



*– adding to your ministry*

## Newsletter December 2012

### Charities Commission Update

The Australian Charities and Not-for-profits Commission (ACNC) was given Royal Assent on Monday 3 December 2012. As a consequence the ACNC is now operative. From this time forward all applications for charity endorsement and matters relating to charities under Commonwealth law need to be referred direct to the ACNC.

Any charity matters such as new applications for endorsement that have already been initiated through Australian Taxation Office (ATO) will continue with ATO until that matter is finalised. Then the oversight of the charity itself will pass to the ACNC automatically.

You can visit their new website at [acnc.gov.au](http://acnc.gov.au). You can also 'phone them on 132262, send an e-mail to [advice@acnc.gov.au](mailto:advice@acnc.gov.au) or fax 1300 232 569.

While there is much information that will be of assistance to charities on the website already, some aspects of it are not yet completely functioning. For example a search at "Find a charity" shows that significant additional information is to come. ACNC will be contacting charities at their last known address in January, seeking this information to place on the website. This will provide substantial information about all charities in Australia once that updating has been completed, but at present it is a work-in-progress. Currently many well-known charities do not yet show on the register. Under "Publications" you will find many Facts Sheets. Churches are encouraged to review the Facts Sheet regarding "religious charities". In particular please focus your attention on "Basic religious charities" as this will reduce the reporting obligations for smaller churches. Also under the "Publications" heading you will find a section for "Frequently asked questions" and also for "ACNC forms".

Organisations who now wish to apply for endorsement as a charity can apply on-line. They should go the "Register my Charity" and then to the section "Start registration application". For those who are unable to make an on-line application, 'phone ACNC and ask for a paper form to be mailed. We have already checked their system through the Internet, e-mail and 'phone and can confirm it is working well and the ACNC team are keen to give assistance.

#### **The Federal Government Reform Agenda – an update:**

**The ACNC Governance Standards** are still in the process of being finalised. Early in 2013 ACNC will undertake a community consultation on these standards. We understand they will be in Perth late in January 2013. You will have the opportunity of attending public hearings in respect to these important matters.

Similarly the financial reporting obligations have not as yet been finalised. Much work is being done behind the scenes to finalise the required reporting format and the details that will be shown on the ACNC Register. As advised earlier the financial reporting obligations will apply for the 2013/14 financial year for those entities with a 30 June balance date.

**The “In Australia” Special Conditions Bill** has been before the House of Representatives since August 2012 and is still there. It appears likely it will be debated in the House early in 2013.

**The Unrelated Business Income Tax** provisions commenced on 1 July 2012. However the legislation implementing this tax has yet not been introduced into the Federal Parliament. The intention of the tax is to require a charity to pay income tax on its commercial activities, unless the profits made on those commercial activities are applied for the principal Object or Purposes of the charity. There will be much to learn from the detail of the legislation once it is introduced.

**The Statutory Definition of Charity** was defined in Pemsel’s case in 1891 as: - trusts for the relief of poverty; trusts for the advancement of education; trusts for the advancement of religion; and trusts for other purposes beneficial to the community. This continues to apply until the new Definition is introduced. The current discussion indicates that the core provisions from Pemsel’s case will be confirmed and the Definition will be widened by Statute. The intention is to ensure that the 21<sup>st</sup> Century understandings of charitable activity are enshrined in Commonwealth Law, – and hopefully in due course also in State Law. The Government’s intention is the new Definition will commence from 1 July 2013.

In addition to the above-mentioned matters, Government is examining the current structure of a **company limited by guarantee** and there will be consultations with the community regarding its effectiveness during 2013. In the meantime the oversight functions by ASIC of companies limited by guarantee and special purpose non-profit companies will now be undertaken by ACNC. ASIC will retain responsibility for incorporation and winding up, at least for the time being.

**Susan Pascoe AM, the Commissioner for ACNC** advises that her team are wholeheartedly committed to assist the Charity Sector in being more effective in their roles and improving the contribution of the Sector to all Australians.

### **Training**

The ACNC commitment to providing face-to-face training for Western Australia regrettably needed to be deferred from October. We now have agreement in principle regarding training for 2013. **The Director of Policy and Education, Susan Woodward**, is proposing to come to Western Australia to provide training in Perth, Geraldton and Bunbury between 12 – 17 February 2013. Later the plan is to visit Kalgoorlie, Broome and Port Hedland. The dates for the second trip have not yet been finalised but it is likely this will occur in May. Until the venues for the training seminars have been finalised the details are not absolute. However it is hoped to provide final details in the very near future.

The ACNC’s willingness to visit the remoter centres in regional Western Australia is very much appreciated. **However to make their visit more effective we ask readers to provide us with contact information for charities in these regional areas.** While the communication links Add-Ministry has established in conjunction with WACOSS and the Christian community of Western Australia are good, we want to ensure that information is distributed on as wide a basis as possible. We would appreciate your assistance.

