC-registered entities will be required to notify the Commissioner for Corporate Affairs or the ACNC of their intention to solicit in Tasmania. In practice, the administrative requirement on charities is reduced, as the ACNC can provide data to the commissioner on charities that solicit in Tasmania.

In terms of harmonising the report thresholds for all charities, in 2020 the Council on Federal Financial Relations agreed to harmonise reporting thresholds for ACNC-registered entities and to increase annual revenue reporting thresholds to reduce the regulatory burden on the sector.

To reduce the regulatory burden on incorporated associations generally, the auditing exemption threshold in section 24 of the *Associations Incorporation Act 1964* is increased from the current \$250,000 to \$500,000. For charities, this has the benefit of alignment with the ACNC reporting thresholds and amendments to that act also provide for the commissioner to set the form in which annual returns are provided.

Honourable Speaker, the bill clarifies there are important functions for the commissioner under the act, including informing the public about the operation of the act, facilitating training and education and any determined or prescribed function. The commissioner also has an improved compliance and enforcement role under the bill.

The *Collections for Charities Act 2001* does not currently allow for an authorised officer to issue infringement notices for breaches of that act. This has limited the commissioner in the past from taking meaningful compliance action for contraventions of the act. The proposed amendments will give effect to an infringement notice regime that will complement the investigative provisions that are available to the Director of Consumer Affairs and Fair Trading under the *Consumer Affairs Act 1988* and the proposed code of practice.

The bill provides a clarified framework for the Director of Consumer Affairs and Fair Trading to exercise powers to investigate potential offences and contraventions of the *Collection for Charities Act 2001* under the *Consumer Affairs Act 1988*. This includes a framework for Magistrates Court orders and, if necessary, Supreme Court injunctions similar to that under the *Australian Consumer Law (Tasmania) Act 2010*.

These amendments will enhance public confidence in the charitable fundraising sector and the commissioner and director will have appropriate powers to not only accept complaints but to investigate and issue infringement notices and take appropriate action in respect to contraventions and defences.

Our government is committed to providing a robust and contemporary framework in which charitable fundraising and solicitation can occur. In conclusion, the *Charities and Associations Law (Miscellaneous Amendment) Bill 2025* will provide confidence for Tasmanians who donate to charities operating in Tasmania, whilst also giving charities the ability to fundraise across jurisdictions without additional red tape and the regulatory burden currently associated with these practices. This bill further strengthens and enhances Tasmania's charities framework for the benefit of all Tasmanians.

I commend the bill to the House.

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