

TREASURY'S NOT-FOR-PROFIT REFORM FACTSHEET

THE ACNC EXPOSURE DRAFT 'ONE-STOP SHOP'

9 December 2011

AT A GLANCE

The Assistant Treasurer, the Hon Bill Shorten MP, today released exposure draft legislation for the establishment of the Australian Charities and Not-for-profits Commission (ACNC). The exposure draft and explanatory materials can be found at www.treasury.gov.au.

Submissions on the exposure draft materials are due on 20 January 2012. Queries and submissions should be sent to NFPReform@treasury.gov.au.

KEY FACTS

The Government announced in the 2011-12 Budget that it would establish the ACNC by 1 July 2012.

One of the core objectives of the ACNC will be to provide a 'one-stop shop' for the regulation of the not-for-profit (NFP) sector.

This will provide benefits to the sector by way of reduced duplication of regulation and compliance costs and will ensure the good governance, accountability and transparency of NFP entities, which will promote public trust and confidence in the NFP sector.

The ACNC will initially be responsible for providing education and support to the sector; implementing a 'report-once use-often' general reporting framework for charities; implementing a public information portal by 1 July 2013; and governance regulation.

Moving forward, it is expected that the ACNC will then be given further responsibilities, and eventually, will truly be a national 'one-stop shop' regulator.

NEED FOR A 'ONE-STOP SHOP'

In 2010, the Productivity Commission *Report on the Contribution of the Not for profit Sector* examined the excessive levels of regulation faced by the NFP sector and the compliance costs associated with those obligations.

In response to these issues, the report provided recommendations to the Australian Government to establish a single national regulator for the NFP sector. In particular, the report recommended the establishment of a 'one-stop shop' regulator by consolidating various regulatory functions into a new national regulator.

Responding to the report's recommendations, the Australian Government undertook a scoping study for a national NFP regulator.

In 2011, the *Final Report on the Scoping Study for a National Not-for-profit Regulator* presented the findings of the scoping study and recommended that a single regulator be established for the purposes of governance, accountability and transparency of NFPs.

The Final Report further recommended that the regulator should, as far as possible, be responsible for regulating all NFPs receiving government exemptions, concessions or benefits.

MOVING TOWARDS A 'ONE-STOP SHOP'

From 1 July 2012, the ACNC will begin the process of creating a 'one-stop shop' in order to reduce regulatory duplication and red tape and minimise compliance costs imposed on NFP entities. The ACNC's role will be to register and regulate NFP entities seeking Commonwealth support including access to generous tax concessions and NFP specific grants.

The Australian Taxation Office (ATO) will maintain responsibility for administering the tax system, including tax concessions, as the ATO is the Australian Government's principal revenue collection agency. However, as the ACNC will be a 'one-stop shop' for the sector, the registered entity need only put in one application with the ACNC. The ACNC will then manage the interaction with other Australian Government agencies.

TRANSITIONING TO A TRULY NATIONAL 'ONE-STOP SHOP'

Currently, Commonwealth, State, Territory and local governments regulate different parts of the NFP sector for both different and overlapping purposes. For example, laws under each jurisdiction provide tax concessions, exemptions from registration and permit requirements and exemptions or limitations on legal liability, and impose fundraising and lottery regulations.

In order to move towards the long-term objective of having the ACNC as a national 'one-stop shop' for NFP regulation, the Commonwealth will work with the States and Territories on a national regulatory framework.

FREQUENTLY ASKED QUESTIONS

Will the ACNC be the only part of Government my entity will need to talk to?

The information registered entities will submit to the ACNC will be used by the entity to fulfil the totality of their general reporting obligations, initially across all Commonwealth agencies.

The Commonwealth will work with the States and Territories on a national regulatory framework.

I'm a charity, will I be automatically covered under the new 'one-stop shop' regulator?

Registration by the ACNC will be completely voluntary and charities would be able to operate without being registered.

However, registration would be a necessary pre-condition for NFP entities to access Commonwealth support earmarked for the sector, including exemptions, concessions and benefits.

The Government will work with the States and Territories on national regulation and moving towards a 'one-stop-shop' for all purposes.

My entity is not a charity but is a NFP, what does 'one-stop shop' mean for me?

From 1 July 2012, the ACNC will begin its operations by registering new charities including public benevolent institutions. It is envisaged that in the long-term the ACNC's role will expand to cover registration and regulation of all NFPs receiving government exemptions, concessions and benefits.

Will my information be shared amongst other agencies and jurisdictions?

Under the ACNC secrecy framework, most aspects of the information statement and financial report (where required) submitted by registered entities will be available to the public, the sector and the governments by way of the ACNC Register and the ACNC website.

This will assist NFP entities, as they will only be required to lodge their relevant information with the ACNC, thus reducing compliance costs and red tape.

If the ACNC is a 'one-stop shop', why aren't governance rules part of the ACNC exposure draft?

The Government recognises the importance of harmonising existing ad hoc and often duplicative governance rules that apply to NFPs. The governance rules are also a critical part of the fabric of the ACNC framework.

Therefore, the Australian Government has released a public consultation paper to help determine core governance principles applying to NFP entities. For that reason, the governance rules are yet to be included with the ACNC exposure draft.

The outcome from the governance review will feed into the ACNC legislation, and be in place by 1 July 2012. Appropriate transitional arrangements will be in place where necessary to ensure a smooth transition.

Following consideration of the outcomes of the governance review, the Government will undertake targeted confidential consultation on the draft legislation.

Does this mean that the ACNC will be taking over all regulatory functions for the NFP sector?

No, the ACNC will be responsible for regulation of charities at the Commonwealth level with the intention to increase its scope to other parts of the NFP sector over time.

However, the ATO will maintain responsibility for administering the tax system, including tax concessions, as the ATO is the Government's principal revenue collection agency.

The ATO will accept the ACNC's determination of charitable status, and will only assess any further conditions that are specific to eligibility for certain tax concessions, such as the 'in Australia' special conditions.

Furthermore, Australian Government agencies responsible for providing grants and assistance to NFP entities will also maintain responsibility for administering those programs.

Further, agencies responsible for monitoring and service quality standards of both for-profit and NFP entities will continue to undertake those functions.