

22 June 2022

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

(submitted by email: lasc@parliament.qld.gov.au)

Casino Control and Other Legislation Amendment Bill 2022

Justice Connect welcomes the opportunity to respond to the Legal Affairs and Safety Committee's inquiry into the *Casino Control and Other Legislation Amendment Bill 2022*. In this submission we respond only to the proposed amendments to the *Collections Act 1966*.

About Justice Connect

In the face of huge unmet legal need, Justice Connect designs and delivers high-impact interventions to increase access to legal support and achieve social justice. We help those who would otherwise miss out on assistance, focusing on people disproportionately impacted by the law and the organisations that make our communities thrive.

We have been serving the community for more than 25 years. We are a registered charity, operating nationally.

Our expertise – our Not-for-profit Law program

This submission draws on the experience of our specialist Not-for-profit Law program which provides free and low-cost legal assistance to not-for-profit community organisations and social enterprises, many of whom are registered charities.

The focus of our legal advice service (delivered by in-house lawyers and via pro bono referrals) is on small volunteer-run charities that would not otherwise be able to access this help. Many of these organisations are in regional, rural or remote communities.

In 2021 our fundraising page, which includes further links to dedicated resources, received over 7,304 unique pageviews and our fundraising factsheets were downloaded 8,020 times. In the same year, our service handled 64 requests for advice relating to compliance with fundraising laws.

Not-for-Profit Law has been advocating for fit-for-purpose fundraising laws for many years, including leading the work of the #FixFundraising coalition which is comprised of some of Australia's leading professional and peak bodies.¹

Cross border recognition is welcome but should also apply to reporting

The problems with fundraising laws are well known. Numerous reports over the decades have supported the experience of our help seekers that Australia's fundraising laws are complex, inconsistent and out-of-date, and harmonised national regulation is sorely needed.² Existing laws are holding the sector back, particularly for online campaigns.

We welcome the Queensland government's proposal to introduce a cross-border recognition scheme for charitable fundraising registration.

However, we strongly recommend that the scheme be extended to recognise the annual reports provided to the Australian Charities and Not-for-Profit Commission (ACNC) as satisfying the annual reporting requirements under the *Collections Act 1966* for those ACNC registered charities.

Further background on reporting

Where the cross-border recognition scheme has been implemented in South Australia, Victoria and the Australian Capital Territory, registered charities with a deemed licence to fundraise only need to report to the ACNC rather than to their respective state regulators. In New South Wales, a registered charity with an authority to fundraise can meet its fundraising reporting obligations by providing its annual return and statement of compliance with its Annual Information Statement to the ACNC.

The purpose of the cross-border recognition scheme is to reduce the regulatory burden for charitable fundraisers and increase regulatory harmonisation across jurisdictions. The Charitable Fundraising National Working Group when consulting on the scheme in 2020 stated

¹ <https://justiceconnect.org.au/campaigns/fix-fundraising/> and the Explainer #FixFundraising document https://justiceconnect.org.au/wp-content/uploads/2021/09/210920_NFP_FixFundraising-briefing-pack.pdf

² For example, see Productivity Commission, *Contribution of the Not-for-profit Sector*, January 2010, from p. 137; Deloitte Access Economics, *Cutting Red Tape: Options to Align State, Territory and Commonwealth Charity Regulation*, 23 February 2016, p. 17; *Strengthening for Purpose: Australian Charities and Not-for-profits Commission Legislative Review Report*, 2018, p. 96; *Report of the Inquiry under the Charitable Fundraising Act 1991 into The Returned and Services League of Australia (New South Wales Branch), RSL Welfare and Benevolent Institution and RSL LifeCare Limited*, January 2018, Chapter 13.1 and recommendations 14.7 to 14.10.

that simplifying financial reporting requirements would “clearly... deliver more significant reduction of red tape and administrative costs.”³ We agree.

We acknowledge the government’s concern, expressed in the Explanatory Notes to the Bill, that the state should still have oversight over the conduct of fundraising. However, we do not consider that adopting a ‘report once, use often’ model in relation to financial reporting will detract from the regulator’s ability to regulate improper conduct. Information sharing arrangements between the ACNC and state regulators are in place in South Australia, Victoria, the ACT and NSW and we do not see why a similar arrangement cannot be implemented in Queensland. Further, the power for the Chief Executive to require preparation and lodgement of a financial return (section 33A) can be used if there is any case of concern, without requiring it of every charity every year.

In our view, a scheme which eases the burdens on charities at the point of registration but not reporting is a missed opportunity to harmonise fundraising laws in step with other jurisdictions and ease the burden for charities.

Implementing the cross-border recognition model in a way that is not entirely consistent with the other states and the ACT can add to confusion, especially for small volunteer run groups trying to simply put a donate button on their website.

Further reforms are necessary

Further reforms are needed to harmonise and simplify fundraising laws for charities and not-for-profits across Australia.

The cross-border recognition model for registration and, we urge for reporting, is step one in the reform needed. What remains though is inconsistent and out of date regulation about the way fundraising activities are conducted.

The Council on Federal Financial Relations had made charitable fundraising rules reform one of its top 10 priorities for 2022. The Commonwealth and Victoria are developing a proposal for a national framework for the Council’s consideration.

We strongly encourage Queensland to actively participate in this process and implement a national principles-based approach as a high priority. The *#FixFundraising* coalition in

³ Charitable Fundraising National Working Group, *Charitable Fundraising in Australia: Proposed cross-border recognition model for charitable fundraisers Discussion Paper*, August 2020, p. 7

conjunction with the Charities Crisis Cabinet,⁴ have designed and tested with charities a set of draft principles called the 'Australian Fundraising Principles' (Appendix 1, below). We urge the Queensland government and your colleagues from the Commonwealth and other jurisdictions to use these as a basis for this necessary final part of the reforms needed to deliver a nationally consistent scheme.

Endorsement of QLS submission on other issues

We have had the benefit of reading the Queensland Law Society's submission on the *Casino Control and Other Legislation Amendment Bill 2022*. We support the additional comments made and questions asked in relation to the Bill.

Conclusion

We would be happy to discuss or expand on any of our comments. We agree to this submission being made public (with signatures redacted).

Yours sincerely,



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For more information, please contact:
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■ Charities Crisis Cabinet, *Making Australia the world's most generous nation when it's needed most*, November 2020. Available at <https://justiceconnect.org.au/wp-content/uploads/2020/12/Fix-Fundraising-Submission-to-the-Charities-Crisis-Cabinet-November-2020.pdf>

Appendix 1: The Australian Fundraising Principles

As a charity registered with the ACNC, we pledge to take all reasonable steps to ensure our fundraising is lawful, truthful and transparent. To do this, we will adhere to the following principles of ethical fundraising practice. These principles are designed to provide a national standard for fundraising in place of the current confusing, expensive and ineffective state-based system.

Underpinned by the Australian Consumer Law, Privacy Act, Telecommunications Industry Standard, local council regulations, and the ACNC, but with states retaining their oversight and enforcement powers, we believe these principles will lead to stronger fundraising and better regulation. These principles are designed to complement existing self-regulatory fundraising codes, and do not require any additional compliance to meet them.

1. When fundraising, we will always try to explain the purpose of our charity, and the purpose to which the funds raised will be applied, where that is reasonably possible.
2. We will not mislead or deceive or use false or inaccurate information when fundraising.
3. We will not place undue or unreasonable pressure on a person when fundraising, or act unconscionably in any way to obtain a donation.
4. When fundraising, we will take all reasonable measures to never exploit the trust, lack of knowledge, lack of capacity, apparent need for care and support, or vulnerable circumstances of any donor.
5. We will ensure that our fundraisers are always clearly, and individually, identifiable by the public.
6. We will take responsibility for the standards, practices and conduct of all our fundraising activities, regardless of who conducts them (us, or a third party on our behalf), or how they are delivered.
7. We will conduct all reasonable due diligence when engaging third parties to assist, support or deliver fundraising activities on our behalf.
8. When we use paid fundraisers we will tell the public this before they donate.
9. Where we use third parties, we will ensure this information includes the name of the company, and how we pay them.
10. We will ensure that fundraisers employed, or directly engaged by us, only work within the designated hours of operation as permitted by relevant national, state/territory or local laws, or by a properly constituted self-regulatory body if no such laws exist.

11. We will only contact the public to seek support where we have the proper and lawful authority to do so, where this is required.
12. We will ensure personal information we collect, use and manage is done so in accordance with the Australian Privacy Principles.
13. We will take all reasonable measures to protect the health and well-being of fundraisers employed or directly engaged by us, and members of the public, during the course of our fundraising activities.
14. We will operate a complaints process that allows for the proper investigation and redress of fundraising complaints by the public and encourage anyone with any concerns about fundraising activity conducted in our name to contact us.