



22 June 2022

Our ref: WD:NFP

Confidential

Committee Secretary
Legal Affairs and Safety Committee
Parliament House
George Street
Brisbane Qld 4000

By email: lasc@parliament.qld.gov.au

Dear Committee Secretary

Casino Control and Other Legislation Amendment Bill 2022

Thank you for the opportunity to provide feedback on the Casino Control and Other Legislation Amendment Bill 2022 (the **Bill**). The Queensland Law Society (**QLS**) appreciates being consulted on this important piece of legislation.

QLS is the peak professional body for the State's legal practitioners. We represent and promote over 13,000 legal professionals, increase community understanding of the law, help protect the rights of individuals and advise the community about the many benefits solicitors can provide. QLS also assists the public by advising government on improvements to laws affecting Queenslanders and working to improve their access to the law.

This response has been compiled by the QLS Not for Profit Law Committee, whose members have substantial expertise in this area.

Cross-border recognition scheme for charitable fundraising

We welcome the Queensland Government's adoption of the cross-border recognition model endorsed by the Council on Federal Financial Relations in December 2020.

We also renew our repeated requests for a complete review of fundraising legislation in Queensland and its harmonisation with other jurisdictions.

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The current initiative will involve charities, but there are many community organisations that do not qualify for charity status, such as sporting bodies, service clubs, neighbourhood centres and interest associations that are not regarded as charities, even though they are not for profit entities.

***Collections Act 1966* amendments – scope of term “religious denomination”**

Clause 52 inserts a new Part 6A into the *Collections Act 1966* (**Collections Act**). The proposed definition of an *excluded entity* includes a ‘religious denomination’.

The *Collections Act* currently defines a *religious denomination* as meaning:¹

A religious body or religious organisation declared by the Governor-General by proclamation pursuant to the *Marriage Act 1961* (Cth) to be a recognised denomination for the purposes of the Commonwealth Act.

The past Departmental practice is to give a wide meaning to the term so as to include a denomination's social welfare agencies, which may be separate legal and tax entities, such as schools, hospitals, aged care and community welfare organisations.

These organisations are, in the main, separately registered with the Australian Charities and Not-for-profits Commission (**ACNC**) as charities in their own right.

We recommend the definition of *excluded entity* be amended to reflect the current practice in the proposed amendments. Alternatively, the Society seeks an assurance that this approach is intended to continue.

Further issues for clarification and consideration

The Society also raises the following points for further consideration:

1. We are aware that there are names on the ACNC database which do not match the name of the same organisation on the Office of Fair Trading (**OFT**) *Collections Act* register. We recommend a simple administrative process be developed, by which an organisation can provide evidence to OFT to demonstrate that the organisations are the same entity, so that the organisation can benefit from the amendments in this Bill.
2. We suggest consideration be given to the adoption of the Australian Business Number (**ABN**) as a unique identifier of charities on the register. All ACNC registered charities are required to have and maintain an ABN.
3. We expect that the *Collections Regulations 2008* (**Regulations**) will need to be updated to reflect the amendments in this Bill. We seek an assurance that there is an intention to consult with industry on the updates required and we would be pleased to work with OFT during this process. In particular, we raise the following matters for discussion:

¹ Section 5 of the *Collections Act*

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- a) Will there be a separate set of regulations for ACNC charities which will result in ACNC charities being dealt with separately?
- b) Will the regulations be applied by way of conditions to the registrant's 'deemed registration' proposed under section 23D?
- c) Currently, section 31 of the Regulations require a charity or association whose objects are a community purpose, or a promoter of an appeal for support, to keep certain prescribed records, including a cash book or statement of amounts received and paid, and a petty cash book. We suggest that these requirements are generally outdated in the current digital world. This provision should be revisited in any event. However, we consider that this provision should not automatically apply to a 'deemed registrant' under the Bill's framework given that some organisations will be large and sophisticated, with appropriately sophisticated accounting and record keeping.
- d) How is it proposed that the following obligations will be applied to a deemed registrant?
 - i. Section 31 of the Regulation "Investing assets".
 - ii. Schedule 2 of the Regulation "Accounting requirements" – which includes the following obligation:

"Expenditure over \$100 must be approved or ratified by the governing body of the charity or association, and the approval or ratification must be recorded in the minute book."
 - iii. Section 33 Agreements to be approved – this section provides that a charity or association must not allow a person to make an appeal for support unless the charity and the person have entered into a written agreement to do so **and** the agreement has been approved by the Minister.

If you have any queries regarding the contents of this letter, please do not hesitate to contact our Legal Policy team via [REDACTED] or by phone on [REDACTED]

Yours faithfully

[REDACTED]
Kara Thomson
President