

# ANFPAN Conference 2013

## Preserving your charities endorsement

### Confirm your charity details: The ACNC January letter

Key matters for some charities are: -

- Question 4 – Advancement of Religion. Churches and other religious institutions should respond “Yes’ at this point to ensure they are identified as eligible for the religious institution concession. This is particularly important for access to the fringe benefit exemptions for ministers of religion. ACNC need to be advised by 2 December 2013 to ensure transitional arrangements are obtained.
- The questions at Section B on this form give charities with a financial year which ends other than June 30 the opportunity to apply for a substituted accounting period. ACNC need to know from charities by no later than 2 June 2013 of your alternative financial year, to ensure you benefit under the transitional rules. Requests for an alternative balance date after 2 June 2013 will be faced with more rigorous tests before approval can be assured.
- Section C requires a charity to identify details of the Board/Committee of the charity. This question does not include the CEO, Director/Paid leader of the entity unless that person is also an appointed Board Member.

### Basic Religious Charity:

The ACNC Act provides substantial concessions for religious institutions that meet the tests for a “Basic Religious Charity” (BRC). The benefits of the concession include: -

- Exemption from the financial reporting obligations;
- Exemption from the Governance obligations;
- The Commissioner is unable to suspend a leader of the religious institution.

The eligibility requirements are:

1. It cannot be incorporated under the Corporations Act or the Associations Incorporations Act of a State or Territory. Where the religious institution derives its incorporated status from a denominational entity, which has the legal power to provide that umbrella protection, they will pass this test. The Catholic, Anglican and Uniting Churches State Act of Parliament provide examples – and there may be other instances as well.
2. The BRC is registered for a purpose that is for the advancement of religion and is not and cannot be, registered for any other sub-type of charity. This means that if the religious institution is also carrying out substantial community work, it may not be eligible for BRC.
3. It is not endorsed as a Deductible Gift Recipient (DGR) itself. However it can operate DGR funds such as a Building Fund provided the total revenue is less than \$250,000 per annum.
4. It is not reporting as a group under the Grouping Provisions of the ACNC Act.
5. It has not received more than \$100,000 in Government Grants in the current financial year or the prior two years.

## **Key dates:**

### **2 June 2013 –**

Opt out dead-line

SAP deadline for transitional benefits

### **2 December 2013**

Religious institution sub-type advice needed

### **By 31.12.2013**

Transition Annual Information Statement (AIS) due. No financial report required.

### **By 31.12.2014**

AIS due, together with financial report based on size. Note more information is planned for a Tier 1 charity than originally proposed – Balance Sheet data needed, which for very small charities will create major difficulties.

## **Activities tests:**

ACNC require more information about charities activities. The Objects also need to be a reliable indicator of the activities. Many older charities will need to upgrade their Constitutions, Trust Deeds or Acts of Parliament. This particularly applies to entities seeking the religious institution tax concessions.

## **ASIC reporting changes:**

Charities that are either companies limited by guarantee or special purpose non-profit companies will henceforth report to ACNC and not to ASIC. The necessary legislation has been passed so this is now in place. ASIC are still to control incorporation and wind-up matters.

## **“In Australia” proposals:**

Potential for tracing provisions to be implemented. Commentary on Monday. The problem that churches may face.