

Deloitte Access Economics

# Australian Charities and Not-for-Profits Commission

## *Cutting Red Tape:*

Options to align state, territory and  
Commonwealth charity regulation

Final Report

23 February 2016

A large, stylized red graphic resembling a torn piece of tape or a ribbon, curving across the bottom half of the page.

**Deloitte.**

# Contents

Glossary	1
Executive Summary	2
1 Introduction	7
1.1 Background	7
1.2 Project scope	10
1.3 Regulatory context	10
1.4 Methodology	14
2 Regulatory mapping and identification of key issues	17
2.1 Fundraising regulatory burdens	17
2.2 State taxation regulatory burdens	23
2.3 Incorporated associations legislation regulatory burdens	28
3 Options for reform	32
Base Case: No change to current arrangements	33
Option 1: ACNC obligations fulfil state and territory regulatory requirements	33
Option 2: Alignment of state, territory, and ACNC regulatory obligations	35
Option 3: ACNC as a central regulatory body	36
4 Options analysis	39
4.1 Fundraising	39
4.2 State taxation	40
4.3 Incorporated associations legislation	42
5 Findings and recommendations	44
5.1 Key findings	44
5.2 Recommendations	46
6 Limitation of our work	47
General use restriction	47
Appendix A Detailed comparison of options	48
Appendix B Regulatory burden calculation assumptions and inputs	51
Appendix C State and territory regulatory mapping	55
Appendix D Charity regulators by state and territory	74

Liability limited by a scheme approved under Professional Standards Legislation.

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee, and its network of member firms, each of which is a legally separate and independent entity. Please see [www.deloitte.com/au/about](http://www.deloitte.com/au/about) for a detailed description of the legal structure of Deloitte Touche Tohmatsu Limited and its member firms.

©ACNC for the Commonwealth of Australia.

# Glossary

Acronym / abbreviation	Definition
<b>ACNC</b>	Australian Charities and Not-for-profits Commission
<b>ACT</b>	Australian Capital Territory
<b>AGM</b>	Annual General Meeting
<b>AIS</b>	Annual Information Statement
<b>ASIC</b>	Australian Securities and Investments Commission
<b>ATO</b>	Australian Taxation Office
<b>CBD</b>	Central Business District
<b>CCP</b>	Collections for Charitable Purposes (CCP) license (South Australia)
<b>CEO</b>	Chief Executive Officer
<b>COAG</b>	Council of Australian Governments
<b>DGR</b>	Deductible gift recipient
<b>DOB</b>	Date of birth
<b>EOFY</b>	End of Financial Year
<b>EPA</b>	Environmental Protection Authority
<b>GST</b>	Goods and services tax
<b>HPC</b>	Health Promotion Charity
<b>MoU</b>	Memorandum of Understanding
<b>NFP</b>	Not for Profit
<b>NSW</b>	New South Wales
<b>NT</b>	Northern Territory
<b>OFT</b>	Office of Fair Trading (Queensland)
<b>ORIC</b>	Office of the Registrar of Indigenous Corporations
<b>ORS</b>	Office of Regulatory Services (ORS)
<b>PBI</b>	Public Benevolent Institution
<b>QLD</b>	Queensland
<b>RBM Framework</b>	Regulatory Burden Measurement Framework (Commonwealth)
<b>SA</b>	South Australia
<b>SRO</b>	State Revenue Office
<b>Tas</b>	Tasmania
<b>VCAT</b>	Victorian Civil and Administrative Tribunal
<b>Vic</b>	Victoria
<b>WA</b>	Western Australia

# Executive Summary

The Commonwealth Government (the Commonwealth) has committed to reduce the cost of unnecessary or inefficient regulation imposed on individuals, business and community organisations by at least \$1 billion a year.<sup>1</sup> The Commonwealth's plan entails a number of commitments to directly improve the development, administration and assessment of regulation and to establish processes to reduce the overall burden of red tape.

As part of the Commonwealth's broader red tape reduction agenda, a key function of the Australian Charities and Not-for-profits Commission (ACNC) is to help reduce the regulatory burden on the Australian not for profit sector. To achieve this, the ACNC has embarked on a research program to measure the red tape burden on charities and identify target areas for red tape reduction.

In December 2013, the ACNC engaged Ernst & Young to research the regulatory and reporting burden on charities, focussing on the Commonwealth perspective. As the second phase of the ACNC's red tape reduction research programme, the ACNC has now commissioned Deloitte Access Economics to undertake research on a range of options to align the regulatory obligations of the ACNC and states and territories. These options seek to identify and quantify the benefits that could accrue to charities through red tape reduction in three key areas that are the responsibility of the states and territories: fundraising (including gaming), state taxation (principally eligibility for taxation concessions), and incorporated associations legislation. This research is considered a companion piece to the *Research into Commonwealth Regulatory and Reporting Burdens on the Charity Sector* report<sup>2</sup>.

## Fundraising

Overwhelmingly, fundraising is the source of the greatest amount of regulatory burden for charitable organisations. Fundraising legislation differs significantly between jurisdictions, which very quickly escalates the administrative costs a charity incurs. Consequently, the annual regulatory burden associated with fundraising regulations is estimated at approximately \$13.3 million per year across the sector.

Fundraising regulation has not kept pace with new forms of fundraising, particularly as online campaigns for funds have grown through the use of third party websites. The current arrangements treat fundraising as an activity isolated to one state or territory, when, in reality, even small organisations may attract interest nationally *and* internationally through online channels such as crowdsourcing websites.

## Incorporated associations legislation

Incorporated associations comprise a significant portion of the charitable sector as the structure is well suited to small organisations. However, under the current arrangements charitable incorporated associations are regulated at both the state, territory and

<sup>1</sup> Commonwealth of Australia, (2014), *Regulator Performance Framework*, Accessed 1 July 2015, [http://cuttingredtape.gov.au/sites/default/files/files/Regulator\\_Performance\\_Framework2.pdf](http://cuttingredtape.gov.au/sites/default/files/files/Regulator_Performance_Framework2.pdf)

<sup>2</sup> Ernst & Young, *Research into Commonwealth Regulatory and Reporting Burdens on the Charity Sector*, 30 September 2014, [http://www.acnc.gov.au/ACNC/Pblctns/Rpts/EY\\_Report/ACNC/Publications/Reports/EY\\_report.aspx](http://www.acnc.gov.au/ACNC/Pblctns/Rpts/EY_Report/ACNC/Publications/Reports/EY_report.aspx)

Commonwealth levels. As an incorporated association they must remain compliant with state and territory legislation, while as a charity they must also comply with ACNC requirements. A number of these requirements are duplicative, and lead to unnecessary administrative costs due to individual regimes for reporting, notification and application requirements.

Those surveyed suggested this duplication of reporting did not create a significant burden. However, given the high number of incorporated associations, this relatively minimal level of duplication across a number of key processes is significant overall. The resulting regulatory burden placed on charities annually is estimated to be approximately \$8.8 million per year in total across the sector<sup>3</sup>.

### **State taxation**

Similarly to fundraising, one of the main regulatory impediments to gaining state taxation concessions is in relation to the lack of a standard definition outlining the types of organisations who are eligible for concessions. Further, there are significant barriers to entry to gain concessions due to the search and application time associated with gaining approval from state and territory governments. The total annual regulatory burden this creates is estimated to be approximately \$11.0 million per year across the sector.

In addition to the benefits associated with streamlining the tax concession system on behalf of charitable organisations, there are also considerable benefits to both charities and state and territory governments associated with centralising the system to increase oversight and consistency of application.

### **Options for reducing the burden**

This report presents three options to reduce regulatory burdens on charities across the three areas of regulation covered in this report. These options are:

- Base case – Continuation of the current arrangements
- Option 1 – ACNC obligations fulfil state and territory regulatory requirements
- Option 2 – Alignment of state, territory, and ACNC regulatory obligations
- Option 3 – ACNC as a central regulatory body.

The degree to which state and territory responsibilities are transferred to the ACNC increases from Option 1 through to Option 3. However, so do the benefits in terms of the level of regulatory burden eliminated.

### **Key findings**

Regulation of the charitable sector relating to fundraising, state taxation, and incorporated associations, is estimated to cost charities approximately \$34.9 million annually. Feedback from the sector indicates that a number of opportunities exist to reduce this burden. At present, regulatory requirements differ considerably between state, territory and Commonwealth jurisdictions. This creates duplicative arrangements and increases the difficulty of working in more than one jurisdiction. In addition, some legislative

---

<sup>3</sup> Note: Transitional arrangements currently apply, through which the ACNC accepts financial reports lodged with state and territory regulators as satisfying ACNC requirements. More information is available here: <http://www.acnc.gov.au/transitionalreporting>.

arrangements have not kept pace with the current state of the charitable sector. As charities grow in size, utilise technology to a greater degree, and operate in a number of jurisdictions, it is important that state, territory and Commonwealth agencies have the capacity to take a holistic approach to regulation to support the development and productivity of the sector.

The regulatory costing analysis found that Option 3 delivers the greatest opportunity for red tape reduction across all three areas of regulation. Indeed, Option 3 has the potential to reduce the current state and territory based regulatory burden costs placed on charities by approximately \$29.4 million, as highlighted in Table A.1. While the potential for benefit realisation is high, it is also noted that the time and effort required to support a move towards centralised regulation through the ACNC would be significant.

In the case of incorporated associations legislation, significant regulatory cost savings can be achieved across all options. Options 1, 2 and 3 all reduce the estimated regulatory burden to the same degree. Option 1 enables the elimination of current regulatory obligations when states and territories provide an exemption to charities that are registered with the ACNC. Charities would no longer need to report directly to state and territory regulators. Reporting submitted to the ACNC would satisfy this obligation.

Option 2 highlights the benefits of aligning state, territory, and ACNC regulatory obligations. Aligned regulatory requirements will allow states and territories to utilise the information collected by the ACNC through the existing ACNC Charity Passport system more effectively. This system allows the ACNC to electronically share the information collected from registered charities with authorised government agencies, enabling charities to report once, rather than to multiple entities.

Option 3 would see a greater centralisation of regulations, with the ACNC integrating the current regulatory arrangements into their existing processes. However, there are trade-offs associated with moving towards a central regulatory model. While such an approach would lead to economies of scale, the ACNC may not be best placed to coordinate charities' regulatory obligations in every instance. For example, charitable incorporated associations are only a small subset of all incorporated associations. The same amount of regulatory burden savings can be achieved through Option 1, which is a less time intensive process than Option 2 or 3.

Consultations with key stakeholders in the charitable sector highlighted fundraising as a top priority for reform and an area recognised as making the most difference for regulatory burden reduction. Overwhelmingly, the ACNC was identified as the entity that would be best placed to centralise processes, and reduce red tape across fundraising, state taxation and incorporated associations' regulations. This is echoed in the cost burden estimates, which shows a progressive decrease in the regulatory burden between Options 1, 2 and 3. This decrease is again driven by the significant savings that can be achieved through reducing duplicative reporting requirements. Option 3, in which the ACNC undertakes regulation of these entities, offers the greatest reduction due to the additional efficiencies that can be achieved in the application process, and in relation to operational requirements.

Consistent with the fundraising estimates, state taxation regulatory burden cost savings are significantly higher under Option 3. While this can be attributed to a centralised application process, a major contributor is the provision of centralised information and assistance for state and territory taxation concessions.

**Table A.1 Summary of regulatory burden cost estimates**

Task	Base Case	Option 1	Option 2	Option 3
Fundraising	\$15.08 m	\$10.04 m	\$6.58 m	\$4.27 m
State taxation	\$10.99 m	\$10.50 m	\$8.66 m	\$1.19 m
Incorporated Associations	\$8.77 m	\$0.00 m	\$0.00 m	\$0.00 m
<b>TOTAL</b>	<b>\$34.85 m</b>	<b>\$20.54 m</b>	<b>\$15.24 m</b>	<b>\$5.46 m</b>
<b>Regulatory saving against the base case</b>	<b>N/A</b>	<b>\$14.31 m</b>	<b>\$19.60 m</b>	<b>\$29.38 m</b>

## Recommendations

Based on the key findings, it is recommended that:

1. The ACNC seek the support of state and territory government to pursue the implementation of Option 1 as a first tangible step towards red tape reduction for charities. Allowing the ACNC's regulatory obligations to fulfil, at least in part, state and territory requirements is considered an optimal interim measure, as a significant quantum of benefits can be achieved while requiring less time, effort and buy-in than Options 2 & 3. Option 1 presents a number of opportunities for 'quick wins', particularly in the case of incorporated associations.
2. The ACNC continues to build on the red tape reduction work completed to date by engaging with states and territories through the Council of Australian Governments (COAG) and pursuing the implementation of Option 3, specifically in relation to fundraising regulations and state taxation. Implementation of Option 3 for incorporated associations would have no additional benefit when compared against Option 1, and consequently it is not recommended for implementation in this instance.

It is noted that this approach would require significant changes to state and territory powers and to the management responsibilities of the ACNC. It would also involve the alignment of regulations across the states and territories to support the centralisation of functions. Practical issues and the potential for some jurisdictions being unwilling to cede powers to the Commonwealth mean that implementation of this option will not be straightforward. Further, Option 3 will also involve an increased processing burden being placed on the ACNC and interim costs on state and territory governments to enact the referral of power.

3. The ACNC and state and territory governments utilise any opportunity to increase the alignment of current legislation and regulations cutting across two of the three areas of analysis: fundraising and state taxation in line with the principles outlined under Option 2.
4. The ACNC plays a greater role in assisting charities with their state and territory compliance requirements where feasible. Moreover, the state and territory regulators should work with the sector to address current issues of non-compliance and review relevant regulations to ensure that they are up to date with contemporary practices and structures of charitable organisations.

5. Cooperation between state and territory governments and the ACNC should be strong. In order to effectively implement Option 1, and progress elements of Option 2 and Option 3, it is imperative that the bodies work together to share information and set up processes that enhance efficiencies to realise the expected time and cost savings.



# 1 Introduction

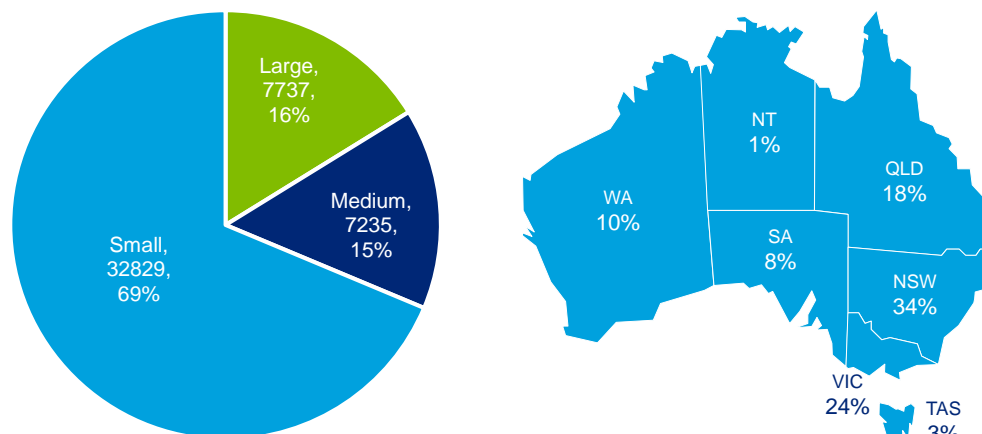
## 1.1 Background

Charities are an essential part of Australian society, offering a large and diverse range of services that are of significant benefit to Australians. Charities contribute vital functions across health, education, employment and legal services and in a multitude of other areas. In doing so, they provide support to many disadvantaged and vulnerable people in our society. Charities also play an important advocacy role, through promoting the protection of the environment, advancing religion, or defending human rights, to name a few.

According to the ACNC Charity Register, at least 54,542 charities are currently operating in Australia<sup>4</sup>. These charities employed 475,777 reported full-time employees and 529,917 part-time employees in 2013<sup>5</sup>. In addition, charities engage a significant proportion of the Australian population through their extensive volunteer base.

Charities also vary significantly in size and character. The sector is comprised of small, medium and large entities (based on ACNC definitions) which cover every state and territory, as shown in Figure 1.1. As indicated, the majority of charities operate as small organisations and over half of charities are located in NSW and Victoria.

**Figure 1.1 Charities by size and location, based on ACNC definitions**



Source: ACNC Annual Information Statement data, 2013 (note: blanks have been excluded)

Given the importance of this sector, it is crucial that it is supported by regulations that are appropriate, fit-for-purpose, and encourage increased productivity, rather than creating barriers to participation. Further, it is crucial that regulation at both the Commonwealth and state and territory levels encourages best practice and offers effective oversight to enhance public trust and confidence.

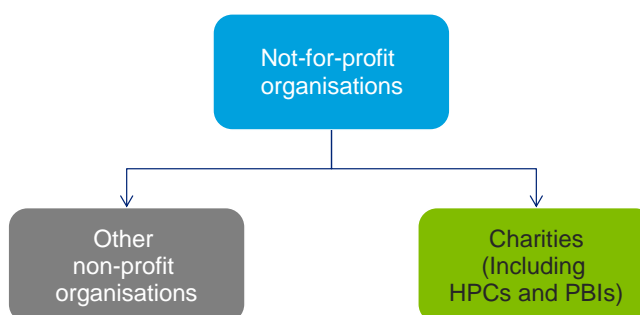
<sup>4</sup> ACNC, (2015), *ACNC charities register data* (based on information provided August 2014 by ACNC)

<sup>5</sup> ACNC, (2013), *Annual Information Statement data, 2013*, <http://data.gov.au/dataset/acnc-2013ais>

### 1.1.1 Australian Charities and Not for Profit Commission

On 3 December 2012, Australia's first independent and national regulator of charities, the ACNC, was established. The ACNC is a purpose built regulator with a stated emphasis on providing education and advice to support charities to meet their regulatory obligations. The ACNC aims to provide a best practise reference point to which states, territories, and other Commonwealth agencies may align. The ACNC regulates the not-for-profit (NFP) sector, of which charities are a subcomponent, as depicted in Figure 1.2.

**Figure 1.2 Charities and their relation to the NFP sector**



Note: Public Benevolent Institution (PBI) or a Health Promotion Charity (HPC).

The ACNC was formed in response to a number of formal parliamentary inquiries and research reports detailing the deficiencies in the current regulatory environment and the need for a central body to address red tape and increase the accountability and transparency of the sector. The Productivity Commission report, *Contribution of the not-for-profit sector*, found that a major issue for the sector was inconsistencies between similar legal forms and the cost of complying with differing legislation.<sup>6</sup> Furthermore, the Regulatory Impact Statement developed to support the introduction of the *Australian Charities and Not-for-Profit Commission Act 2012* (the ACNC Act) noted NFPs face multiple (and often conflicting) informational requirements, diverting scarce resources from the core purpose of the entity towards administration and compliance expenses.

The ACNC's legislative responsibilities, compliance requirements for charities, and progress made to date in reducing the regulatory burden are discussed below.

#### 1.1.1.1 Legislative responsibilities

The ACNC administers the ACNC Act, the *Australian Charities and Not-for-profits Commission (Consequential and Transitional) Act 2012 (Cth)*, and the *Australian Charities and Not-for-profits Commission Regulation 2013 (No. 3) (Cth)*.

The three objects of the ACNC as outlined in the ACNC Act are to:

- Maintain, protect and enhance public trust and confidence in the sector through increased accountability and transparency
- Support and sustain a robust, vibrant, independent and innovative NFP sector
- Promote the reduction of unnecessary regulatory obligations in the sector.<sup>7</sup>

To achieve its objects, the ACNC's functions include:

<sup>6</sup> Productivity Commission, (2010), *Contribution of the not-for-profit sector – Research report*

<sup>7</sup> *Australian Charities And Not-For-Profits Commission Act 2012* (NO. 168, 2012) – Sect. 15.5

- Maintaining a public register of Australian charities
- Registering new charities and deregistering those which are no longer eligible
- Collecting information on charities, primarily through an Annual Information Statement (AIS)
- Receiving and acting on complaints about registered charities
- Monitoring charities for compliance with legal requirements and, if necessary, taking enforcement action
- Driving the reduction of unnecessary or duplicative regulation and reporting (red tape) in the sector, in cooperation with other agencies
- Providing advice and guidance to the sector and the public, to enhance the transparency and good governance of the sector<sup>8</sup>.

#### 1.1.1.2 ACNC regulatory obligations for charities

Under the ACNC Act, the ACNC regulates charities by:

- Registering charities
- Collecting information about charities
- Responding to charities that may not be meeting their obligations, including using compliance powers where necessary.

Further information on the regulatory requirements placed on charities by the ACNC is provided in Chapter 2.

#### 1.1.1.3 Progress made to date in reducing the regulatory burden

To date, the ACNC has undertaken a range of activities focused on making charities' interactions with government more efficient.

The ACNC has introduced the principle of a "report once, use often" framework as recommended by the Productivity Commission, whereby the ACNC acts as a single repository that provides information to other authorised governmental agencies as required<sup>9</sup>. This concept has been used to underpin the ACNC's 'Charity Passport', which allows information collected by the ACNC to be accessed by other agencies, reducing the need for charities to report the same information to multiple agencies.

As a national regulator with an in-depth understanding of the sector, the ACNC has effectively taken over a range of responsibilities on behalf of Commonwealth entities, including the Australian Taxation Office (ATO) and the Australian Securities and Investment Commission (ASIC). The ACNC now undertakes the registration of charities, in place of the ATO, determining an organisation's charitable status and/or its entitlement to be registered as a Public Benevolent Institution (PBI) or a Health Promotion Charity (HPC). While eligibility for Deductible Gift Recipient (DGR) status continues to be determined by the ATO, this transfer of power has resulted in a significant reduction in the average time it takes for a charity to become registered and gain access to Commonwealth taxation concessions<sup>10</sup>. A number of reporting responsibilities have also been transferred from ASIC to the ACNC. The

<sup>8</sup> ACNC, Australian Charities and Not-for-profits Commission (Repeal) (No. 1) Bill 2014 Submission 95

<sup>9</sup> Productivity Commission, (2010), Op cit.

<sup>10</sup> ACNC, (2013), *Six Month Progress Report: Our Story So Far*

ACNC has entered into a Memorandum of Understanding (MoU) with ASIC to formalise the working relationship and to reduce regulatory overlap.

In addition to its work at the national level, the ACNC has engaged with state and territory governments to progress its mandate of reducing regulation through increasing the harmonisation across jurisdictions in reporting requirements.

## 1.2 Project scope

Deloitte Access Economics has been engaged by the ACNC to identify and quantify the benefits that would accrue to charities under a range of options to align ACNC and state and territory regulatory obligations that apply to Australian charities. The scope of the analysis is focussed on the following areas:

- Fundraising regulation (including gaming)
- State taxation (principally eligibility for taxation concessions)
- Incorporations legislation.

This report does not include analysis of the performance of state, territory or Commonwealth regulators.

## 1.3 Regulatory context

Relevant laws and regulations in the areas of charity regulation, fundraising, state taxation and incorporated associations are outlined below.

### 1.3.1 Fundraising

Fundraising is the activity that charitable organisations undertake to finance their work. In almost all states and territories, organisations must apply for an authority, registration or license to conduct fundraising appeals within that particular jurisdiction. Relevant legislation pertaining to fundraising in each state and territory is outlined in Table 1.1.

**Table 1.1 Fundraising legislation and regulations by State and Territory**

Jurisdiction	Fundraising Legislation	Fundraising Regulations
<b>New South Wales</b>	<i>Charitable Fundraising Act 1991</i>	Charitable Fundraising Regulation 2015
<b>Victoria</b>	<i>Fundraising Act 1998</i>	Fundraising Regulations 2009
<b>Queensland</b>	<i>Collections Act 1966</i>	Collections Regulation 2008
<b>Western Australia</b>	<i>Charitable Collections Act 1946</i>	Charitable Collections Regulation 1947; Street Collections Regulations 1999
<b>South Australia</b>	<i>Collections for Charitable Purposes Act 1939</i>	N/A
<b>Tasmania</b>	<i>Collections for Charities Act 2001</i>	N/A
<b>Australian Capital Territory</b>	<i>Charitable Collections Act 2000</i>	Charitable Collections Regulation 2003
<b>Northern Territory</b>	N/A	N/A

### 1.3.2 State taxation

Charitable organisations are eligible for a number of state and territory taxation concessions depending on the location in which they operate, and their eligibility based on the jurisdiction's legislation. Specifically, exemptions or concessions are available in relation to:

- **Stamp duty** (tax on written documents and certain transactions which may include motor vehicle registrations and transfers, insurance policies, leases, mortgages, hire purchase agreements, and transfers of property) – depending on the nature of the transaction and the eligibility criteria, some concessions and exemptions apply to charitable organisations
- **Payroll tax** (tax on the wages paid by employers) – an exemption is provided to charitable organisations in some jurisdictions for those who meet the eligibility criteria
- **Land tax** (tax levied on owners of taxable land, which is imposed in all states and territories except the Northern Territory) – if a charity becomes a landowner, it may be exempt from land tax, subject to certain qualifying criteria<sup>11</sup>.

Relevant legislation pertaining to taxation in each state and territory is outlined in Table 1.2.

**Table 1.2 State taxation legislation and regulations by State and Territory**

Jurisdiction	Taxation Legislation	Taxation Regulations
<b>New South Wales</b>	<i>Duties Act 1997 (NSW)</i> <i>Land Acquisition (Charitable Institutions) Act 1946 (NSW)</i> <i>Pay-Roll Tax Act 2007 (NSW)</i>	N/A
<b>Victoria</b>	<i>Duties Act 2000 (Vic)</i> <i>Land Tax Act 2005 (Vic)</i> <i>Payroll Tax Act 2007 (Vic)</i>	Land Tax Regulations 2005
<b>Queensland</b>	<i>Duties Act 2001 (Qld)</i> <i>Land Tax Act 2010 (Qld)</i> <i>Payroll Tax Act 1971 (Qld)</i> <i>*Taxation Administration Act 2001 (Qld)</i>	Duties Regulation 2013 Land Tax Regulation 2010 Payroll Tax Regulation 2009 Taxation Administration Regulation 2012
<b>Western Australia</b>	<i>Stamp Act 1921 (WA)</i> <i>Pay-roll Tax Assessment Act 2002 (WA)</i> <i>Land tax assessment Act 2002 (WA)</i>	Pay-Roll Tax Assessment Regulations 2003
<b>South Australia</b>	<i>Stamp Duties Act 1923 (SA)</i> <i>Payroll tax Act 2009 (SA)</i> <i>Land Tax Act 1936 (SA)</i>	Stamp Duties Regulations 2013

<sup>11</sup> ATO, (2014), ATO webpage: *State and territory government taxes and duties – Tax basics for non-profit organisations*, accessed 1 July 2015, <https://www.ato.gov.au/Non-profit/State-and-territory/In-detail/Taxes---duties/State-territory-government-taxes-and-duties---Tax-basics-for-non-profit-organisations/?anchor=H2#H2>

Jurisdiction	Taxation Legislation	Taxation Regulations
<b>Tasmania</b>	<i>Duties Act 2001 (Tas)</i> <i>Land Tax Act 2000 (Tas)</i> <i>Payroll tax Act 2008 (Tas)</i>	Duties Regulations 2011 Land Tax Regulations 2010
<b>Australian Capital Territory</b>	<i>Duties Act 1999 (ACT)</i> <i>Land Tax Act 2004 (ACT)</i> <i>Payroll Tax Act 2011 (ACT)</i>	N/A
<b>Northern Territory</b>	<i>Payroll Tax Act (NT)</i> <i>Stamp Duty Act (NT)</i>	N/A

\*While a Taxation Administration Act exists in each state and territory, only the Taxation Administration Act 2001 (Qld) has been included as relevant as it outlines the requirement for charitable organisations to apply for registration.

### 1.3.3 Incorporated associations legislation

Incorporation of a charitable organisation is a voluntary process under the associations' incorporation legislation of the relevant state or territory. By incorporating, a charitable association becomes a 'legal person'. That is, it becomes a legal entity that is separate and distinct from its members. This means that it will continue to exist even if its members change. Incorporation also protects members from individual liability.

Incorporated associations are regulated by the states and territories. As such, there are a number of regular compliance tasks, such as the keeping of records, holding of elections and submitting of returns that an organisation must complete at the state and/ or territory level to continue its operations. It is noted that charitable incorporated associations are only a small subset of all incorporated associations. For example, in Victoria it is estimated that approximately 15% of all incorporated associations are also charitable organisations.<sup>12</sup>

If a charitable incorporated organisation grows to operate in more than one state, there are three options for continuing operations despite the state and territory focussed basis of their structure:

- Incorporate in each state and territory where operations are undertaken. Organisations who take this approach often have an overarching entity, and consequently operate within a federated model.
- Remain incorporated in one state and territory, and apply to ASIC to operate as an Australian Registered Body under the *Corporations Act 2001* (Registrable Australian Bodies)
- Change the organisational structure to an entity regulated by the Commonwealth, such as a Company Limited by Guarantee.

A number of incorporated associations, however, continue to operate locally and do not extend their operations outside of a single state or territory jurisdiction (excluding any work undertaken via an online platform).

Relevant legislation pertaining to incorporated associations legislation in each state and territory is outlined in Table 1.3.

<sup>12</sup> Based on feedback from Consumer Affairs Victoria.

**Table 1.3 Incorporated associations legislation and regulations by State and Territory**

Jurisdiction	Incorporated Association Legislation	Incorporated Association Regulations
<b>New South Wales</b>	<i>Associations Incorporation Act 2009 (NSW)</i>	Associations Incorporation Regulation 2010 (NSW)
<b>Victoria</b>	<i>Associations Incorporation Reform Act 2012 (Vic)</i>	Associations Incorporation Reform Regulations 2012 (Vic)
<b>Queensland</b>	<i>Associations Incorporation Act 1981 (QLD)</i>	Associations Incorporation Regulation 1999 (QLD)
<b>Western Australia</b>	<i>Associations Incorporation Act 1987 (WA)<sup>13</sup></i>	Associations Incorporation Regulations 1988 (WA)
<b>South Australia</b>	<i>Associations Incorporation Act 1985 (SA)</i>	Associations Incorporation Regulation 2008 (SA)
<b>Tasmania</b>	<i>Associations Incorporation Act 1964 (Tas)</i>	Associations Incorporation Regulations 2007 (TAS); Associations Incorporation (Model Rules) Regulations 2007 (TAS)
<b>Australian Capital Territory</b>	<i>Associations Incorporation Act 1991 (ACT)</i>	Associations Incorporation Regulation 1991 (ACT)
<b>Northern Territory</b>	<i>Associations Act (NT)</i>	<i>Associations Regulation; Associations (Model Constitution) Regulation (NT)</i>

<sup>13</sup> WA has new legislation, the *Associations Incorporations Act 2014*, which commences on 1 July 2016. Regulations have not yet been written for this Act.

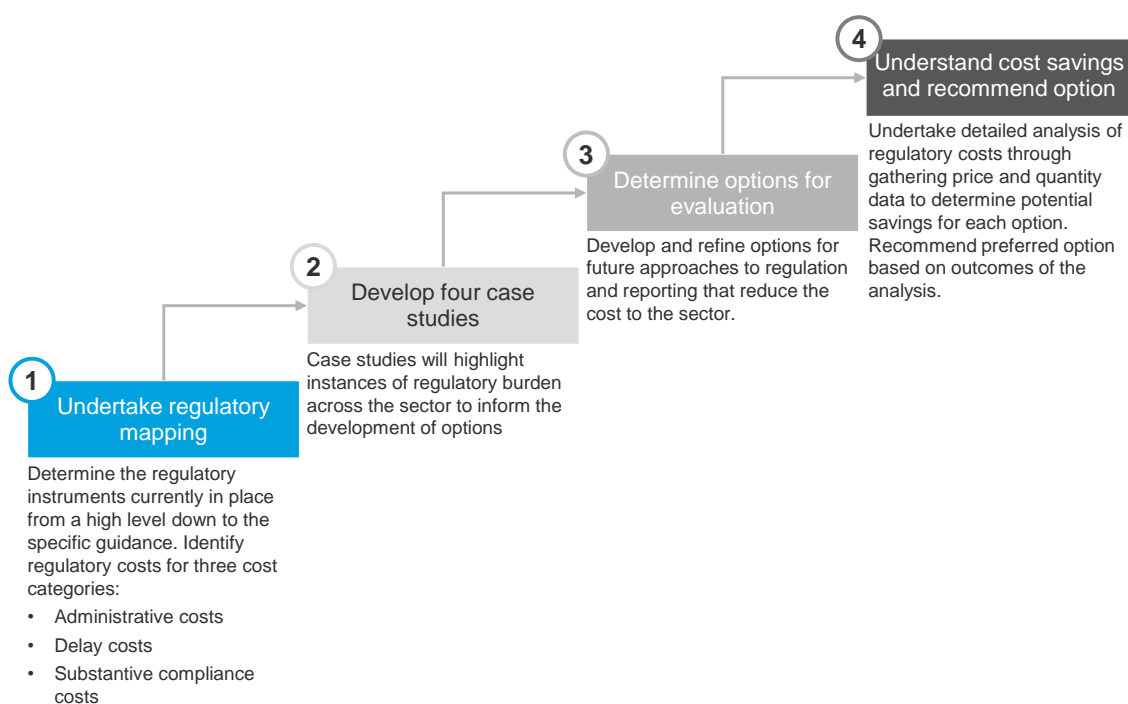
## 1.4 Methodology

The methodology adopted for this project involved four key activities, as follows:

- Regulatory mapping exercise
- Case study development
- Options evaluation
- Regulatory cost assessment.

These activities are summarised in Figure 1.3 and outlined below.

**Figure 1.3 Overview of project methodology**



### 1.4.1 Regulatory mapping

To ensure a consistent approach is taken to the measurement of the regulatory burden impacting charitable organisations at a state and territory level, the analysis undertaken in this report follows the Commonwealth Government's *Regulatory Burden Measurement Framework* (RBM Framework). As outlined in the Office of Best Practise Regulation's *Regulatory Burden Measurement Guidance Note* all regulatory costs must be quantified using the RBM Framework<sup>14</sup>. As an initial mapping exercise, the key regulatory burdens were identified in each of the three areas of focus through a stocktake of the current legislative arrangements and supporting regulations.

<sup>14</sup> Office of Best Practice Regulation (2015), *Regulatory Burden Measurement Framework Guidance Note*, p.1



### 1.4.2 Case study consultations

Four organisations were consulted to gain a ‘real world’ understanding of some of the regulatory issues they face when undertaking fundraising activities, gaining access to state tax concessions or operating as an incorporated association. These consultations were undertaken as an initial scoping exercise, prior to the 24 consultations held as part of the options evaluation process.

### 1.4.3 Options evaluation

Draft options to reduce regulatory burden were developed for each of the three areas. These options were initially based on the findings of previous studies conducted in this area, and were then subsequently refined based on feedback from the charities sector. This feedback was gathered through a series of consultations, including four sessions with the case study organisations and a further 24 sessions with a cross-section of charitable organisations operating in each jurisdiction in Australia spanning small, medium and large entities.

Many of the charities consulted as part of this process operated in a number of Australian jurisdictions, as highlighted in Table 1.4 below. On average, these charities operated across 5.5 jurisdictions. This is above the average of the majority of charities. However, due to the importance of understanding the impact of duplicative regulatory obligations across multiple jurisdictions, charities that operate in more than one state or territory were targeted.

**Table 1.4 Consulted charities and areas of operation**

	Number of charities consulted
Operates in ACT	16
Operates in NSW	23
Operates in NT	19
Operates in QLD	22
Operates in SA	18
Operates in TAS	19
Operates in VIC	20
Operates in WA	17

*Note that this table reflects the total charity consultation sample of 28 charities. A charity may be counted up to eight times based on the number of jurisdictions it operates in.*

### 1.4.4 Regulatory cost analysis

Drawing on the RBM Framework, state and territory based compliance costs were estimated using an activity-based costing methodology and inputs from the stakeholder consultations. Regulation within this context is considered to be ‘any rule endorsed by government where there is an expectation of compliance’.<sup>15</sup> These rules impose burdens that are measured in terms of their cost to charitable organisations and their volunteers. The RBM Framework considers the following costs:

- **Compliance costs**
  - *Administrative costs* – Costs incurred by regulated entities primarily to demonstrate compliance with the regulation (usually record keeping and reporting costs)
  - *Substantive compliance costs* – Costs incurred to deliver the regulated outcomes being sought (usually purchase and maintenance costs)
- **Delay costs** – Expenses and loss of income incurred by a regulated entity through an application or approval delay.

### 1.4.5 Limitations and constraints

Consistent with the scope of this project, estimates of regulatory burden have been developed and extrapolated based on data gathered from a cross-section of 24 charitable organisations and other publicly available information. It is possible that the data gathered through this process may not be representative of the sector as a whole due to the small sample size. Nonetheless, the approach taken is consistent with typical regulatory burden measurement exercises.

It is also important to note that, due to data limitations, some of the estimates of the number of charities impacted by each of the regulatory changes are based on proxy data. Further estimates of approximate timings and costs associated with undertaking compliance activities are based on the average of inputs from organisations consulted. In some cases, these estimates varied significantly between organisations in terms of timing and the salary level of the person undertaking the task. As such, the resulting estimates are approximations only.

---

<sup>15</sup> Commonwealth of Australia, (2014), *The Australian Government Guide to Regulation*, p.3.

## 2 Regulatory mapping and identification of key issues

This chapter outlines the state and territory regulations applicable to charitable organisations in the areas of fundraising, state taxation, and incorporated associations legislation. It also sets out the key areas of regulatory burden identified through the mapping process and consultations with the sector.

The most significant burdens described for each of these areas are further highlighted through case study examples. The detailed outcome of the regulatory mapping exercise is provided in Appendix C. A list of government entities that are in some way responsible for interpreting and determining the charitable status of organisations under relevant legislation is provided in Appendix D.

### 2.1 Fundraising regulatory burdens

Fundraising regulations differ in each Australian state and territory. This places a significant regulatory burden on charities that operate across numerous jurisdictions. These differences primarily exist across three key areas:

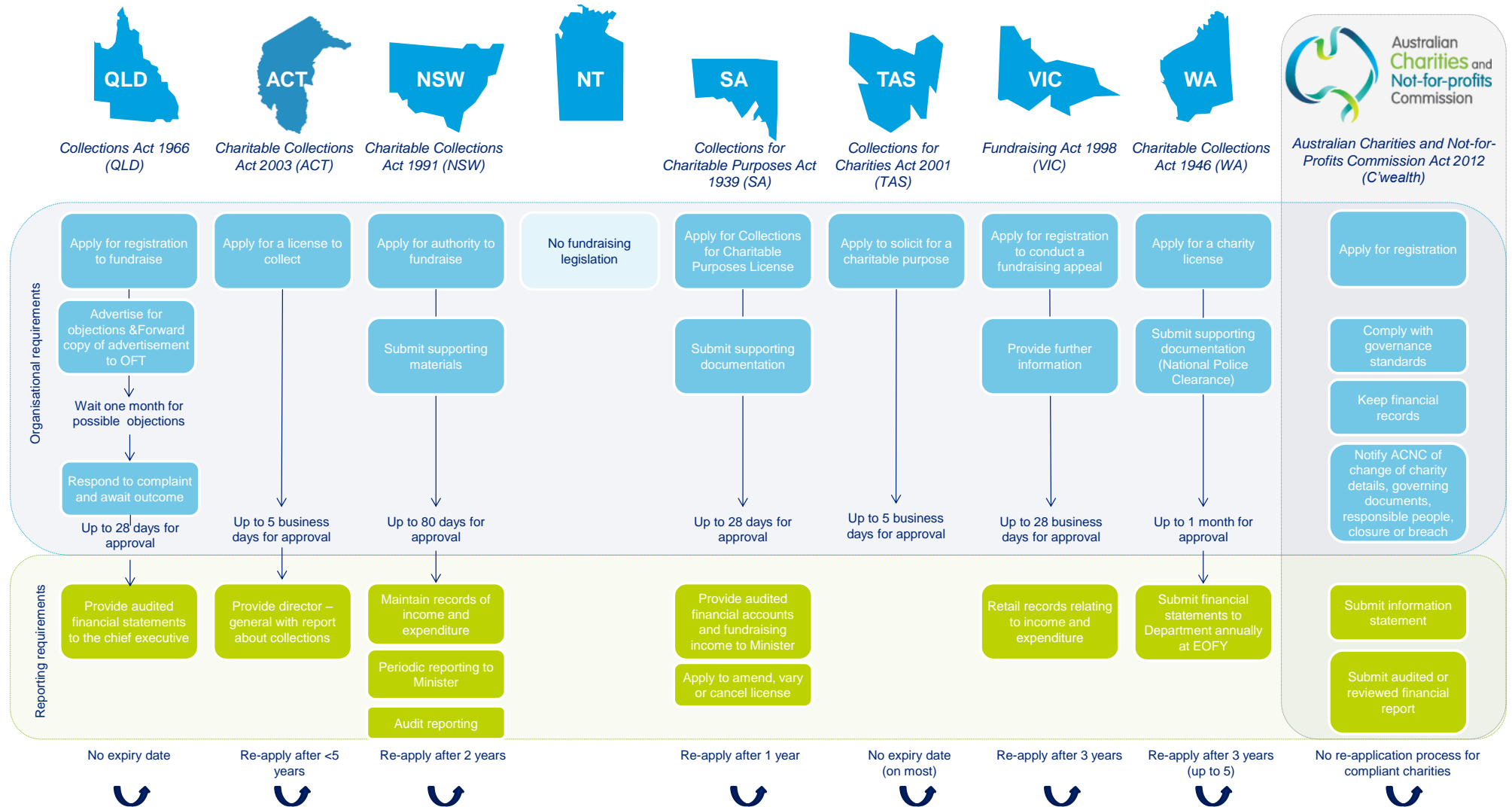
- Applying for fundraising registration or a license, and retaining eligibility to fundraise
- Maintaining ongoing compliance
- Reporting.

Overall, feedback from the sector overwhelmingly emphasised the significant regulatory burden caused by fundraising regulation. Legislative arrangements have not kept pace with contemporary forms of fundraising, such as web based and third party fundraising. In addition, regulatory requirements differ considerably between state and territory jurisdictions, generating red tape for charities working in more than one jurisdiction. As a result, charities must dedicate a considerable amount of time and resources to remain compliant. In some circumstances these resources are simply not available creating barriers to compliance.

Despite the differences between state and territory fundraising regulations, there is no conceptual underpinning between jurisdictions on the common goal of regulation, and what the scope of the regulated activity should be.

A high level overview of the main regulatory obligations in each state and territory, against a comparison of ACNC obligations, is illustrated in Figure 2.1.

Figure 2.1 State and territory comparison of fundraising regulatory requirements



### 2.1.1 Applying for fundraising registration or a license, and retaining eligibility to fundraise

Overwhelmingly, the fundraising regulatory burden is caused by the requirement to be licensed in every state and territory where funds are collected (except the Northern Territory which does not have licensing requirements). Fundraising by way of a collection from the public requires a registration, sanction, approval, authority or permit depending on the particular jurisdiction. This requirement is particularly problematic under a fundraising model that is increasingly moving online, and away from specific ‘event’ based fundraising. Further, the current legislation in all of these states and territories is out of date and does not consider new forms of fundraising, such as through third party websites like “Everyday Hero”.

Even small charities that provide services in one jurisdiction are adversely affected. If charities fundraise through their website, to account for the potential of national exposure, they need to successfully apply for the appropriate fundraising registration or license in each state or territory. The alternative is that they purposely limit their fundraising to the state or territory in which they operate and risk losing much needed philanthropic contributions from donors who are interstate. There is also a very real likelihood that a number of charities are non-compliant in their fundraising activities, due to a lack of awareness or resources.

Within this framework, a small number of charitable organisations are exempt from licensing and reporting, depending on the exemptions awarded in each jurisdiction. Eligibility requirements for exemptions differ considerably between each jurisdiction, creating situations where a charity may be exempt in one jurisdiction, but required to apply for a license to fundraise in other jurisdictions that it operates in.

#### **Case Study: Cross-jurisdictional fundraising**

A charity that operates in the Melbourne CBD area, undertook fundraising activities targeted at local donors. However, due to ongoing donation commitments through direct debit processes, donations that began as compliant did not remain so when donors moved interstate or overseas.

Therefore, the organisation was often in breach of fundraising regulation without being aware this was the case. As the donation was automatic, the charity was not necessarily notified of a change of address, and did not have any oversight over which jurisdiction’s regulations it should have been complying with.

Had this information been available, there still would have been significant impediments to compliance, which would require a similar scale of resources to those dedicated to fundraising compliance by large multi-jurisdictional organisations. For example, as a small organisation it would be very difficult to meet the State requirements for a local presence required in NSW, Victoria and Queensland. The paradoxical situation means that the organisation must either dedicate substantial resources to compliance activities requiring greater amounts of fundraising to support it, continue as non-compliant, or cease certain types of fundraising.

Specific issues are outlined in the following sections in relation to the initial application and re-application processes.

### 2.1.1.1 Initial application process

In terms of the application process itself, there are two key areas of fundraising regulation that make applications for fundraising unclear: firstly in relation to the statutory definition of fundraising or collections, and, secondly, in relation to what “charitable purpose” means and therefore which charities can raise funds under this definition.

As demonstrated in Table 2.1, there are a number of statutory variations in the definition of ‘fundraising’.

**Table 2.1 State licensing requirements for charities appealing for donations beyond their own state**

	Definition of fundraising	Licensing/registration requirements
<b>ACT</b>	Collection of money or good for charitable purposes	An organisation collecting for charitable purposes must apply to the Office of Regulatory Services for a licence, unless exempt
<b>NSW</b>	Raising money, property or some other benefit with the representation that it will go in whole or in part to a charitable purpose	Any person or organisation that conducts fundraising for a charitable purpose must apply for an ‘authority to fundraise’ license, unless exempt
<b>NT</b>	N/A	No fundraising regulation
<b>QLD</b>	Any fundraising for a charitable or community purpose	Any organisation that publicly fundraises in Queensland for a charity must register, unless exempt, or get a sanction for a one-off appeal.
<b>SA</b>	Collecting money or goods, or conducting entertainment for a charitable purpose. Includes fundraising lotteries	Any person or organisation that conducts fundraising must apply for a license, unless exempt.
<b>Vic</b>	Soliciting or receiving money or some other benefit with the representation that it is not solely for the profit or commercial benefit of that person or any other person	A person who wishes to apply to register as a fundraiser must submit an application for a license at least 28 days prior to conducting any fundraising appeal.
<b>TAS</b>	Soliciting for charitable purposes: seeking a donation by communicated request for a benevolent, philanthropic, or patriotic purpose or any purpose for the protection of the environment or the welfare of animals.	Any person or organisation based outside Tasmania that fundraises in Tasmania, or an unincorporated Tasmanian body, must apply for approval from the Commissioner for Corporate Affairs
<b>WA</b>	Collection of money or goods from the public for a charitable purpose	Any person or organisation that conducts a collection for a charitable purpose must obtain a license, unless exempt.

The different definitions create a significant amount of duplication. At the Commonwealth level, the ACNC Act has set the definition of a charitable organisation, while the ATO determines whether a charitable organisation is eligible for Deductible Gift Recipient status based on its charitable operations. These decisions are also being made at the state and territory level by various agencies. Further, all of these definitions are open to interpretation when applied at agency level and in administrative and judicial review processes. A case study outlining this issue is provided below.

### Case study: Definition and interpretation of charitable organisations for the purposes of fundraising

A large national charity that actively fundraises in most states has historically been unable to do so in Western Australia. This is because the Department of Commerce's interpretation of the *Charitable Collections Act 1946* did not recognise collections for conservation or environmental sustainability as falling within the definition of 'charitable purpose'<sup>16</sup>. Unbeknownst to this organisation, the Department changed its interpretation of the legislation, without any formalised changes to the wording of the Act, to include animal welfare, conservation and environmental causes within the definition of 'a benevolent, philanthropic or patriotic purpose' (s5G of the Act). Had the organisation's Legal Counsel not come across this change by chance, an opportunity to expand its fundraising activities into Western Australia would have been missed.

Some aspects of an application itself will determine the level of administrative burden imposed on organisations that are required to complete it. For example, stakeholders identified applications requiring individual signatures from Board members or individual police checks of key staff as particularly onerous. In addition, several charities highlighted the time required to complete manual processes associated with submitting documentation and suggested that online responses could improve this process<sup>17</sup>.

While not considered a delay cost, charities must also factor in a substantial portion of time to the approval process to gain registration. This differs in each state and territory. For example, Queensland has a requirement to advertise for one month and allows for an objection period. If an objection is lodged, this extends the time before a final decision is made.

#### 2.1.1.2 Re-application process

Each state and territory has different periods for the validity of a fundraising license, which varies from a minimum of 12 months in South Australia to an unlimited time period in Tasmania (where licences are issued in perpetuity). As state and territory departments do not send out a reminder to organisations or notify them in any other way when their license is due to expire, an organisation may need to manage up to five different deadlines for license renewal.

<sup>16</sup> Under the *Charitable Collections Act 1946 (WA)*, s5 charitable purpose means:

- the affording of relief to diseased, sick, infirm, incurable, poor, destitute, helpless or unemployed persons, or to the dependants of any such persons;
- the relief of distress occasioned by war, whether occasioned in Western Australia or elsewhere;
- the supply of equipment to any of His Majesty's naval, military, or air forces, including the supply of ambulances, hospitals and hospital ships;
- the supply of comforts or conveniences to members of the said forces;
- the affording of relief, assistance or support to persons who are or have been members of the said forces or to the dependants of any such persons;
- the support of hospitals, infant health centres, kindergartens and other activities of a social welfare or public character;
- any other benevolent, philanthropic or patriotic purpose.

<sup>17</sup> It was also noted that any conversion to online responses should be mindful of rural charities that sometimes are unable to complete online applications due to the remoteness of their location, and therefore their inability for the system to register an address.

## 2.1.2 Ongoing compliance activities

Jurisdictions typically outline a number of requirements that charitable organisations must comply with on an on-going basis to retain their fundraising license or registration. These vary in character and range from:

- The authority that must be provided to street collectors to act on a charity's behalf
- Receipting requirements
- The requirement to have an address in the state in which the relevant organisation fundraises (these location requirements are outlined in Table 2.2).

In some jurisdictions certain actions are prohibited, such as in Western Australia where street collections in the metropolitan area are banned.<sup>18</sup> This means that organisations who are operating in more than one jurisdiction must tailor their operations to each state. Paperwork for one jurisdiction may not meet the regulatory requirements of another. Therefore, additional time and effort must be invested to ensure that the organisation can maintain compliance and retain its registration or license to fundraise.

**Table 2.2 Location requirements placed on charitable institutions for fundraising, by jurisdiction**

Jurisdiction	Relevant sections	Type of presence required
ACT	N/A	N/A
NSW	<i>Charitable Fundraising Act 1981 s15</i>	A fundraising authority must maintain an address in NSW to which notices can be sent and at which records of income and expenditure relating to appeals must be maintained.
NT	N/A	N/A
QLD	Not stated in Act or Regulation	As stated on the <a href="http://www.qld.gov.au">www.qld.gov.au</a> website, registration requires the appointment of at least 3 Queensland residents to carry out the association's Queensland activities.
SA	N/A	N/A
Tas	N/A	N/A
Vic	<i>Fundraising Act 1998 18(2)</i>	The organisation does not need to be resident but the name and address of a natural person, corporation or incorporated association in Victoria must be given as an appointed responsible person.
WA	N/A	N/A

While there are a significant number of operational compliance requirements imposed on charities when undertaking their work, it is not necessarily clear where that information can be obtained from. As fundraising registration is typically an ancillary component of the state or territory's responsibilities, some jurisdictions do not have this information readily available on their website to use as a quick reference guide. Consequently, time is spent

<sup>18</sup> Street Collections Regulations 1999 (WA) reg. 11



searching for the different requirements in each of the jurisdictions to ensure that requirements are being maintained.

#### **Case study: Cross-jurisdiction fundraising events and registration requirements**

A national charity held a fundraising event in Sydney which attracted interest from donors in other Australian jurisdictions. While it was expected that the organisation would need to comply with NSW regulations, it was difficult to determine to what extent they would be required to comply with other jurisdictions' regulations depending on who the donors were.

Clarification sought from state government agencies was inconsistent, and requirements were not explicit across all jurisdictions. For example, while the event fell within the definition of a collection in ACT legislation, requirements as to when it applies to collections are not explicit in the Act or in the supporting regulations. Specifically, there is no definition on where the donor and collectors need to reside in order to fall under the ACT's legislation. If the donor is in the ACT, but the event is held in NSW, there is no clear direction as to whether the charity needs to ensure registration and provide reporting for the event in both jurisdictions.

### **2.1.3 Reporting**

In addition to the reporting requirements imposed at the federal level, charities who fundraise must also report to the relevant state and territory regulators on the fundraising amounts collected. The requirements vary between jurisdictions, as do the submission timeframes and the need for audited accounts. For example, ACT and Victoria require only basic details to be provided on fundraising activities, while NSW requests that charities report on exactly how much money is fundraised within that state. Often this is quite difficult to determine due to the nature of a fundraising event as it requires the collection of a home address for every donation made.

## **2.2 State taxation regulatory burdens**

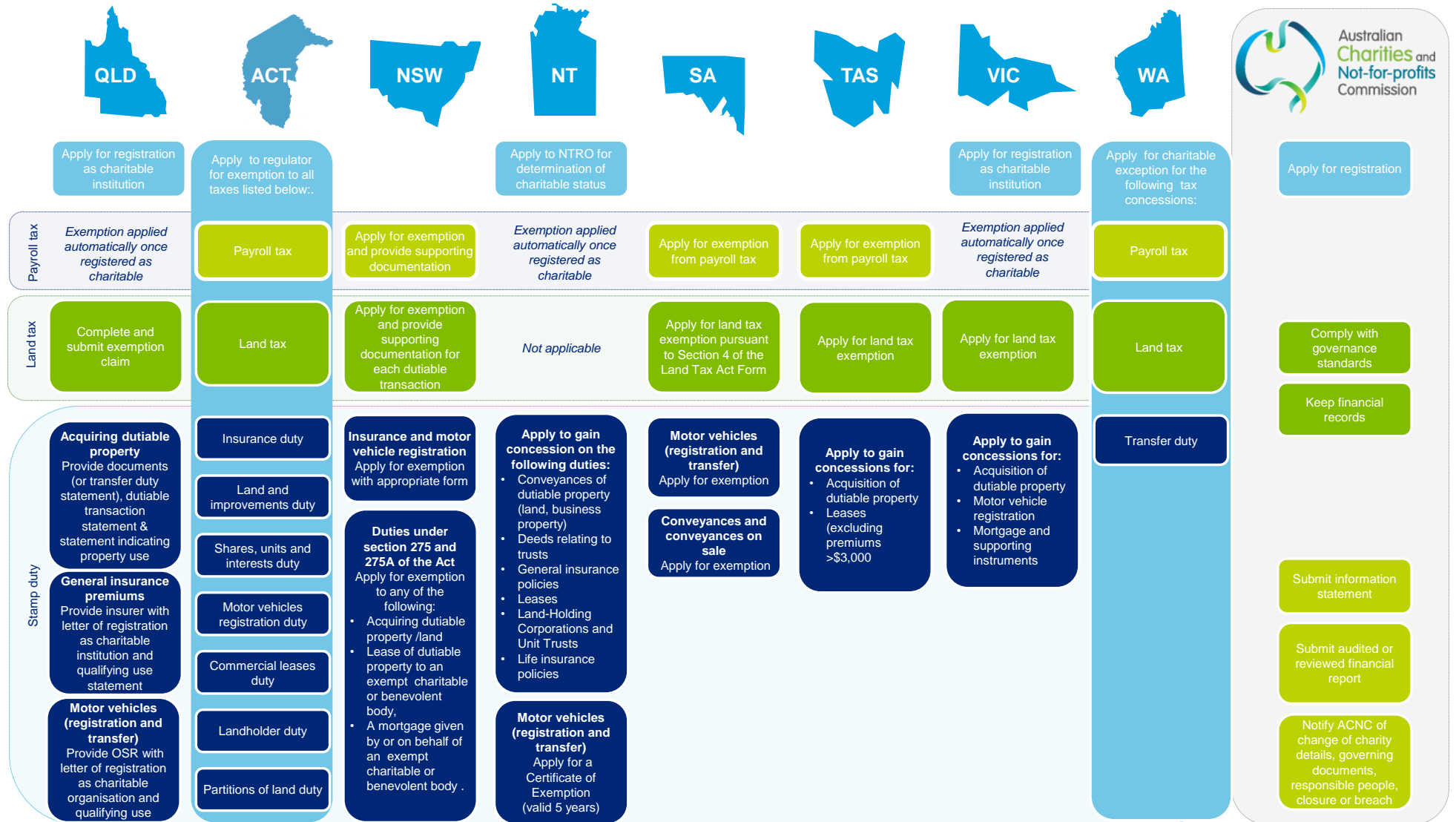
Currently there are approximately 54,100 charities registered in Australia that are therefore eligible to apply for Commonwealth tax concessions.<sup>19</sup> Charitable organisations are also eligible to access a range of concessions at the state and territory level. However, each state has different concessions available, as highlighted in Figure 2.2. The regulatory burden associated with state taxation has been assessed by looking at the key steps required to gain and maintain a state or territory concession or exemption, namely:

- Applying for a concession
- Maintaining compliance, which requires an understanding of the regulations.

These are described in greater detail below.

<sup>19</sup> According to the ACNC website, there are 54,079 registered charities as at 27 January 2016. Charities must be registered before they can apply for Commonwealth tax concessions.

Figure 2.2 State and territory comparison of state taxation regulatory requirements



### 2.2.1 Applying for a concession

Due to differences in the eligibility requirements for state taxation concessions, organisations must prove that they are charitable in a number of different ways. For Commonwealth purposes, the ACNC has responsibility for deciding which organisations are charities. However, state and territory regulators do not use the ACNC definition. Even if an organisation has been endorsed as a charity and qualified for tax concessions (such as GST) at a Commonwealth level, it must re-establish its charitable status to the satisfaction of each state and territory revenue office to access exemptions from state and territory taxes such as pay-roll tax, land tax and stamp duty. This hurdle is additional to other statutory criteria required to access those entitlements.

All charities are affected, either on a small scale due to the discrepancy between state and Commonwealth definitions or, more significantly, for charities that operate in a number of jurisdictions and need to satisfy Commonwealth requirements in addition to the varied requirements of each relevant state and territory. In these circumstances, the organisation may be eligible for a concession in one jurisdiction, but not in another, even though their operations are the same.

Definitions can also vary within a single jurisdiction in situations where each separate state or territory government agency conducts its assessments of charitable status in isolation.<sup>20</sup> For example, religious institutions in South Australia are charitable for some purposes, but not charitable for others due to the way 'charitable' is defined in different state laws<sup>21</sup>. To date, there has been little action taken to align this approach.

#### Case study: Discrepancy in state taxation concessions between jurisdictions

A charity operating in Tasmania was eligible for a number of taxation concessions at the state level. However, a new employee with experience working in the charitable sector in NSW questioned their lack of concession around motor vehicle registration. Upon hearing that this concession is provided in other jurisdictions, the charity lobbied the state government for the same concession to be provided in Tasmania. The state government supported this call for a change to the current policy, and the charity has achieved a considerable saving through avoiding this tax.

In addition to the issues with defining eligibility, there is also inconsistency in the processes for determining charitable status. The relevant state or territory revenue office provides application forms and/or other guidance which vary in their form and substance. Some of these differences are in relation to the specific concession, but other aspects simply add to the level of duplication. For example, in Victoria, to apply for an exemption under the *Land Tax Act*, a charity must submit to the State Revenue Office the following documentation:

- a) *where the body seeking the exemption is incorporated: the Certificate of Incorporation and Memorandum and Articles of Association*

<sup>20</sup> This is the case in all states and territories other than Tasmania where, under applicable law, certain state revenue concessions are available to only those charities that are endorsed by the Australian Tax Office.

<sup>21</sup> National Roundtable of Non-profit Organisations, (n.d.), *The assessment of charitable status in Australia – Current practice and recommendations for improvement*, Available on the Jobs Australia website, Accessed 1 July 2015, [https://www.ja.com.au/sites/default/files/attachment\\_b\\_-\\_administration\\_of\\_charities\\_law\\_0.pdf](https://www.ja.com.au/sites/default/files/attachment_b_-_administration_of_charities_law_0.pdf)

- b) *financial statements for current and past three financial years*
- c) *details of the organisation's aims, objectives and rules*
- d) *details of prior State Revenue Office exemption approvals to the organisation*
- e) *other information to indicate that the organisation is charitable, such as a description of services provided*
- f) *evidence of a wind-up clause stating that assets will be:*
  - i. *passed onto another charitable organisation in the event of wind-up and that;*
  - ii. *assets will not be distributed to members of either organisation;*
- g) *details of the use of the land*
- h) *promotional material*
- i) *any relevant information on exemptions granted by other state or Commonwealth jurisdictions.*

Of these requirements, only (g) relates to the particular land tax concession requirements. The other items all relate to the organisation's charitable status. Some of this documentation is relatively straightforward, such as providing a copy of the financial statements, but several of the items can entail significant effort. A mid- to large-sized charity operating nationally may have substantial amounts of "promotional material", for instance, as well as potentially dozens of exemptions granted by other jurisdictions.

The requirements for an application for a payroll tax exemption in Victoria, which is also submitted to the State Revenue Office, are similar yet contain important differences in wording and content, as the following example suggests:

- *The Constitution (formerly known as Memorandum and Articles of Association), Rules or Trust Deed (these documents are collectively referred to as Governing Rules*
- *Evidence (this will be found in the Governing Rules of the organisation) that the assets and income of the organisation will be applied solely towards the promotion or furtherance of its objectives and of particular importance is the inclusion in the Governing Rules of the organisation, a winding-up clause which provides that:*
  - *assets will be passed onto another charitable organisation in the event of a winding-up; and*
  - *other purposes beneficial to the community.*
- *Financial statements for the current and previous financial years*
- *Details of any commercial ventures, the number of employees and their duties, and the address and use made of any land owned or leased by the organisation*
- *Details of prior exemptions granted by the SRO (if the aims and objectives have changed since the last approval, you must advise the SRO and provide new documentation)*
- *Details of all services provided and activities undertaken (promotional material such as pamphlets, newsletters and brochures should be supplied)*
- *Details of any relevant information on exemptions granted by other State, a Territory or the Commonwealth.*

The differences in the documentary requirements are minor but cannot be ignored by those faced with actually completing the forms. For land tax, one provides only a description of “services provided”, but for payroll tax it is a description of “services provided and activities undertaken”. For land tax, three years of financials are to be provided whereas for payroll tax it is only two years.

## 2.2.2 Maintaining compliance / understanding regulations

In addition to the application process, time and effort must be spent on ensuring that charitable organisations are across the current state and territory taxation legislation and regulations that apply to them. This is particularly important for two reasons:

- Charities must understand which concessions or exemptions they are eligible for in each state and territory, which creates an administrative burden because of the time and effort required to find this information
- In some instances, charities must also make a case to gain a concession for a particular taxable or dutiable item. Stamp duty and land tax concessions are often made on a case by case and discretionary basis, to ensure that the intent of use is charitable, in addition to the organisation itself being charitable.

These areas of regulatory burden are discussed below.

### 2.2.2.1 Concession or exemption eligibility

A number of stakeholders highlighted the lack of clear information available to determine an organisation’s eligibility for a taxation concession or exemption. At present, there is no central repository of information, and the websites of the State Revenue Office (or equivalent) in each state and territory provide varying levels of information. Essentially, a charitable organisation would need to know what it is looking for in order to find the information required, as described by the case study below.

#### **Case study: Insufficient knowledge of state taxation concession eligibility**

A small charitable foundation based in the ACT was unaware that it was exempt from land tax for its investment properties until a new CEO was engaged at the organisation. Within a week of submitting a 10 minute application to the ACT Revenue Office, with assistance from a government staff member who walked him through the process, the concession was awarded to the organisation. Since then, this has resulted in a saving of approximately \$60,000 a year.

### 2.2.2.2 Eligibility interpretation

Once an organisation has applied for a state or territory tax concession, there will usually be ongoing administrative costs. Charitable organisations must be able to interpret the requirements of existing legislation, keep abreast of any changes, and determine what level of impact those changes will have on the organisation. For taxes that typically apply to a non-regular transaction, such as the purchase of land, the charity may need to prove its charitable purpose (or generally demonstrate compliance with the relevant act). As described in the case study below, this may lead to outcomes where a concession is provided in some circumstances but not others.

**Case study: Interpretation of state taxation law provisions**

A large organisation in South Australia has described the difficulties associated with obtaining land tax concessions on its leases. The provision of a concession depends on the lease type. Retail sites are eligible for exemption, while commercial sites are not. SA legislation is broad and lacks detail, while Victorian legislation is quite prescriptive.

The charity in question spent a significant amount of time trying to understand the current legislation in South Australia to determine its eligibility for a land tax exemption. In comparison, previous experience with purchases in Victoria had been more straightforward due to greater clarity in the eligibility requirements.

## 2.3 Incorporated associations legislation regulatory burdens

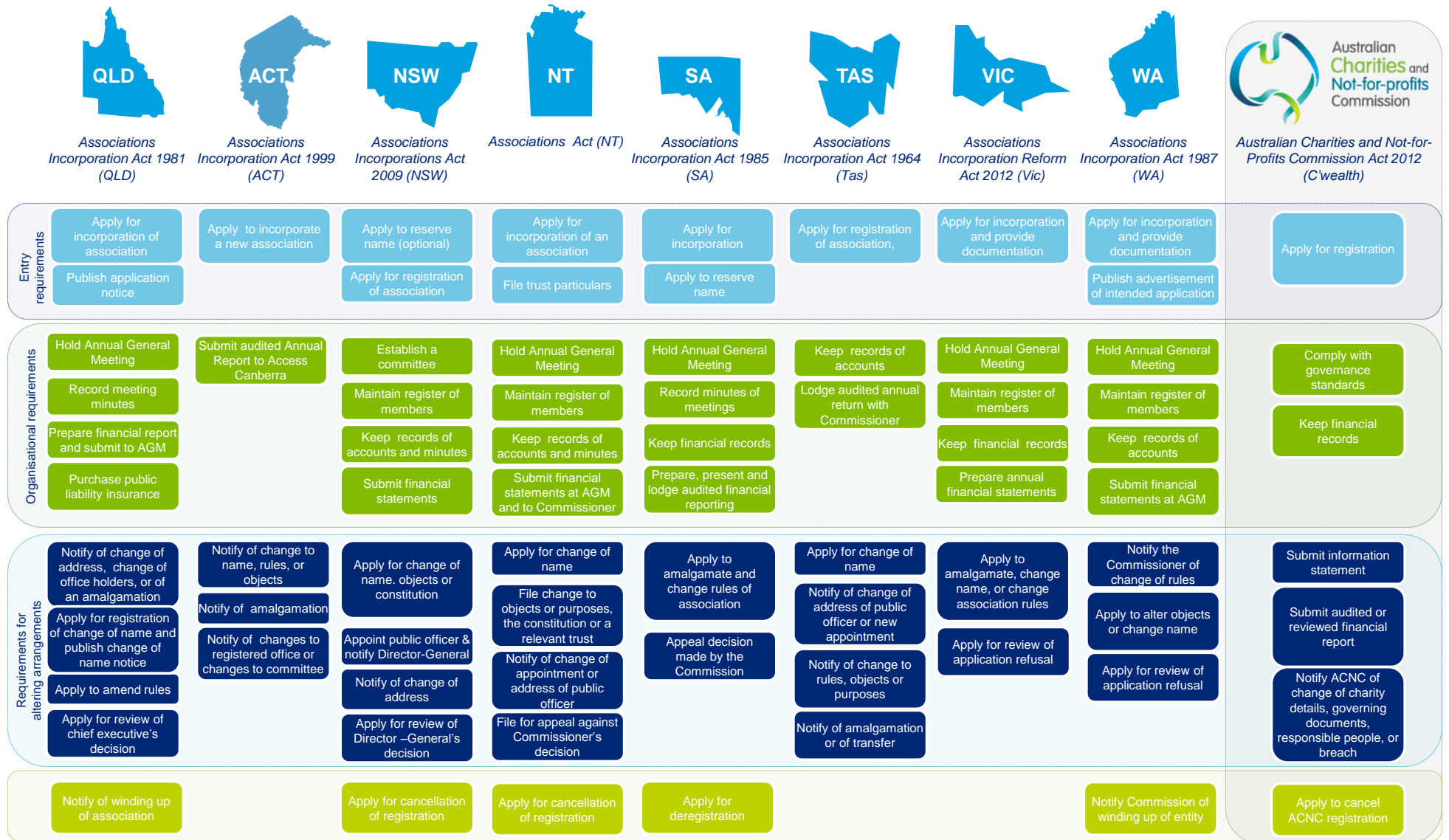
Under the present arrangements, charitable incorporated associations are regulated at both the state and commonwealth level. This creates an additional administrative burden due to duplicative reporting, notification and application requirements<sup>22</sup>. An overview of the regulatory requirements placed on incorporated associations is in Figure 2.3. These issues are discussed in greater detail below across three key areas:

- Application processes
- Organisational requirements
- Notification requirements.

---

<sup>22</sup> Note: Transitional arrangements currently apply, through which the ACNC accepts financial reports lodged with state and territory regulators as satisfying ACNC requirements. More information is available here: <http://www.acnc.gov.au/transitionalreporting>.

Figure 2.3 State and territory comparison of incorporated associations' regulatory requirements



### 2.3.1 Application processes

In order to incorporate under state or territory law, many jurisdictions require that organisations are not-for-profit. Proving this status is often conducted according to the individual requirements of the state and territory, which differ considerably between jurisdictions. There is also no consistency at the state and territory level with the Commonwealth definition of a charity. Consequently, incorporated associations that are charities must go through two duplicative processes: firstly to prove their not-for-profit status to become incorporated, and, secondly, to prove their charitable status to achieve registration with the ACNC.

### 2.3.2 Organisational and reporting requirements

Incorporated associations are required to comply with organisational and reporting regulatory requirements as set out in the relevant state or territory legislation. While there is a degree of consistency in the broad regulatory requirements, the way in which requirements must be undertaken differs considerably between jurisdictions. For example, some notification requirements can be satisfied online, while others are based on hard copy documentation. Further, Directors' duties differ substantially between jurisdictions. A number of charitable incorporated associations do not operate in more than one state, so these differences do not have a substantive impact. However, for the charities that are incorporated in multiple states or territories, these differences generate additional costs to the organisation.

In addition, incorporated associations that are also registered charities with the ACNC must comply with Commonwealth requirements. This includes at a minimum the submission of an Annual Information Statement, which is in addition to the annual report required by state and territory regulators.

The extent of reporting requirements can vary quite significantly between jurisdictions for reasons that include size, revenue, receipts or assets. Thresholds for these classifications are also determined differently in each state or territory. In addition, financial reporting requirements are not necessarily consistent across both state and Commonwealth agencies<sup>23</sup>.

For charitable organisations which operate under a federated model – with incorporated associations in each state and territory that operations are undertaken – the reporting requirements produce an even greater administrative burden relative to that experienced by single jurisdiction incorporated associations or by those that are Registrable Australian Bodies.

---

<sup>23</sup> Note: Transitional arrangements currently apply, through which the ACNC accepts financial reports lodged with state and territory regulators as satisfying ACNC requirements. More information is available here: <http://www.acnc.gov.au/transitionalreporting>.



### 2.3.3 Notification requirements

All states and territories require that an incorporated association apply to, or notify, the regulator of particular changes to the organisation. These requirements typically relate to any changes of name, address, office holders or amalgamations. Usually this process is manual and requires the completion of a form, which is then sent to the regulator. If such a change occurs, the charitable organisation is also required to notify the ACNC via their online system, duplicating the number of Government departments the organisation must contact.

#### **Case Study: Location requirements for an incorporated association**

Due to the inexpensive and relatively straightforward process required to establish and operate an incorporated association, it is often adopted by small charitable entities to avoid the higher compliance requirements associated with other structures.

One such charitable entity was incorporated in the ACT. However, as the organisation grew and developed into a large multi-jurisdictional entity, the decision was made to relocate the head office to Victoria. The organisation remains an incorporated association in the ACT whilst operating in other states and jurisdictions through registration as a Registered Australian Body<sup>24</sup>. However, the *Associations Incorporation Act 1991 (ACT)* provides that the public officer of the organisation must be someone who resides in the ACT<sup>25</sup>. This creates a situation where the organisation's Board Members, or other senior staff, are unable to be nominated as Public Officer due to their location. Consequently, it is the Public Officer, not senior members of the organisation, who is the main point of contact for the ACT and the authenticator of key documents.

<sup>24</sup> Australian Registered Body under Part 5B.2 of the *Corporations Act 2001*

<sup>25</sup> *Associations Incorporation Act 1991*, s57I

## 3 Options for reform

Over the past decade, reviews have consistently recommended that the regulation of the NFP sector in Australia would be significantly improved by harmonising and simplifying regulatory arrangements.<sup>26</sup>

This chapter presents three options specific to Australian charities, which have been developed based on previous studies and refined through consultations with the charity sector. Assessed against a base case, the options present different approaches to reducing regulatory burdens on charities across the three areas of state and territory regulation covered in this report. These options are:

- Base case – No change
- Option 1 – ACNC obligations fulfil state and territory regulatory requirements
- Option 2 – Alignment of state, territory, and Commonwealth regulatory obligations
- Option 3 – ACNC as a central regulatory body.

Each option presents a different approach to reducing the regulatory burden on charities associated with fundraising, state taxation and incorporated associations' legislation. The options illustrate increasing levels of harmonisation between the state, territory and Commonwealth arrangements. In addition, the options present a scaled approach in terms of the resources required for its implementation. For example, Option 1 requires comparatively less resources to enact; however the scope of regulatory reduction that can be achieved through its implementation is comparatively less than Option 3, as depicted in Figure 3.1.

These options are not intended to exhaustively cover all the possible solutions to reducing regulatory burdens on the charity sector. Indeed, there are many variations on these approaches. Rather, these options reflect a combination of key solutions that have been put forward in the past.

Further, in practise it would be possible to 'mix and match' the options across the three areas of regulation. For example, Option 1 could be adopted for reducing the regulatory burden associated for incorporated associations while Option 3 could be adopted for decreasing the red-tape associated with fundraising.

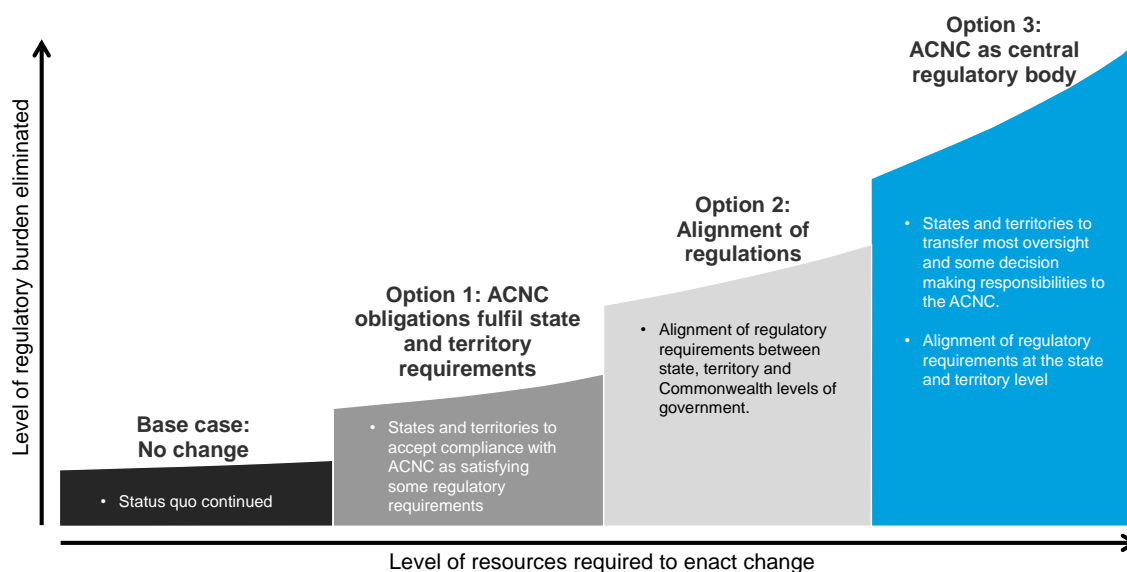
As this report is focussed on the alignment of existing regulatory obligations, de-regulation as an option has not been considered.

The options are described in more detail below. A detailed comparison of the options is provided in Appendix A.

---

<sup>26</sup> 2001 Report of the inquiry into the Definition of Charities and Related Organisations; 2008 Senate Economics Committee inquiry into Disclosure Regimes for Charities and NFP Organisations; 2009 Australia's Future Tax System report; 2010 Productivity Commission Report on the Contribution of the NFP Sector and 2010 Senate Economic Committee's inquiry into the Tax Laws Amendment (Public Benefit Test) Bill 2010.

Figure 3.1 Overview of Regulatory Reform Options



## Base Case: No change to current arrangements

The base case option would involve retaining the 'status quo' arrangements, with no change to current legislation, regulation or processes. State taxation, incorporated associations legislation and fundraising will continue to be managed at the state and territory level for activity that is undertaken within the relevant jurisdiction.

As work is already underway by the ACNC to simplify and consolidate processes at the national level, it is expected that this would continue through to completion. However, it is assumed that no further work would be undertaken to remove regulatory burden in the sector under the base case.

## Option 1: ACNC obligations fulfil state and territory regulatory requirements

Option 1 seeks to make use of existing Commonwealth regulatory processes and obligations by allowing charities to achieve compliance with individual state and territory regimes by meeting ACNC obligations. Charities will continue to be accountable to state and territory legislation, however, some state and territory regulatory requirements would be considered satisfied by meeting ACNC obligations. It is envisaged that this will be implemented with a focus on reporting requirements. States and territories would have ownership of the level to which ACNC reporting requirements would satisfy their own regulatory arrangements, and this change could be enabled either through legislative change or administrative action.

### 3.1.1 Fundraising

Option 1 will seek to implement an agreement with states and territories where reporting obligations will be satisfied by meeting the equivalent ACNC requirements. In practise, this would mean charitable organisations could use ACNC reporting requirements to satisfy state and territory reporting obligations, with state and territory variations embedded in the ACNC's reporting template. Applications to fundraise would continue to be managed at the state and territory level according to the relevant legislation; however status as a charitable organisation would be met through registration as a charity with the ACNC.

#### **Case study: Proposed regulatory change in South Australia – a practical example of the harmonisation of state legislation with ACNC regulatory arrangements (Option 1)**

In 2013, the Government of South Australia consulted on the *Statutes Amendment (Commonwealth Registered Entities) Bill 2013*, an Exposure Draft that proposes changes to incorporated associations and charitable collections legislation. The intent of the draft focused on reducing regulatory duplication for charities through increasing the level of harmonisation with the ACNC.

Under the proposed Bill, a charity undertaking fundraising in South Australia and registered with the ACNC Act would be:

- Authorised to act as a collector in South Australia on giving notice in writing to the Minister of its intention to undertake such work (this notice may be required to be provided by the ACNC)
- Exempt from reporting requirements where financial information has been provided to the ACNC

In addition, a ACNC registered charity operating as an incorporated association would be:

- Exempt from submitting financial reports to the Corporate Affairs Commission if certain requirements are met, these being that:
  - Financial information and any auditor's or reviewer's report has been submitted under the ACNC Act
  - Any other information required by the Corporate Affairs Commission is submitted (clause 4, new section 34(1))

While the proposed Bill does not make any changes in relation to state taxation concession arrangements, the amendments sought provide a practical example of how states and territories could increase the level of harmonisation with the ACNC.

The Bill has now been tabled in the South Australian Parliament.

### 3.1.2 State taxation

State and territory taxation legislation applies to a number of different organisations, a subset of which are charities. In place of changing the legislative arrangements uniformly, Option 1 would provide special conditions for charitable organisations to complete their regulatory requirements. Specifically, for every state and territory that requires an organisation to prove charitable status or purpose to receive a taxation concession, registration with the ACNC would satisfy this criterion. While this wouldn't require a legislative change to the state or territories' definition of charity, it would mean that the jurisdiction implicitly accepts the ACNC definition as meeting the eligibility requirements of a charity in each jurisdiction.

Charities will continue to ensure and demonstrate that they are eligible for a concession according to the other requirements that guarantee eligibility in each state and territory (for example, payroll tax in some jurisdictions requires organisations to have a payroll value under a specified amount).

### 3.1.3 Incorporated Associations legislation

Incorporated organisations include a range of different entity types, some of which are charitable organisations. Option 1 will only alter the existing arrangements for charitable organisations. Specifically, Option 1 will see charities' reporting requirements satisfied when charities fulfil ACNC regulatory obligations. For example, in place of submitting an annual report to the relevant state or territory regulatory body, charities will be considered compliant when they have satisfied all reporting requirements to the ACNC. This will also hold for the incorporated association notification requirements, whereas notification provided to the ACNC to update entity details will be considered sufficient to satisfy state or territory notification requirements.

## Option 2: Alignment of state, territory, and ACNC regulatory obligations

Option 2 aims to align current processes at each jurisdictional level with best practice, while retaining the structure of state and territory oversight. Under this option, states, territories, and the ACNC would agree on a common approach to regulation across the three areas, which would address issues of duplication and inconsistency across different jurisdictions.

### 3.1.4 Fundraising

Processes that determine how fundraising activities are undertaken in each state and territory would be aligned between the state and territory regulators, in addition to ensuring alignment with ACNC reporting requirements to reduce the amount of administration involved. Firstly, application processes would be refined to include the same waiting periods for application approval (prior to fundraising, if any), application information, and supporting documents. The same would occur for operational requirements, reporting requirements, and renewal of registration (i.e. the timing for renewal would be aligned). While the ACNC does not regulate charitable fundraising, there would be capacity to align current fundraising reporting requirements with ACNC reporting requirements and to use the Charity Passport as described above.

### 3.1.5 State taxation

Under Option 2, efforts would be made to align the application processes for tax concessions. This would include a common approach to the definition of “charity” and eligibility requirements for tax concessions. In terms of the definition of a charity, it is expected that states and territories would align with the current Commonwealth definition of charity to maintain national consistency. Eligibility requirements would be agreed at the state and territory level. These changes would mean that charitable organisations that have access to a taxation concession in one jurisdiction would also have access to a concession in another jurisdiction, where they exist (for example, payroll tax exemptions could be provided in multiple jurisdictions). However, the level of concession received would continue to be decided by each state or territory.

### 3.1.6 Incorporated Associations legislation

Incorporated associations legislation currently exists in every state and territory. Option 2 would not fundamentally change the existing legislation, but would instead ensure that the slight differences in processes are aligned between states and territories, as outlined as follows:

- **Application process:** the definition of a charitable organisation will be aligned to a common definition between states, territories and the Commonwealth. If an organisation is considered to be charitable when applying to become incorporated, it will also be considered to be charitable in any other states or territories it applies to for incorporation or when registering with the ACNC.
- **Organisational and other requirements:** legislative change to adopt a common approach to organisational requirements, allowing one piece of documentation to be developed by charities to satisfy regulatory obligations in each of the states and territories they operate in (for organisations which are incorporated in more than one jurisdiction) and for the ACNC. This change is expected to not only impact charitable organisations, but other incorporated associations who operate across a number of jurisdictions. In addition, it is expected that states and territories will take advantage of the ACNC Charity Passport system. Therefore, under the aligned legislative arrangements, the regulators at all levels can take a ‘report once, use often’ approach by sharing reporting information, consequently reducing the regulatory burden placed on charities.

State and territory regulators would collaborate with the ACNC to agree on a common approach, and subsequently change regulations to align with this agreed approach.

## Option 3: ACNC as a central regulatory body

Under Option 3, oversight of aspects of state taxation, incorporated associations legislation and fundraising regulation would be transferred to the ACNC from state and territory management, where feasible. Similarly to Option 2, this option would also involve the alignment of regulations at the state and territory level to support the consolidation of functions into a one stop shop site and diminish the red tape burden on charities and the public.

### 3.1.7 Fundraising

Fundraising regulation would be unified by transferring oversight capacity from all states and territories to the ACNC through a referral of powers. Under this scenario, it is envisaged that, as the national regulatory body, all charities registered by the ACNC could apply for a license to fundraise in every state and territory via the ACNC registration process. In doing so, they would be required to comply with an agreed set of requirements in undertaking and reporting on the fundraising activity. Specifically, a single set of rules would be agreed that would outline:

- The definition of fundraising, and activities which are not included under this definition
- The way in which activities must be undertaken (i.e. identification of collectors, and authorisation of collectors by the charity)
- Financial reporting requirements.

Eligibility to fundraise would be retained as long as a charitable organisation continues to be registered with the ACNC. For those charities that fundraise but are not registered with the ACNC, registration would be required in order to maintain the ability to fundraise. This would provide some benefits, such as the ability to apply for Commonwealth tax concessions. It would also require the charity to undertake additional regulatory compliance activities, as per the ACNC requirements.

### 3.1.8 State taxation

Implementation of Option 3 would enable charities to apply centrally through the ACNC charity registration process to gain access to state and territory charitable taxation concessions. In moving towards a centralised approach, each state and territory would be accepting the ACNC definition of a charitable organisation. However, there would be scope to tailor the tests for state taxation eligibility by state and territory, as per their requirements. For example, the wage thresholds for payroll tax payments would continue to be set by state and territory bodies.

Charities may still be deemed ineligible for state or territory tax concessions if they do not meet eligibility requirements that are not contingent on their charitable status (for example, if an ACNC charitable organisation exceeded the wage threshold for its payroll tax exemption). The level of concession received would continue to be determined at the state or territory level.

### 3.1.9 Incorporated Associations legislation

Under Option 3, annual reporting requirements would be administered and monitored by the ACNC, who would receive and distribute this information to all states and territories as required. A charitable organisation would still be required to apply to individual state and territories to be incorporated, but they would be able to reduce the duplication of annual reporting through providing an annual report and financial statements only to the ACNC, which would meet both ACNC and state and territory reporting requirements.

Notification of changes to the incorporated association, currently required by state and territory regulators, would also be provided only to the ACNC, who currently require notification of these changes. This information would be passed on to the relevant state and territory body by the ACNC on behalf of the incorporated association.

In order for the single point of reporting and notification processes to successfully reduce regulatory burdens to the greatest degree possible, it would be necessary for the states and territories to concurrently increase the alignment of their application processes, operational and reporting requirements, and notification requirements for altering arrangements in addition to aligning processes, as described under Option 1.

While there would be some additional burden placed on the ACNC as the central regulatory body, it is expected that there would still be an overall reduction in time and effort from both the perspective of government (state, territory and Commonwealth) and charitable organisations. Charities would produce one set of reporting documentation that would satisfy both ACNC requirements and their obligations as an incorporated association. In addition, charities would only need to notify one body of a change to their organisational structure. The ACNC would be charged with distributing this information, but state and territory bodies would be relieved of processing and reviewing charities' submissions, resulting in a net benefit.



## 4 Options analysis

This chapter provides a high level comparison of the regulatory cost savings that could be achieved through the implementation of the proposed options. Each option is tested against the base case to determine the approximate regulatory burden that could be removed from the sector. Given the complexity of the charitable sector, and the varied nature of the organisations, best estimates have been made to determine the level of regulatory burden currently present, and to what extent this could be reduced under each option.

### 4.1 Fundraising

The results of our analysis suggest that fundraising places a regulatory burden on the sector of approximately \$15.1 million annually, as highlighted in Table 4.1. Compared with state taxation and incorporated associations legislation, the regulatory burden associated with fundraising poses the highest cost to charities. This is of particular concern given only 15,980 licenses or registrations to fundraise have been issued by state and territory regulators.<sup>27</sup> This number reduces further when multiple entries are considered, as charities who fundraise in more than one jurisdiction will be registered or licensed in a more than one state or territory database.

While not all charities fundraise, and a number of exemptions from holding a license exist, the low proportion of licensed charities suggests that an element of non-compliance may exist.

**Table 4.1 Estimated annual regulatory costs by option – Fundraising**

Task	Base case	Option 1	Option 2	Option 3
Application process	\$2.96 m	\$2.78 m	\$2.71 m	\$0.39 m
Reporting requirements	\$4.87 m	\$0.00 m	\$0.00 m	\$0.00 m
Operating requirements*	\$7.26 m	\$7.26 m	\$3.88 m	\$3.88 m
<b>TOTAL</b>	<b>\$15.08 m</b>	<b>\$10.04 m</b>	<b>\$6.58 m</b>	<b>\$4.27 m</b>
<b>Regulatory cost saving against the base case</b>	<b>N/A</b>	<b>\$5.04 m</b>	<b>\$8.50 m</b>	<b>\$10.81 m</b>

Note: \*Operating requirements include ensuring ongoing compliance with regulations in carrying out fundraising and monitoring of compliance changes.

All of the Options present scenarios where regulatory burden could be reduced to a significant degree. Option 1 delivers cost savings through the elimination of duplicative reporting requirements. Rather than reporting fundraising activities to individual state and territory regulators, charities would satisfy their reporting requirements (as they relate to fundraising) through compliance with existing ACNC regulatory obligations. Implementation of Option 1 offers over \$5.04 million in red tape reduction benefits.

<sup>27</sup> Based on state and territory fundraising data and ACNC charity data.

Option 2 offers a reduction in regulatory burden to charities across each compliance activity. Application processes are made easier as processes will converge across all jurisdictions, eliminating the need to meet the differing requirements of each state and territory if fundraising in multiple locations. While this reduces regulatory burden by approximately \$8.5 million a year, it requires consensus from each state and territory to achieve this reduction. At present, there is no conceptual underpinning between jurisdictions on the common goal of regulation, and what the scope of the regulated activity should be. Should one state be hesitant about moving towards a common regulatory approach, the benefits associated with the change would be significantly reduced.

Option 3 reduces the regulatory compliance burden by the greatest degree, with savings in regulatory costs estimated at approximately \$10.8 million per year. Implementation of Option 3 would see fundraising regulation embedded into pre-existing ACNC requirements. Charities could apply for a fundraising license online as part of the registration process, and reporting could be submitted as part of the AIS submission process.

The elimination of reporting requirements for charities that fundraise would see a large reduction in the regulatory burden, from \$4.9 million to no burden, based on the estimates in Table 4.1 above. It should be noted that this is based on the assumption that the reporting is incorporated into the AIS process. For those charities that fundraise, but are not registered with the ACNC, under Option 1 and Option 2 charities would have the choice to continue fundraising through liaising with state or territory regulators, or instead register with the ACNC. Option 3 would mean that any charitable organisation that fundraises would need to register with the ACNC in order to be compliant.

Whilst the centralisation of fundraising regulations has significant benefits, in particular for larger charities, and increases the clarity of compliance requirements, there may be additional regulatory burdens placed on smaller charities. For example, in the ACT, charitable organisations are not required to obtain a license to fundraise until their annual funds raised exceed \$12,000. If a similar threshold was not adopted nationally, there would be additional costs to small charities that only fundraise in the ACT. The centralised system should also include a notification regime to advise charities when existing licences are due to expire.

## 4.2 State taxation

State taxation concessions do not impact the sector uniformly. Many charities do not own land, and therefore have no need to apply for a land tax concession. Similarly, due to the small paid employee workforce for a number of charitable organisations, they typically fall below the threshold for payroll tax, and therefore do not need to apply for an exemption. Many organisations are impacted by duties in one way or another, but the degree to which this occurs depends on the state in which they operate (and therefore the duties that they have access to) and, again, the structure of their operations. For example, for a charitable organisation that runs a number of opportunity shops, retail lease duty concessions would be of high importance to the organisation. A significant proportion of those consulted were not aware of their eligibility for state taxation concessions, or had a long standing agreement in place for such a period that they were no longer familiar with the process to apply.

These nuances aside, the results of our analysis suggest that state taxation application and reporting requirements currently place a regulatory burden on the sector of approximately \$11.0 million annually, as highlighted in Table 4.2.

**Table 4.2 Estimated annual regulatory costs by option – State Taxation**

Task	Base Case	Option 1	Option 2	Option 3
Application for state taxation concessions / exemptions	\$2.46 m	\$1.97 m	\$0.13 m	\$0.13 m
Maintaining compliance / understanding regulations	\$8.53 m	\$8.53 m	\$8.53 m	\$1.07 m
<b>TOTAL</b>	<b>\$10.99 m</b>	<b>\$10.50 m</b>	<b>\$8.66 m</b>	<b>\$1.19 m</b>
<b>Regulatory saving against the base case</b>	<b>N/A</b>	<b>\$0.49 m</b>	<b>\$2.33 m</b>	<b>\$9.80 m</b>

While the application process was not reported to be too onerous by stakeholders, it was noted that there was often considerable effort involved in understanding the regulatory requirements and liaising with state and territory bodies to gain access to them. This was particularly the case for taxes that are charged on a transaction basis, such as stamp duty for commercial leases. Feedback from charitable organisations estimated that on average 4 hours annually was spent undertaking activities related to maintaining compliance and understanding the current regulations. This average reflects the range of responses, where some charitable organisations dedicated weeks to this process, while others dedicated no time at all.

Option 1 will enable charities to use their status as a registered charity with the ACNC to satisfy eligibility criteria when applying for state and territory taxation concessions. While charities will continue to submit individual application forms for each tax exemption, in each state and territory, the process itself will be simpler. This will equate to approximately \$0.5 million in red tape savings to the charitable sector.

Option 2 would seek to centralise the application process for gaining access to concessions and exemptions through the ACNC, while also improving the information provided to charities on states and territories tax regulatory arrangements. Savings in regulatory costs under this option are estimated at approximately \$2.3 million per year, reasonably higher than the estimated savings under Option 1.

The difference in regulatory savings between Option 2 and Option 3 is attributable to the costs for maintaining compliance/understanding regulations (given the costs relating to applications is the same for both options – \$0.13M). Option 3, which offers significant regulatory savings of approximately \$9.8 million annually, would seek to centralise the application process for gaining access to concessions and exemptions through the ACNC. A single application system would significantly reduce the reporting burdens placed on charity organisations. It would simplify processes for organisations who are working in multiple states (i.e. organisations purchasing motor vehicles in Victoria and NSW) as well as reducing the number of applications for multiple taxes (i.e. the need to make separate applications for land tax and duty concessions in some states). In addition, as a central

regulatory body, the ACNC would provide a ‘one stop shop’ for the provision of relevant concession information, which would significantly reduce the time required to maintain compliance and understand the regulatory frameworks.

## 4.3 Incorporated associations legislation

Incorporated associations comprise a significant portion of the charitable sector, as the structure is well suited to small organisations. However, as charitable incorporated associations are regulated at the Commonwealth and state and territory level, this creates a duplicated regulatory arrangement. In addition to requirements under the relevant state or territory Associations Incorporation Act, entities must also remain compliant with the ACNC Act requirements.

Of those surveyed, this duplication of reporting was not overly burdensome given the state and territory requirements are not considered too onerous. However, given the high number of incorporated associations, this relatively minimal level of duplication across a number of key processes is significant overall, with an approximate cost to the sector of \$8.8 million per year, as highlighted in Table 4.3.

**Table 4.3 Estimated annual regulatory costs by option – Incorporated associations**

Task	Base case	Option 1	Option 2	Option 3
Reporting requirements	\$5.26 m	\$0.00 m	\$0.00 m	\$0.00 m
Notification requirements	\$3.51 m	\$0.00 m	\$0.00 m	\$0.00 m
<b>TOTAL</b>	<b>\$8.77 m</b>	<b>\$0.00 m</b>	<b>\$0.00 m</b>	<b>\$0.00 m</b>
<b>Regulatory saving against the base case</b>	<b>N/A</b>	<b>\$8.77 m</b>	<b>\$8.77 m</b>	<b>\$8.77 m</b>

Option 1 presents a significant opportunity to reduce the regulatory burden on charities. Should state and territory governments be satisfied that incorporated associations are compliant by meeting ACNC regulatory obligations; charities will be able to entirely eliminate their substantive state and territory red tape requirements.

Under Option 2, state and territory governments would align their current processes to increase alignment with the ACNC and other state and territory bodies. In addition, states and territories will take up the ACNC’s Charity Passport system to allow a ‘report once, use often’ approach to reporting and notification requirements. Similarly to Option 1, Option 2 enables charities to completely eliminate this regulatory burden, creating a total estimated saving of \$8.8 million.

Option 3 reduces the regulatory burden to the same degree as Option 1 and 2, with savings in regulatory costs estimated at approximately \$8.8 million per year. Implementation of Option 3 would see the ACNC take a central regulatory role in relation to reporting and notification requirements for charitable incorporated associations. Since this is a process already undertaken by the ACNC, a move to accept this documentation as compliance with the legislation (assuming information sharing arrangements are in place) would completely eliminate this element of regulatory burden.

While charitable incorporated associations are expected to reduce their time and cost burden associated with undertaking state and territory regulatory obligations, it is noted that there would be costs incurred in relation to undertaking ACNC regulatory requirements. In many instances, these costs are already incurred by charitable incorporated associations that are registered with the ACNC. For charities that are not registered with the ACNC, all of the options would allow the organisation to choose between retaining their current regulatory obligations, or opt for greater alignment of obligations through registering with the ACNC.

# 5 Findings and recommendations

## 5.1 Key findings

Regulation of the charitable sector relating to fundraising, state taxation, and incorporated associations, is estimated to cost charities approximately \$34.9 million annually. Feedback from the sector indicates that a number of opportunities exist to reduce this burden. At present, regulatory requirements differ considerably between state, territory and Commonwealth jurisdictions. This creates duplicative arrangements and increases the difficulty of working in more than one jurisdiction. In addition, some legislative arrangements have not kept pace with the current state of the charitable sector. As charities grow in size, utilise technology to a greater degree, and operate in a number of jurisdictions, it is important that state, territory and Commonwealth agencies have the capacity to take a holistic approach to regulation to support the development and productivity of the sector.

The regulatory costing analysis found that Option 3 delivers the greatest opportunity for red tape reduction across all three areas of regulation. Indeed, Option 3 has the potential to reduce the current state and territory based regulatory burden costs placed on charities by approximately \$29.4 million, as highlighted in Table 5.1. While the potential for benefit realisation is high, it is also noted that the time and effort required to support a move towards centralised regulation through the ACNC would be significant.

In the case of incorporated associations legislation, significant regulatory cost savings can be achieved across all options. Options 1, 2 and 3 all reduce the estimated regulatory burden to the same degree. Option 1 enables the elimination of current regulatory obligations when states and territories provide an exemption to charities that are registered with the ACNC. Charities would no longer need to report directly to state and territory regulators. Reporting submitted to the ACNC would satisfy this obligation.

Option 2 highlights the benefits of aligning state, territory, and ACNC regulatory obligations. Aligned regulatory requirements will allow states and territories to utilise the information collected by the ACNC through the existing ACNC Charity Passport system more effectively. This system allows the ACNC to electronically share the information collected from registered charities with authorised government agencies, enabling charities to report once, rather than to multiple entities.

Option 3 would see a greater centralisation of regulations, with the ACNC integrating the current regulatory arrangements into their existing processes. However, there are trade-offs associated with moving towards a central regulatory model. While such an approach would lead to economies of scale, the ACNC may not be best placed to coordinate charities' regulatory obligations in every instance. For example, charitable incorporated associations are only a small subset of all incorporated associations. The same amount of regulatory burden savings can be achieved through Option 1, which is a less time intensive process than Option 2 or 3.

Consultations with key stakeholders in the charitable sector highlighted fundraising as a top priority for reform and an area recognised as making the most difference for regulatory burden reduction. Overwhelmingly, the ACNC was identified as the entity that would be best placed to centralise processes, and reduce red tape across fundraising, state taxation and incorporated associations' regulations. This is echoed in the cost burden estimates,

which shows a progressive decrease in the regulatory burden between Options 1, 2 and 3. This decrease is again driven by the significant savings that can be achieved through reducing duplicative reporting requirements. Option 3, in which the ACNC undertakes regulation of these entities, offers the greatest reduction due to the additional efficiencies that can be achieved in the application process, and in relation to operational requirements.

Consistent with the fundraising estimates, state taxation regulatory burden cost savings are significantly higher under Option 3. While this can be attributed to a centralised application process, a major contributor is the provision of centralised information and assistance for state and territory taxation concessions.

**Table 5.1 Summary of regulatory burden cost estimates**

Task	Base Case	Option 1	Option 2	Option 3
Fundraising	\$15.08 m	\$10.04 m	\$6.58 m	\$4.27 m
State taxation	\$10.99 m	\$10.50 m	\$8.66 m	\$1.19 m
Incorporated Associations	\$8.77 m	\$0.00 m	\$0.00 m	\$0.00 m
<b>TOTAL</b>	<b>\$34.85 m</b>	<b>\$20.54 m</b>	<b>\$15.24 m</b>	<b>\$5.46 m</b>
<b>Regulatory saving against the base case</b>	<b>N/A</b>	<b>\$14.31 m</b>	<b>\$19.60 m</b>	<b>\$29.38 m</b>

## 5.2 Recommendations

Based on the key findings, it is recommended that:

1. The ACNC seek the support of state and territory government to pursue the implementation of Option 1 as a first tangible step towards red tape reduction for charities. Allowing the ACNC's regulatory obligations to fulfil, at least in part, state and territory requirements is considered an optimal interim measure, as a significant quantum of benefits can be achieved while requiring less time, effort and buy-in than Options 2 & 3. Option 1 presents a number of opportunities for 'quick wins', particularly in the case of incorporated associations.
2. The ACNC continues to build on the red tape reduction work completed to date by engaging with states and territories through COAG and pursuing the implementation of Option 3, specifically in relation to fundraising regulations and state taxation. Implementation of Option 3 for incorporated associations would have no additional benefit when compared against Option 1, and consequently it is not recommended for implementation in this instance.

It is noted that this approach would require significant changes to state and territory powers and to the management responsibilities of the ACNC. It would also involve the alignment of regulations across the states and territories to support the centralisation of functions. Practical issues and the potential for some jurisdictions being unwilling to cede powers to the Commonwealth mean that implementation of this option will not be straightforward. Further, Option 3 will also involve an increased processing burden being placed on the ACNC and interim costs on state and territory governments to enact the referral of power.

3. The ACNC and state and territory governments utilise any opportunity to increase the alignment of current legislation and regulations cutting across two of the three areas of analysis: fundraising and state taxation in line with the principles outlined under Option 2.
4. The ACNC plays a greater role in assisting charities with their state and territory compliance requirements where feasible. Moreover, the state and territory regulators should work with the sector to address current issues of non-compliance and review relevant regulations to ensure that they are up to date with contemporary practices and structures of charitable organisations.
5. Cooperation between state and territory governments and the ACNC should be strong. In order to effectively implement Option 1, and progress elements of Option 2 and Option 3, it is imperative that the bodies work together to share information and set up processes that enhance efficiencies to realise the expected time and cost savings.



## 6 Limitation of our work

### General use restriction

This report is prepared solely for the use of the ACNC. This report is not intended to and should not be used or relied upon by anyone else and we accept no duty of care to any other person or entity. The report has been prepared for the purpose set out in our contract. You should not refer to or use our name or the advice for any other purpose.

# Appendix A Detailed comparison of options

Regulatory requirement (refer to mapping)	Base case: No change	Option 1 ACNC obligations fulfil state and territory regulatory requirements	Option 2: Alignment of state, territory, and ACNC regulatory obligations	Option 3: ACNC as central regulatory body
<b>State taxation</b>				
<i>Qualification for concessions</i>	Individual applications for exemption are required to be submitted to each state and territory for each category of tax concession (where applicable)	Charities must apply for state and territory taxation concessions in each jurisdiction. However, any requirements to demonstrate the charitable status of the organisation will be satisfied by ACNC registration.	Single definition of eligible charitable organisations. States and territories will also work to align application requirements.  Individual applications to each state and territory, however, the requirements for each application will be largely aligned (i.e. requirements to demonstrate charitable purpose will be aligned to ACNC definition)	Registration with the ACNC will automatically qualify an organisation for certain tax concessions (where required information is provided). When circumstances change and the charity is eligible for additional concessions a single application to the ACNC will be made to determine eligibility. States and territories will also work to align application requirements.
<i>Level of tax concession, tax threshold, and tax rate</i>	Will continue to be set by the state or territory	Will continue to be set by the state or territory	Will continue to be set by the state or territory	Will continue to be set by the state or territory
<b>Incorporated Association legislation</b>				
<i>Application to become an incorporated association</i>	Individual applications must be submitted to each state and territory in which a charitable organisation seeks to become incorporated.	Applicants will continue to apply directly to the relevant jurisdiction for incorporation.	Applicants will continue to apply directly to the relevant jurisdiction for incorporation. The definition of an NFP will be aligned across each state and territory for the application process.	The ACNC definition of a charitable organisation / NFP will be accepted for each state and territory application process. Applicants will continue to apply directly to the relevant jurisdiction for incorporation.
<i>Operational requirements</i>	Incorporated associations must comply with the requirements outlined in state and territory	Incorporated associations must comply with the requirements outlined in state and territory	State and territory operational requirements (such as requirements to hold an annual general meeting,	Annual reporting requirements will be conducted through an annual submission to the ACNC. The ACNC

Regulatory requirement (refer to mapping)	Base case: No change	Option 1 ACNC obligations fulfil state and territory regulatory requirements	Option 2: Alignment of state, territory, and ACNC regulatory obligations	Option 3: ACNC as central regulatory body
	legislation	legislation. Annual reporting requirements will be satisfied through an annual submission to the ACNC	submission of an annual report) will be aligned.	will then distribute this information to the relevant state and territory Departments.
<i>Requirements for altering arrangements</i>	Incorporated associations must apply / notify the relevant state or territory of changes to the organisation as per legislative requirements	Application / notification requirements will be aligned across state and territory jurisdictions for changes to the incorporated association.	Changes to the incorporated association will be submitted to the ACNC, who will then distribute this information to the relevant state and territory Departments.	Changes to the incorporated association will be submitted to the ACNC, who will then distribute this information to the relevant state and territory Departments.
<i>Winding-up requirements</i>	Voluntary winding up processes will continue as outlined in the relevant state and territory legislation.	Voluntary winding up processes will continue as outlined in the relevant state and territory legislation	Winding up processes will be aligned across states and territories.	Incorporated associations will notify the ACNC of winding up processes, who will then distribute this information to the relevant state and territory Departments
<b>Fundraising</b>				
<i>Registering to fundraise</i>	Charitable organisations must apply for registration in every state and territory in which they intend to fundraise.	Charitable organisations must apply for registration in every state and territory in which they intend to fundraise.	While charitable organisations will continue to be required to apply in each jurisdiction they fundraise in, the application requirements will be aligned.	Charitable organisations registered with the ACNC will be automatically registered to fundraise in every state and territory.
<i>Timing for approval</i>	State and territory waiting periods apply	State and territory waiting periods apply	Standardised to ACNC/ state and territory aligned waiting period	Standardised to ACNC adopted waiting period
<i>Undertaking fundraising activities</i>	Charitable organisations must abide by the differing fundraising requirements in each state and territory	Charitable organisations must abide by the differing fundraising requirements in each state and territory	Requirements for undertaking fundraising activities (such as presentation of identification) will be aligned across states and territories. Adherence will be monitored by the ACNC.	Requirements for undertaking fundraising activities (such as presentation of identification) will be determined by the ACNC. Adherence will also be monitored by the ACNC.
<i>Reporting requirements</i>	Charitable organisations must provide reporting documentation to	Charitable organisation reporting requirements will be satisfied	Charitable organisations will submit their reporting centrally to the ACNC	Reporting requirements will be satisfied through the financial

Regulatory requirement (refer to mapping)	Base case: No change	Option 1 ACNC obligations fulfil state and territory regulatory requirements	Option 2: Alignment of state, territory, and ACNC regulatory obligations	Option 3: ACNC as central regulatory body
	each state and territory they fundraise in as per the requirements of each jurisdiction.	through the submission of reporting to the ACNC as per Commonwealth requirements.	via annual financial statement reporting requirements. The ACNC will make this information available to the relevant state and territory bodies.	statement reporting charitable organisations must submit to the ACNC.
<i>Length of registration</i>	Varies by state and territory. Charities are required to reapply after registrations expires	Varies by state and territory. Charities are required to reapply after registrations expires	States and territories to align the length of registration validity.	Charities will remain registered for as long as they remain registered by the ACNC. Reviews will be undertaken but there will be no requirement to reapply.

# Appendix B Regulatory burden calculation assumptions and inputs

An overview of the regulatory cost assumptions and calculations by activity and option has been provided in the table below. These calculations were based on data collected through the 24 consultations held with charitable organisations in the options analysis phase of the project. Wage rates and average time estimates are based on an average of all data inputs, multiplied by an estimate of the number of applicable parties. Given the range of charities consulted, and the staff who undertook regulatory work at the organisation, the wage rate varied considerably and included a number of instances where volunteers were also used to complete the work. In most instances, however, due to the level of complexity involved in undertaking regulatory obligations, a paid staff member was charged with their completion.

**Table B.1 Estimated regulatory cost assumptions and calculations by option and activity– fundraising**

Task	Calculation	Difference between options		
		Option 1	Option 2	Option 3
<b>Application process</b>	Average time spent on task X Average wage rate of staff member X Number of applications	Option 1 assumes charities will continue to apply directly to state and territory agencies for licensing. No regulatory burden reduction will be achieved in the application process under this option.  Fundraising bodies have been estimated based on publicly available data and as a proportion of the number of charities in the state where fundraising data is not available.	Option 2 assumes that the alignment of application requirements reduces application time to the lowest reported time (assuming that you adopt the best practise model).	Option 3 assumes that the application process is integrated with the ACNC registration process. Therefore, only one additional hour is spent registering. Reapplication is not required as the license is contingent on being registered with the ACNC.
<b>Reporting requirements</b>	Average time spent on task X Average wage rate of staff member X Number of organisations required to report X Number of times required to report	Option 1 assumes that compliance with ACNC reporting requirements will satisfy state and territory reporting obligations. Therefore there is no additional burden associated with this compliance task.  Reports are required to be produced annually.	Option 2 assumes that alignment of reporting requirements and access to the ACNC’s Charity Passport will enable reporting requirements to be eliminated.	Option 3 assumes that the reporting process is integrated with the ACNC AIS process. Therefore there is no additional burden associated with this compliance task.
<b>Operating</b>	Average time spent on	Option 1 assumes charities will continue to be	Option 2 assumes that alignment of	Option 3 assumes a centralised process

Task	Calculation	Difference between options		
		Option 1	Option 2	Option 3
<b>requirements*</b>	task X Average wage rate of staff member X Number of applications	regulated by state and territory bodies in relation to their fundraising operational requirements	operating requirements (such as common forms) reduces operational time associated with undertaking fundraising to the lowest reported time (assuming that you adopt the best practise model).	with aligned operational requirements, Therefore additional efficiency is gained through having one point of contact (the ACNC) rather than a number of individual state and territory bodies.

**Table B.2 Estimated regulatory cost assumptions and calculations by option and activity –State Taxation**

Task	Calculation	Difference between options		
		Option 1	Option 2	Option 3
<b>Application for state taxation concessions / exemptions</b>	Average time spent on application X Average wage rate of staff member X Number of applications	<p>Option 1 assumes that charities will still need to apply for state and territory taxation concessions; however the application time will be reduced slightly as there will be no requirement to prove that the organisation is charitable, ACNC registration will satisfy this criterion.</p> <p>It has been assumed that 50% of all new charities will apply for a state or territory taxation concession in each category in a given year. This is a conservative assumption given charities may apply for concessions after growth occurs at the organisations as well.</p>	<p>Option 2 assumes that alignment of state taxation application requirements reduces the administrative burden placed on the charity from a varied application time to the lowest reported time (assuming that you adopt the best practise model of a particular jurisdiction – ACT in this case for payroll tax, stamp duty and land tax).</p> <p>It is assumed that alignment will not occur across all application requirements; therefore 1.5 additional hours of administrative time (half of the best practise application time) will be required to tailor the application to a particular state and territory.</p>	<p>Option 3 assumes that the application process is integrated with the ACNC registration process. Therefore, charities are applying once to the ACNC to determine eligibility, and have only minimal interactions with the state and territory bodies to ensure any other eligibility tests are met. It is assumed that this will take 1 hour of administrative time.</p>
<b>Maintaining compliance / understanding regulations</b>	Average time spent on task X Average wage rate of staff member X Number of charities	<p>Option 1 assumes that the harmonisation of state and territory regulatory arrangements will not reduce the time required to maintain compliance / understand regulations for charities.</p> <p>It has been assumed that all charities must maintain compliance / keep up with the regulatory arrangements for state and territory taxation concessions in one jurisdiction.</p>	<p>Option 2 assumes that alignment of the regulations reduces administrative time associated with maintaining access to tax concessions by approximately 50% as concession eligibility requirements will no longer differ as significantly between jurisdictions. Therefore, less time will be required to ensure compliance and understand the regulations.</p>	<p>Option 3 assumes that the compliance activities are further reduced as there are time savings associated with having compliance information in a single place.</p>

**Table B.3 Estimated regulatory cost assumptions and calculations by option and activity –Incorporated associations**

Task	Calculation	Difference between options		
		Option 1	Option 2	Option 3
<b>Reporting requirements</b>	Average time spent on task X Average wage rate of staff member X Number of incorporated associations with reporting requirements	Option 1 assumes that compliance with ACNC reporting requirements will satisfy state and territory reporting obligations. Therefore there is no additional burden associated with this compliance task.  Reports are required to be produced annually. Information on number of incorporated associations is based on ABR data.	Option 2 assumes that alignment of reporting requirements and access to the ACNC’s Charity Passport will enable reporting requirements to be eliminated	Option 3 assumes that the reporting process is integrated with the ACNC AIS process. Therefore, no additional reporting time is required as the submission of the AIS will be considered as satisfying the reporting requirements.
<b>Notification requirements</b>	Average time spent on task X Average wage rate of staff member X Number of incorporated associations (assuming on average one notification requirement per year)	Option 1 assumes that notification requirements will be satisfied by notification to the ACNC (which is already required) Therefore the administrative burden associated with notifying state and territory bodies will be completely eliminated.	Option 2 assumes that alignment of operating requirements (such as common forms) reduces operational time associated with undertaking fundraising to the lowest reported time (assuming that you adopt the best practise model).	Option 3 assumes that notification requirements will be satisfied by notification to the ACNC (which is already required). Therefore the administrative burden associated with notifying state and territory bodies will be completely eliminated.

### Other research assumptions and limitations

When interpreting the results of the regulatory burden costing exercise, it is important to consider the following:

- Inputs are based on interviews with a small cross-section of charities and therefore should not be considered representative of the entire sector.
- While care was taken to gather inputs from each jurisdiction, and from charities of varying sizes and types responses are likely to be influenced by subjective perceptions of the individual charity surveyed.



# Appendix C State and territory regulatory mapping

Regulatory area	Regulation / Act	Clause /section	Obligation	Action	Cost type	Other information
<b>State and Territory Laws</b>						
<b>ACT</b>						
Incorporations legislation	<b>Associations Incorporation Act 1999 (ACT) &amp; Associations Incorporation Regulation 1991</b>	S18, 126	Incorporate a new association	Complete Application to incorporate an association form	Administration	Response from Access Canberra between 5-10 working days <sup>28</sup> .
				Pay fee	Administration	
		S30	Notify of change to rules or objects	Complete Change of rules of objects of an association form and include the following: a written statement of the specific changes, a fully updated copy of the association's objects and purposes, a fully updated copy of the association's rules, unless the association is adopting the model rules, and a completed Association constitution and rules checklist.	Administration	
				Pay fee	Administration	
		S38	Notify of change of name	Complete Change of association name form	Administration	
				Pay fee	Administration	
		S26	Notify of amalgamation of two or more associations	Complete application to amalgamate associations form	Administration	
				Pay fee	Administration	
		S79	Reporting	Lodge an Annual Return with Access Canberra which includes: an audited statement of the association's accounts, a copy of the auditor's report in relation to those accounts, and a completed annual return form	Administration	Two current members of the committee and the public officer must sign the form. The committee of the association is responsible for ensuring that annual returns are

<sup>28</sup> Determined by whether the model rules are adopted as per the guidelines set out here: [https://www.accesscanberra.act.gov.au/app/answers/detail/a\\_id/1504/kw](https://www.accesscanberra.act.gov.au/app/answers/detail/a_id/1504/kw)

Regulatory area	Regulation / Act	Clause /section	Obligation	Action	Cost type	Other information
						lodged within six months of the EOFY.
		S59	Notify of changes to registered office	When an association opens a registered office, changes the address of the registered office or changes the opening hours of the registered office, they must lodge a Change of registered office particulars with Access Canberra	Administration	The association must ensure a change of registered office is lodged within 7 days of the change occurring.
		S62	Notify of changes to committee	When changes to the committee occur or a member changes their address the association must lodge a Change of committee particulars form with Access Canberra	Administration	The association must ensure a change of public officer is lodged within one month of the change occurring.
				Pay fee	Administration	
		S69	Hold AGMs	Hold an annual general meeting, once in each calendar year.	Administration	
Fundraising	<b>Charitable Collections Act 2003 (ACT) &amp; Charitable Collections Regulation 2003</b>	S21	Apply for license to collect	Complete applications to collect through Office of Regulatory Services	Administration	Application required only if raising >\$15,000 in a financial year. 5 business days. No fee. License is issued for a period not exceeding 5 years.
		S48	Provide report about the collections	A licensee must, in accordance with this section, give the director-general a report about all the collections conducted under the licence.	Administration	
State Taxation	<b>Duties Act 1999 (ACT)</b>	S54(3)	Apply for exemption/concession from duty payments as charitable organisation	Transfer of land to certain authorities and other bodies exemptions - Duty of \$20 is chargeable in respect of a grant or transfer of land to a hospital, school or charitable organisation or to trustees in trust for a hospital, school or charitable organisation	Administration	
		S91(1)		Certain transactions treated as transfers exemptions- Duty of \$20 is chargeable in respect of a chapter 3 transaction in which the transferee is a hospital, school or charitable organisation or a		

Regulatory area	Regulation / Act	Clause /section	Obligation	Action	Cost type	Other information
				trustee who is to hold the property transferred in trust for a hospital, school or charitable organisation		
		S174		Mortgages exemptions- Duty is charged on a mortgage instrument only if it is liable to duty under another chapter.		
		S201		Insurance exemptions - Exemption from duty if it is insurance on property of, or property held in trust for, a hospital, school or charitable organisation, or other general insurance taken out by a hospital, school or charitable organisation.		
		S201A		Motor vehicle registration duty exemption: Duty under this chapter is not chargeable on an application to register a motor vehicle if the applicant is—a charitable organisation; or a person who is to hold the vehicle on behalf of, or as a trustee for, a charitable organisation.		
State Taxation	<b>Land Tax Act 2004 (ACT)</b>	S34	Apply to Minister for land tax exemption	The Minister may exempt the owner of a parcel of land from payment of land tax owing for any period in relation to the parcel, or from payment of a stated part of the land tax.	Administration	
State taxation	<b>Payroll Tax Act 2011 (ACT)</b>	S42	Apply for recognition as charitable organisation to regulator	Wages mentioned in schedule 2, part 2.2 are exempt wages for charitable organisations	Administration	
<b>NSW</b>						
Incorporations legislation	<b>Associations Incorporation Act 2009 &amp; Associations Incorporation Regulation 2010</b>	S6	Apply for registration of association	Complete application to the Director-General, including: association's name and address, objects, constitution, first public officer, special resolution, declaration of compliance with law (when made on behalf of a corporation), and information required by the regulations	Administration	Association's proposed official address must be within New South Wales. The constitution must align with the requirements outlined in Schedule 1.

Regulatory area	Regulation / Act	Clause /section	Obligation	Action	Cost type	Other information
	(NSW)			Pay fee	Administration	
		S10	Apply for change of name, objects or constitution	After the passing of a special resolution by the association, complete application to the Director General to approve the change including: details of the proposed change and copy of the special resolution.	Administration	
				Pay fee	Administration	
		S13	Notify of change of address	Notify the Director-General in the approved form of the association's new address (within 28 days)	Administration	
		S15	Apply to reserve name	An application for reservation of a name may be made to the Director-General	Administration	Name is reserved for 3 months
				Pay fee	Administration	
		S28	Establish a committee	An association must establish a committee to manage its affairs.	Administration	Must include 3+ members, aged 18+ years, 3 of whom reside in Australia.
		S29	Maintain register of members	Keep register of committee members including: name, DOB, address, date on which they took office, vacated office and other particular prescribed by the regulations.	Administration	The register must be kept in New South Wales
		S34	Appoint public officer and notify Director-General	Appoint officer who is >18 years old and complete approved form to notify the Director-General of the appointment including: name, DOB, address, the fact that the person has taken office.	Administration	
		S43	Submit financial statements	Submit financial statements to annual general meeting and lodge a summary, the financial statements, and the auditor's report (Tier 1 only) with the Director-General.	Administration	Tier 1 associations must commission an audit of the financial statements.
				Pay fee	Administration	
		S50	Keep records of accounts and minutes of proceedings	An association must keep records of financial transactions, financial position, and minutes of the proceedings of its committee meetings and	Administration	The Director-General may direct an association to undergo an audit at their discretion.

Regulatory area	Regulation / Act	Clause /section	Obligation	Action	Cost type	Other information
				general meetings.		
		S72	Apply for cancellation of registration	Apply to Director-General for cancellation of registration using approved form, and including a copy of the special resolution and a statement verifying the association has no outstanding liabilities.	Administration	
		S104	Apply for review of Director-General's decision	An association may apply to the Civil and Administrative Tribunal for an administrative review.	Administration	
Fundraising	<b>Charitable Fundraising Act 1991 (NSW)</b>	S9, s15	Apply for authority to fundraise	Complete Charitable Fundraising application form and file with NSW Department of Finance, Services and Innovation.	Administration	Some religious organisations are exempt from the Act <sup>29</sup> .
		S9, s15			Administration	20 business days; Minister's office will acknowledge receipt of application. If processing not completed within 60 days of receipt notice, application deemed to be approved: s 16(5), 16(6).  A fundraising authority must maintain an address in NSW to which notices can be sent and at which record of income and expenditure relating to appeals must be maintained.
		S42	If application is refused, apply for a review	Apply to the Administrative Decisions Tribunal to review the Minister's decision	Administration	
		S22	Record keeping	Maintain records of income and expenditure in relation to each appeal	Administration	
		S23	Periodic reporting to Minister	Provide periodic return by the holder of authority to the Minister on the gross amounts received from each appeal, and the net amount received	Administration	Fundraisers are exempt from the obligation to hold an authority where the funds raised are less than \$15,000 in any financial year and, further, that

<sup>29</sup> Refer to section 6 of the Act

Regulatory area	Regulation / Act	Clause /section	Obligation	Action	Cost type	Other information
				after the deduction of expenses.		where funds raised are less than \$250,000 in any financial year, fundraisers are exempt from providing audited accounts. This information is consistent with the Charitable Fundraising Regulation 2015.
		S24	Audit of reporting	Undertake audit of financial report by registered company auditor or other approved person	Administration	Conducted annually.
State Taxation	<b>Duties Act 1997 (NSW)</b>	S275	Apply for exemption from duties	Application must prove that organisation is an exempt charitable body under the definition of the Act.	Administration	
State Taxation	<b>Pay-Roll Tax Act 2007 (NSW)</b>	S48	Apply for exemption to payroll tax	<p>(1) Subject to subsection (2), wages are exempt wages if they are paid or payable by any of the following:</p> <p>(a) a religious institution,</p> <p>(b) a public benevolent institution (but not including an instrumentality of the State),</p> <p>(c) a non-profit organisation having as its sole or dominant purpose a charitable, benevolent, philanthropic or patriotic purpose (but not including a school, an educational institution, an educational company or an instrumentality of the State).</p> <p>(2) The wages must be paid or payable:</p> <p>(a) for work of a kind ordinarily performed in connection with the religious, charitable, benevolent, philanthropic or patriotic purposes of the institution or body, and</p> <p>(b) to a person engaged exclusively in that kind of work.</p>	Administrative	
<b>NT</b>						

Regulatory area	Regulation / Act	Clause /section	Obligation	Action	Cost type	Other information
Incorporations legislation	<b>Associations Act (NT)</b>	S8	Apply for incorporation of an association	Complete form including: name, objects and purposes of the association, place formed and carried on, names and addresses of committee members, ethnic community to which members belong and how the persons came to management (in the case of a trading association)	Administration	The constitution must be the model constitution or include a statutory declaration that is complies with section 21. Applicant is the public officer.
		S17	Apply for change of name	The public officer is to apply to the Commissioner to change the name of the association	Administration	
		S22	File trust particulars	File with the Commissioner particulars of, and a copy of any instruments evidencing, each trust relating to the association. Must include statutory declaration.	Administration	
		S23	File change of objects or purposes, the constitution or a trust relating to the association	File with the Commissioner a notice of the alteration, a copy of each instrument evidencing the alteration, a statutory declaration made by the public officer.	Administration	
		s28	Notify of change of appointment or address of public officer	Provide written notice to the Commissioner of the officer's appointment and full name and address or the existing officer's new address.	Administration	
		S34	Maintain register of members	Establish and maintain register which includes: date joined, date ceasing membership, and prescribed particulars.	Administration	
		S36	Hold annual general meeting	Hold AGM once in a calendar year, within 5 months of the association's EOFY.	Administration	
		S38	Keep records of meeting minutes	Ensure minutes of all proceedings of general meetings and meetings of the committee are entered into books kept for that purpose and make sure they are confirmed and signed by members	Administration	
		S41	Keep accounting records	Keep accounting records that explain transactions and the financial position of the association.	Administration	Must be retained for 7 years.

Regulatory area	Regulation / Act	Clause /section	Obligation	Action	Cost type	Other information
		S42, s43, s45	Prepare statement of accounts for presentation at AGM and filing with Commissioner	Annually prepare statement of accounts including a true and fair account of: income and expenditure, assets and liabilities, mortgages, charges or other securities, information on related trusts and any prescribed matters. Present AGM, auditor's report, and report signed by 2 members.	Administration	Financial statements must be audited. Reports must be available to members at least 14 days before the AGM. Tier 3 associations must be informed of the availability by notice.
		S115	File for appeal	A person aggrieved by a decision of the Commissioner under this Act may appeal to the Local Court against the decision.	Administration	Must appeal within 21 days
State Taxation	<b>Payroll Tax Act (NT)</b>	S48	Apply for exemption from payroll	Application must prove that the organisation is a not-for profit-entity (in accordance to the definition under the Act).	Administration	
State Taxation	<b>Stamp Duty Act (NT)</b>	4F	Apply for exemption from stamp duty	<p>Application must prove that the organisation is considered an exempt entity, i.e. one of the following:</p> <ul style="list-style-type: none"> <li>• a public hospital; or</li> <li>• a public benevolent institution; or</li> <li>• a religious institution; or</li> <li>• a public education institution; or</li> <li>• a council, society, organisation or other body established or carried on exclusively or principally for the promotion of the interests of a school (other than a school carried on for profit); or</li> <li>• a non-profit organisation having as its sole or dominant purpose a charitable, benevolent, philanthropic or patriotic purpose.</li> </ul> <p>Also it must be proven that the concession is provided for an exempt use/</p>	Administration	
<b>QLD</b>						
Incorporations legislation	<b>Associations Incorporation Act</b>	S9	Apply for incorporation of association	Complete form and submit to the chief executive	Administration	Must also include the registration of the association's rules



1981 (QLD)

S10	Publish application notice	Publish a notice about the application as required by the chief executive	Administration	Not compulsory
S17	Change address of incorporation	The members of the management committee may change the incorporated association's nominated address by giving the chief executive notice in the approved form	Administration	
S24	Request to record land or interest in land	Request registrar of land titles to record the land or interest in land gained by the incorporated association	Administration	
S35	Apply for registration of change of name	Complete application to change name to chief executive within 3 months after the passing of the special resolution, in the approved form, and accompanied by the information, documents and fees required under the regulations.	Administration	
S36	Publish change of name notice	Publish a notice about the application as required by the chief executive	Administration	Not compulsory
S48	Apply to amend rules	By special resolution, rules can be amended. An incorporated association must apply to the chief executive within 3 months of the special resolution to have the amendment registered. Application must include copy of the amendment or the complete rules with the amendment clearly shown; and a statutory declaration by the association's secretary stating the amendment complies with the Act	Administration	
S55	Hold annual general meetings	An incorporated association must hold an annual general meeting within 6 months after the end date of the association's reportable financial year.	Administration	
S57B	Record meeting minutes	Keep meeting minutes and, when requested by a member, make the minute book for a particular general meeting available for inspection within 28 days after the request is made at a mutually agreed time and place	Administration	
S59	Prepares financial report and presents to AGM	Prepare a financial statement, audit financial statement as per requirements in Act, present statement and audit report to the association's AGM for adoption, and lodge with the chief executive the financial statement, the audit report, a return in the approved form and the fee prescribed. These requirements only apply to certain associations. Further requirements are set out in s 59A and s 59B.	Administration	<p>Within 6 months after the end date of each financial year. Lodge with chief executive within 1 month of AGM.</p> <p>These regulatory requirements only apply to certain associations i.e. level 1 incorporated associations and particular level 2 and 3 incorporated associations. Section 59A and Section 59B detail</p>

requirements for other level 2 associations and other level 3 associations respectively (unless those associations are required to have an audit conducted under the *Collections Act 1966*, the *Gaming Machine Act 1991*, or under any other law).

Section 59A: within 6 months after the end date of the financial year, the members of the management committee must ensure the association prepares a financial statement for its last reportable financial year and presents the statement at the AGM along with a statement signed by an auditor, an accountant, or an approved person that states the person has sighted the association's financial records and the records show the association has adequate bookkeeping processes in place. Within one month of the AGM, a copy of the financial statement, a copy of the signed statement, a return (in the approved form), and the fees as prescribed under a regulation must be lodged with the chief executive.

Section 59B: within 6 months after the end date of the financial year, the members of the management committee must ensure the association prepares a financial statement for its last reportable financial year and presents the statement at the AGM along with a statement signed by the association's president or treasurer regarding the proper keeping of records. Within one month after the AGM, a copy of the financial statement, a copy of the signed statement, a return (in the approved form), and the fees as prescribed under a regulation must be lodged with the chief executive."

		S68	Notify chief executive of change to certain office holders	Members of the management committee must ensure the association notifies the chief executive in the approved form of the change of certain office holders	Administration	Notification must occur within 1 month
		S70A	Purchase of public liability insurance	Particular incorporated associations must have public liability insurance	Compliance	Only applicable to incorporated associations who: own, lease, or are trustees of land
		S74	Apply for branch(es) to be incorporated	Prepare an application for the branch or group of branches to be incorporated under this Act.	Administration	
		S80	Notify of amalgamation	After the resolution to amalgamate is passed, the association must give notice of it, in the approved form, to the chief executive.	Administration	Must notify chief commissioner within 3 months. Must have agreed rules.
		S89	Notify of winding-up of association	A copy of the special resolution shall be lodged with the chief executive within 1 month from the passing of that special resolution.	Administration	
		S105B	Apply to convert from cooperative to incorporated association	After a cooperative passes a special resolution to become an incorporated association, it must give the chief executive: a copy of the resolution approving the proposal, the resolution deciding the proposed association's name and the resolution to change the rules to comply with the Act	Administration	Within 1 month of special resolution. Must have president and treasurer.
		S105L,	Apply to convert from incorporation to another entity	After deciding by special resolution to register as another entity, an application to the chief executive for consent must be completed.	Administration	within 14 days after passing the resolution
		s106A	Apply to convert from incorporation to another entity	After deciding by special resolution to register as another entity, an application to the chief executive for consent must be completed.	Administration	No timeframe stipulated
		S110	Apply for review of decision	An application by a person for review of a decision can be made to the chief executive.	Administration	Must be made within 28 days after notice of the decision is given
Fundraising	<b>Collections Act 1966 (Qld) &amp; Collections Regulation 2008 (Qld)</b>	Reg 4(1)	Apply for Registration to Fundraise	Complete application for Registration with Department of Justice.	Administration	1 business day. No fee.
		Reg 4(3), 4(4)	Advertise for objections	Advertise for objections within 7 days of filing application to fundraise, in a metropolitan newspaper with state-wide circulation, and in a local newspaper (if any) published 5 days per week	Administration	7 business days. No fee.
		Reg 4(6)	Forward copy of advertisement to the	Forward copy of advertisement to the OFT	Administration	1 business day. No fee

## OFT

		Reg 6(2)	Wait one month for possible objections to registration	After final notice published in paper must wait 1 month for possible objections to registration. OFT practice says to add an extra 5 days in the regions to allow them to be sent to the Brisbane office	Administration	25 business days. No fee. Month is defined as a calendar month.
		Reg 6(3), (5), (6)	Respond to objections and await outcome	If objections are raised, organisation will receive copy of complaint within 7 days of its lodgement with the Minister. The organisation will have 1 month from receipt of complaint to respond to the Minister. The Minister will decide according to the number of complaints	Administration,	<28 business days. The Department has not indicated a specific time for this stage. Registration takes place almost immediately if there are no objections.
		S31	Provide audited financial statements	Lodge with the chief executive financial statements that have been independently audited.	Administration	
State Taxation	<b>Land Tax Act 2010 (Qld)</b>	S47	Apply for exemption from land tax	Application must prove that the organisation is a not-for profit-entity (in accordance to the definition under the Act). In addition, it must also be proven that the land is being used for an exempt purpose.		
State taxation	<b>Pay-Roll Tax Act 1971 (Qld)</b>	S14	Apply for exemption from payroll tax	Application must prove that that the exemption will be made on behalf of a charitable institution in respect of a charitable institution to a person during a period in respect of which the person is engaged exclusively in the work of the second mentioned charitable institution for a qualifying exempt purpose	Administration	
State Taxation	<b>Duties Act 2001 (Qld)</b>	S142	Apply for exemption from stamp duty	Application must prove that the organisation is considered an exempt entity, and that the concession is provided for an exempt use/	Administration	
State Taxation	<b>Taxation Administration Act 2001 (Qld)</b>	S149A	Apply for registration of charitable institutions	Application must be supported by enough information to enable the commissioner to decide the application, including: a copy of its constitutions, a certification of its incorporation (if applicable), details of its current or proposed activities, and details of fees charged for its activities.	Administration	
<b>SA</b>						
Incorporations legislation	<b>Associations Incorporation Act</b>	S19	Apply for incorporation	Submit completed application to the Commission which must include: copy of rules, statutory declaration verifying the particulars, that the rules are a true copy,	Administration	

1985 (SA)

and a copy of any instrument creating a trust

		Pay fee		Administration	
S22	Apply for amalgamation	After a special resolution has been passed to amalgamate, an application to the Commission must be completed.		Administration	
S24	Apply to change rules	After a special resolution has been passed to alter the rules of the association it must register the alteration with the Commission.		Administration	Within one month after making an alteration to a rule
S35	Keep financial records	Keep accounting records to enable the accurate presentation of accounts, and the accounts of the association to be y audited.		Administration	
S35	Prepare and present financial reporting	Prepare financial report and commission audit. Gain approval from committee and present at AGM.		Administration	
S36	Lodgement of periodic returns	Lodge with the Commission such periodic returns, containing accounts and other information relevant to the affairs of the association, as the regulations may require.		Administration	
S39	Hold AGM	Hold annual general meeting within five months after the end of the financial year of the association.		Administration	
S43A	Apply for deregistration	After a special resolutions has been passed, apply to the Commission for deregistration		Administration	
S50	Appeal decision made by the Commission	Appeal to the Administrative and Disciplinary Division of the District Court (the "Court") against a decision.		Administration	
S51	Record minutes of meetings	Record minutes of meetings and ensure that minutes are confirmed and signed by the member presiding.		Administration	
S53A	Apply to reserve name	Apply to the Commission, in the prescribed form, to reserve a name for a proposed incorporated association.		Administration	

Fundraising	<b>Collections for Charitable Purposes Act 1939 (SA)</b>	Apply for Charitable Purposes (CCP) License	Completed application form for CCP license and main, courier or hand deliver to Lottery Licensing	Administration	28 days for assessment of application. No fee.
		Submit supporting documentation	Application must include the following: a copy of the certificate of incorporation or registration of the organisation, a current copy of the constitution or trust deed a copy of the latest audited financial statements (if available), a copy of the contract with the fundraising collection agent (if relevant), any other relevant documents, and details of the audit appointed to audit	Administration	Licence is granted for a period of 12 months and is renewable 6 months after the financial year date ends.

				the accounts of the organisation	
			Reporting	Provide to the minister: a copy of the audited accounts for the last financial year and a fundraising income and expenditure statement.	Administration Provided at the time fixed in the license. The Minister may impose conditions on a license at any time.
			Apply for license renewal	Complete application form sent by the Department with the following information: a copy for the audited financial statements for the previous financial year and a fundraising income and expenditure statement.	Administration
			Comply with identification requirements	A collector must tell each potential donor his or her name or, if the person is issued with a unique identification by the licensee that id number, and whether they are a paid collector. If face-to-face, the collector can simply wear a compliant badge.	
			Comply with disclosure requirements	The licensee must comply with disclosure requirements when conducting entertainment and when using collection boxes to fundraise.	
			Apply to amend or vary license	Complete written request to amend license including reasons why the amendment or variation is required. Submit to the Minister for approval.	Administration
			Apply to cancel license	Complete written request to Minister to cancel license	Administration
State taxation	<b>Land Tax Act 1936 (SA)</b>	S4	Apply for exemption from land tax	Application must prove that the land that is owned by an association that is established for a charitable , educational, benevolent, religious or philanthropic purpose (whether or not the purpose is charitable within the meaning of any rule of law) and is declared by the Commissioner to be exempt from land tax on the ground—	Administration
State taxation	<b>Payroll tax Act 2009</b>	S48	Apply for exemption from payroll tax	Application must prove that that the organisation is a not-for-profit entity as described by the Act.	Administration
State taxation	<b>Stamp Duties Act 1923 (SA)</b>	S71	Apply for exemption from stamp duty	Application must prove that the organisation is considered an exempt entity, and that the concession is provided for an exempt use/	
<b>TAS</b>					
Incorporations legislation	<b>Associations Incorporation Act</b>	S7	Apply for incorporation	Apply to the Commissioner including: name, objects, purposes and rules of the association, authority of the applicant, name and address of public officer, related	Administration

1964 (Tas)

				trusts, and statement of compliance with model rules (or modification)		
				Pay fee		Administration
		S10	Apply for change of name	Apply to Commissioner with the prescribed form for approval		Administration
		S15	Notify of appointment or change of public officer	Notify the Commissioner of the appointment of a new public officer or when the current public officer changes their address.		Administration
		S18	Notify of change to rules, objects or purposes	Lodge with the Commissioner a notice of the alteration in the prescribed form.		Administration
		S23A	Keep record of accounts	Keep accounting records that explain the transactions of the association and the financial position of the association		Administration
		S24	Commission audit of accounts	Ensure accounts are audited at the end of the financial year		Administration
		S24B	Lodge annual return with Commissioner	Within a period of 6 months after EOFY, lodge with the Commissioner an annual return		Administration
		S25	Notify Commissioner of amalgamation	Where 2 or more incorporated associations pass special resolutions for the amalgamation of those associations, lodge with the Commissioner notice in the prescribed form		Administration
Fundraising	<b>Collections for Charities Act 2001 (Tas)</b>	S6(1)	Apply to solicit for a charitable purpose	Complete Form 1 (Application for Approval to Solicit for Charitable Donations) with Office of Consumer Affairs and Fair Trading Tasmania		Application not required if organisation is not incorporated in Tasmania. 5 business days.
State taxation	<b>Land Tax Act 2000 (Tas)</b>	S18	Apply for exemption from land tax	Application must prove that the land will be used by a charitable purpose, by a charitable organisation under the definitions of the Act.		Administration
State taxation	<b>Payroll tax Act 2008 (TAS)</b>	S28	Apply for exemption from payroll tax	Application must prove that that the organisation is a not-for-profit entity as described by the Act.		Administration
State taxation	<b>Duties Act 2001 (Tas)</b>	S214, 53	Apply for exemption from stamp duty	Application must prove that the organisation is considered an exempt entity, and that the concession is provided for an exempt use/		Administration
<b>VIC</b>						
Incorporations	<b>Associations</b>	S6	Apply for incorporation	Complete application for incorporation which must		Administration Fee is required.

include: name of the proposed entity, name, address, phone, and email of the first secretary, and the prescribed particulars

S6	Provide supporting documentation (incorporation)	Applicants must provide a copy of the association's rules (or statement that the model rules have been adopted), and particulars of any trusts relating to the association and a copy of the deed or other instrument for the trust.		
S7	Apply for review of application refusal	If the application is refused, the applicant may within 28 days after the notification apply to VCAT for a review of the decision.	Administration	
S18	Apply to amalgamate associations	Complete application for amalgamation which must include the following: name of amalgamated association, name, address, phone, and email of first secretary, and the prescribed particulars.	Administration	Fee is required.
S18	Provide supporting documentation (amalgamation)	Applicants must provide a notice containing details on the passing of the special resolutions, a copy of the rules, a statement that each association has adopted the model rules, and particulars relating to trusts.	Administration	
S24	Apply to change name	After a special resolution has been passed, the secretary of the association may apply to the Registrar to change the name of the association.	Administration	Must be made within 28 days.
S50	Apply to change association rules	After a special resolution has been passed, the secretary may apply to the Registrar to gain approval for the rule change. The application must include copy of the notice of the special resolution, declaration by at least two committee members that the special resolution was passed in accordance with the Act and the rules, and a consolidated copy of the rules which shows the alteration.	Administration	Fee is required.
S56	Maintain register of members	Keep and maintain information on members including: name, address, class of membership (if applicable), date joined, and date ceased membership.	Administration	
S63	Hold Annual General Meeting	Hold general meeting at least once in each calendar year. All members must be given notice.	Administration	
S89	Record keeping	An incorporated association must keep financial records that correctly record and explain its transactions and financial position and performance and would enable the preparation of financial statements	Administration	Financial records must be retained for 7 years



		S92, s93	Prepare annual financial statements	After the EOFY prepare financial statements which include: income and expenditure, assets and liabilities, mortgages, charges and securities, and trust information.. Undertake review/audit if required. Submit to AGM.	Administration	
Fundraising	<b>Fundraising Act 1998</b>	S17A, s18, s18B, s16, s16A, s18C, s21, s3, s5, s6	Apply for registration to conduct a fundraising appeal	File application for Fundraiser Registration plus supporting documentation before any fundraising.	Administration	Must apply >28 days before fundraising. Registration is valid for 3 years, or up to 5 years as specified by the Director (esp multi-jurisdictional organisations). Urgent applications can be made less than 28 days before fundraising, but must explain special circumstances. Certain bodies are exempt. 21 business days. No cost. The organisation does not need to be resident but the name and address of a natural person, corporation or incorporated association in Victoria must be given as an appointed responsible person.
		S18, 21	Provide further information (upon request)	The Director may ask for more information and applicant has 21 days to respond. The Director may make a subsequent additional request for information within 14 days of receiving the response.	Administration	If not approved, applicant has 28 days to appeal.
		S29, s30	Keep records	Must keep records enabling a true and fair view of the income and expenditure relating to the appeal.	Administration	
State taxation	<b>Land Tax Act 2005 (VIC)</b>	S74	Apply for exemption from land tax	Application must prove that the land will be used by a charitable purpose, by a charitable organisation under the definitions of the Act.	Administration	
State taxation	<b>Payroll Tax Act 2007 (Vic)</b>	S48	Apply for exemption from payroll tax	Application must prove that that the organisation is a not-for-profit entity as described by the Act.	Administration	
State taxation	<b>Duties Act 2000 (Vic)</b>	S45	Apply for exemption from stamp duty	Application must prove that the organisation is considered an exempt entity, and that the concession is provided for an exempt use/	Administration	
<b>WA</b>						
Incorporation legislation	<b>Associations Incorporation Act 1987 (WA)</b>	S5	Apply for incorporation	Complete application	Administration	
		S5	Submit supporting documents	An application for incorporation must be accompanied by a copy of the rules of the association conforming to	Administration	

the requirements of the Act and a certificate given by the applicant.

				the requirements of the Act and a certificate given by the applicant.		
		S6	Publish advertisement of intended application	Applicants for incorporation must publish an advertisement once in a newspaper circulating in the area where the association is situated/conducts its affairs.	Administration, Compliance, Delay	The advertisement must be published not <1 month nor >3 months before the application is made to the Commissioner
		S7	Apply for review of application refusal	If the Commissioner declines to incorporate the association under the Act, a review may be requested within 14 days to the State Administrative Tribunal.	Administration	
		S17	Notify the Commissioner of a change of rules	After an incorporated association alters its rules by special resolution, the Commissioner must be notified within one month of the change.	Administration	
		S18	Apply for change of name	Apply to the Commissioner for a change of name for the incorporated association.	Administration	Change is not enacted until approval is received.
		S19	Apply to alter objects	Apply to the Commissioner for an alteration of the rules of an incorporated association.	Administration	Change is not enacted until approval is received.
		S23	Hold annual general meeting annually	Hold an annual general meeting annually within 4 months of the association's EOFY or as allowed by the Commissioner.	Administration	
		S25	Record keeping	Keep accounting records that explain the financial transactions and financial position of the association to enable the preparation of true and fair accounts and allow an audit.	Administration	
		S26	Submit financial reporting	Submit to members at the annual general meeting financial reports showing the financial position.	Administration	
		S28	Maintain register of members, office holders and rules	Maintain a register of members, their postal and residential addresses. A register of the rules and the office holders must also be kept.	Administration	
		S30	Notify Commission of winding up of entity	Lodge a copy of the special resolution to wind up the entity to be lodged with the Commissioner within 14 days of its passing		
Fundraising	<b>Charitable Collections Act 1946 (WA) &amp; Charitable Collections</b>	Ss6, 11	Apply for a charity license	Complete and submit Form 1 application with Administrative Officer, Charitable Collections Advisory Committee	Administrative	The Advisory Committee sits once a month which means applications may take up to 1 month to be approved. License is valid for 3 years. No fee.

	<b>Regulation 1947 (WA)</b>		Submit supporting documentation	Provide National Police Clearance for each of your principal executive officers	Administrative
			Reporting requirements	All licensed charities are required to submit to the committee audited financial statements within 6 months of their EOFY.	Administrative
State taxation	<b>Land tax assessment act 2002</b>	S37	Apply for exemption from land tax	Application must prove that the land will be used by a charitable purpose, by a charitable organisation under the definitions of the Act.	Administration
State taxation	<b>Pay-roll Tax Assessment Act 2002 (WA)</b>	S41	Apply for exemption from payroll tax	Application must prove that that the work is completed by a charitable body or organisation exempted under section 41 for doing work of the kind ordinarily performed in connection with a charitable purpose for which the body or organisation is established or carried on	Administration
State taxation	<b>Stamp Act 1921 (WA)</b>	75A, 91F	Apply for exemption from stamp duty	Application must prove that the organisation is considered an exempt entity, and that the concession is provided for an exempt use/	Administration

## Appendix D Charity regulators by state and territory

This appendix provides a list of government entities that are in some way responsible for interpreting and determining the charitable status of organisations under relevant legislation. Entities marked with an asterisk are regularly involved in making such determinations. Others have some legal responsibility, but in practice may be called upon to make an actual determination less frequently or, in some cases, seldom if ever.

Jurisdiction	Regulators
Commonwealth	<b>Main entity: ACNC</b>
	Australian Competition and Consumer Commission
	Australian Securities & Investments Commission
	Australian Taxation Office*
	Department of Families, Community Services and Indigenous Affairs
	Department of Transport and Regional Services
	Foreign Investment Review Board
	Human Rights and Equal Opportunity Commission
	Office of the Registrar of Indigenous Corporations (ORIC)
	New South Wales
Attorney General's Department	
Department of Commerce	
Department of Community Services	
Department of Primary Industries	
Local government councils	
NSW Fisheries	
Office of Liquor, Gaming and Racing (within NSW Trade & Investment)	
Office of State Revenue*	
Office of the Public Trustee	
Roads and Traffic Authority	
Water supply authorities	
WorkCover Authority	
Victoria	<b>Main entity: Consumer Affairs Victoria</b>
	Attorney General
	Commission for Gambling Regulation*
	Department for Victorian Communities
	Department of Human Services
	Department of Infrastructure

Jurisdiction	Regulators
	EPA Victoria
	Equal Opportunity and Human Rights Commission
	Local government councils
	Office of Liquor, Gambling and Racing
	State Revenue Office*
	VicRoads
	Victorian Commission for Gambling and Liquor Regulation (VCGLR)
<b>Queensland</b>	<b>Main entity: Office of Fair Trading</b>
	Anti-Discrimination Commission Queensland
	Building and Construction Industry (Portable Long Service Leave) Authority
	Queensland Industrial Relations Commission
	Local government councils
	Office of Liquor and Gaming Regulation*
	Office of State Revenue*
	Queensland Health
	Queensland Transport
	Queensland Treasury
<b>South Australia</b>	<b>Main entity: Office of Consumer and Business Affairs</b>
	Chiropractic and Osteopathy Board
	Development Assessment Commission
	Equal Opportunity Commission
	Government Statist
	Governor of South Australia
	Institution of Surveyors, Australia, South Australia Division Incorporated
	Local government councils
	Medical Board
	Minister for Water
	Office of Business and Consumer Affairs
	Office of the Liquor and Gambling Commissioner*
	Optometry Board
	Physiotherapy Board
	Podiatry Board
	RevenueSA*
	Safework SA
	South Australia Water Corporation
	Veterinary Surgeons Board
<b>Western Australia</b>	<b>Main entity: Department of Commerce</b>

Jurisdiction	Regulators
	Department for Child Protection
	Department of Consumer and Employment Protection*
	Department of Corrective Services
	Department of Racing, Gaming and Liquor*
	Department of the Attorney General
	Equal Opportunity Commission
	Local government councils
	Local police
	Lotteries Commission
	Office of State Revenue*
	Water Corporation
<b>Tasmania</b>	<b>Main entity: Consumer Affairs and Fair Trading</b>
	Anti-discrimination Commissioner
	Attorney General's Department
	Commissioner for Corporate Affairs
	Consumer Affairs and Fair Trading*
	Department of Health and Human Services
	Department of Infrastructure, Energy, Resources
	Department of Treasury & Finance
	State Revenue Office*
	Tasmanian Community Fund Board
	Tasmanian Gaming Commission*
	Tasmanian Industrial Commission
	Tasmanian Parliament
<b>ACT</b>	<b>Main entity: Office of Regulatory Services (ORS)</b>
	ACT Registrar-General*
	ACT Revenue Office*
	Department of Disability, Housing and Community Services
	Gambling and Racing Commission
	Office of Fair Trading
<b>Northern Territory</b>	<b>Main entity: Department of Business</b>
	Anti-discrimination Commission
	Consumer and Business Affairs
	Department of Local Government, Housing and Sport
	Department of Planning and Infrastructure
	Treasury - Racing, Gaming & Licensing Division*