

TREASURY'S NOT-FOR-PROFIT REFORM FACTSHEET

THE ACNC EXPOSURE DRAFT REPORTING AND AUDITING

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

All registered not-for-profit (NFP) entities will be required to provide the ACNC with an annual information statement. Medium and large entities will also need to provide a financial report. Large registered entities must have their financial report audited annually. Medium registered entities must usually have their financial report either reviewed or audited annually.

The Government is committed to promoting the NFP sector's transparency and accountability. Reports submitted by registered entities will be available to the public, the sector and the Government. This will increase transparency and activities, and minimise duplication of reported information across the sector.

CONTEXT

The current reporting requirements applying to NFPs are ad hoc, uncoordinated, complex and can be duplicative.

The Government consulted on reporting requirements as part of the scoping study for a national 'one stop shop' regulator. The *Final Report of the Scoping Study for a National NFP Regulator* found that NFP entities should provide information for reporting purposes, proportional to the size of the entity, risk factors and level of sector and government assistance. The Final Report recommended that small entities should be required to provide no more than a postcard of information.

REPORTING REQUIREMENTS

Reporting requirements will be proportional to the size of registered entity, based primarily on the annual revenue of the entity. There are three tiered categories set out in the exposure draft: small, medium and large registered entities.

This will minimise the compliance burden placed on registered entities, while striking a balance with accountability and transparency.

A system of warnings will be in place to ensure that a registered entity is not de-registered because it misses a reporting deadline. De-registration is always intended to be the last resort of action, and the ACNC will be provided with alternative powers (where possible).

The information statement and financial report (where required) that registered entities will submit to the ACNC will be used by the entity to fulfill the totality of their general reporting obligations, initially across all Commonwealth agencies.

The Government reviewed and updated the reporting framework for NFP entities covered by the *Corporations Act 2001* in 2010. As the Government has recently consulted on the reporting framework required for NFP entities regulated at the Commonwealth level, the tiered reporting requirements are based on those in the Corporations Act that apply to NFP entities. However, consistent with the findings of the Final Report, small entities will be required to provide some basic financial information to the Commissioner.

The Government does not intend for this information to create onerous requirements for small NFP entities. It will be information that many small entities would already be expected to have.

The 'approved form' for the reporting will be determined by the Commissioner. The ACNC Taskforce discussion paper *Implementation Design* discusses what is proposed to be included in the approved form.

SPECIAL PURPOSE REPORTING

The Commissioner of the ACNC will have the authority to require a registered entity or class of registered entities to lodge a special purpose report. This information could be used by the ACNC to inform its compliance, investigative and any other activities undertaken to fulfill responsibilities specified in the exposure draft. Special purpose reporting will only be used where necessary, not as a matter of course.

It will also allow other government agencies, which will rely on the ACNC to obtain general information from registered entities, to request through the ACNC, information which is required to fulfill obligations under their relevant Acts.

FREQUENTLY ASKED QUESTIONS

Why are registered entities required to report?

Because charities make a very important contribution to Australian society, they receive a range of support from Commonwealth, state, territory and local governments, including tax concessions and grants, and support from the public in terms of donations and volunteering.

As charities (and NFPs more generally) are in receipt of this generous support, there is placed upon them high community expectations, making a base level of reporting and accountability important. Reporting and auditing requirements will help improve public trust and confidence in the sector, through promoting accountability and transparency of NFPs.

When will the reporting requirements commence?

The Government has announced that the reporting framework will apply for registered charities from 1 July 2013, for information from the previous year.

The ACNC's scope will expand to cover other NFP entities over time. Those timeframes are still to be determined and won't start before 1 July 2015.

How does this relate to the ACNC taskforce's discussion paper Implementation Design?

The ACNC taskforce discussion paper focuses on how the reporting and auditing requirements will be implemented from an administrative point of view.

What happens to the lodged information?

Most elements of the information statement and financial report (where required) submitted by registered entities will be available to the public, the sector and governments.

What if a registered entity doesn't want some of the information to be made publicly available?

The Commissioner of the ACNC has the discretion to allow information to remain private.

In addition, certain information will not be made available to the public (see the Factsheet on *Secrecy Framework*).

What happens if an entity fails to lodge on time?

A system of warnings will be in place to ensure that a registered entity is not de-registered merely because it misses a reporting deadline.

Penalties will be in place for entities who lodge late. The Commissioner will have the ability to waive these penalties in appropriate circumstances.

The Australian Government will ensure that there are effective procedural fairness mechanisms available. This will ensure that an appropriate system is in place to settle disputes with the ACNC (see Factsheet on *Objections, reviews and appeals*).

What if a registered entity currently has to report to another regulator, such as a state regulator, or ASIC?

The aim is not to impose any additional reporting or auditing requirements on top of existing requirements.

The information statement and financial report (where required) that registered entities submit to the ACNC will be used by the entity to fulfill the totality of their general reporting obligations, initially across all Commonwealth agencies.

To further reduce duplication the Commonwealth will work with the States and Territories on a national regulatory framework, including with respect to reporting.

What if an entity is not currently required to report any financial information?

All registered entities will be required to provide the ACNC with an annual information statement. Medium and large entities will also need to provide a financial report.

As NFPs are in receipt of benefits, such as tax concessions, there is placed upon them high community expectations, making a base level of reporting and accountability important.

Reporting requirements will be proportional to the size of registered entity. The Government does not intend the required information to create onerous requirements for small NFP entities.

What if a registered entity does not follow the normal financial year?

The Commissioner may allow a registered entity to adopt a different accounting period in appropriate circumstances.

What if a registered entity lodges a report, and then finds a mistake?

Registered entities will be required to reodge reports (within 28 days of the change) if they discover a material error in the reports after they have been lodged with the ACNC.

This ensures that the public and the ACNC have access to the latest and most accurate information. This will promote public confidence and trust, and ensure that information within the public domain is up-to-date and accurate.