

Charities and Associations Law (Miscellaneous) Amendment Bill 2023

The Charities and Associations Law (Miscellaneous) Amendment Bill 2023 will align Tasmania 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 to enhance public confidence in the charitable fundraising sector.

The Charities and Associations Law (Miscellaneous) Amendment Bill 2023 will amend the *Collections for Charities Act 2001* (Charities Act) and the *Associations Incorporation Act 1964* (Associations Act).

The Bill will commence upon Proclamation.

Implementing the national fundraising reforms

The proposed amendments, as outlined in the Bill, have been broken down into four priority areas:

Priority 1 – Implement the agreed cross-border recognition model for charitable fundraisers

Under this model, registration with the Australian Charities and Not-for-profits Commission (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.

Priority 2 – Recognise National Fundraising Principles

It is proposed to implement the 16 high-level National Fundraising Principles ([Attachment 1](#)), in Tasmania through a new mandatory Code of Practice to be made as regulations under the Charities Act. Any charity or organisation soliciting donations in Tasmania, including online, would be required to comply with the Code of Practice and penalties may apply for non-compliance.

Priority 3 – Harmonise the reporting thresholds for all charities

Increasing the auditing threshold for small organisations that are incorporated, but not registered with the ACNC, to align with the thresholds in ACNC legislation (from \$250,000 to \$500,000), will reduce the regulatory burden on these organisations.

Priority 4 – Strengthen the enforcement provisions of the Charities Act

The proposed amendments will complement the investigative provisions provided under the *Consumer Affairs Act 1988* and the proposed Code of Practice, and give effect to the National Fundraising Principles.

Department of Justice

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Attachment I

National Fundraising Principles

The 16 high-level fundraising principles seek to establish broad conduct and processes for employees, volunteers and contractors undertaking fundraising activities.

Charitable organisations must ensure that their employees, volunteers, contractors and anyone else who they engage or arrange to raise funds on their behalf, will be required to:

1. Always explain the purpose of their charity and the purpose to which the funds raised will be applied in ways that are appropriate for the audience.
2. Always be clearly, and individually, identifiable by the public (including to display identification that contains the individual's name, whether they are a volunteer, employee or acting in some other capacity for a charitable organisation or commercial fundraising organisation, and that organisation's name and contact details).
3. Always make and keep written records of fundraising activities that can be easily read and understood.
4. Always acknowledge and comply with a:
 - a. refusal to make a donation
 - b. request not to receive future solicitations (including marketing and promotional materials)
 - c. request to be contacted at a more convenient time or by a different means
 - d. request to limit the number, type or frequency of solicitations.
5. Never conduct door-to-door or telephone fundraising activity at the following times:
 - before 9am or after 5pm on a weekend
 - before 9am or after 6pm (door-to-door) or 8pm (telephone) on a weekday
 - on a public holiday, unless the public holiday is closely connected with a fundraiser's charitable purpose.
6. Never mislead, deceive or knowingly use false or inaccurate information when fundraising.
7. Never place undue or unreasonable pressure on a person when fundraising, or act unconscionably in any way to obtain a donation.
8. Never exploit the trust, lack of knowledge, lack of capacity, apparent need for care and support, or vulnerable circumstances of any donor.
9. Always make it clear whether a donation is a one-off or an ongoing donation, and clearly explain how to end an ongoing donation.
10. For commercial fundraisers engaged to fundraise for a charitable organisation, never accept a donation without having explained that they are part of an organisation that makes a profit from fundraising as well as how they are paid.

At all times, charitable organisations must:

11. Conduct all reasonable due diligence when engaging third parties to assist, support or deliver fundraising activities on its behalf.
12. Make and keep written records of the total funds raised and the purpose for which funds are applied.
13. Take all reasonable measures to protect the health, safety and wellbeing of fundraisers employed or directly engage by them, as well as members of the public, when fundraising.
14. Establish and maintain a complaints process that allows for proper investigation and redress of fundraising complaints that may be made by the public and encourage anyone with concerns about a fundraising activity conducted by or on behalf of the charity to contact them.
15. Ensure information covered by the *Privacy Act 1998* (the Act) is collected, used and managed in accordance with the Australian Privacy Principles where required under the Act.
16. Always ensure remuneration to commercial fundraisers engaged to fundraise for a charitable organisation is not excessive when compared to money or goods received for the charitable purpose of the fundraising.