

# Guide to Fundraising Laws in Australia

Legal information for community organisations



**Each Australian state and territory has its own, different rules relating to fundraising. If you are planning to undertake fundraising activities, or are already doing so, you need to understand these laws and the implications for your fundraising. You may need to comply with multiple jurisdictions' fundraising laws (including obtaining multiple licences to fundraise).**

## Introduction

Complying with fundraising laws is important for many reasons. Legal penalties and reputational damage can directly affect your organisation if it fundraises unlawfully. From a broader perspective, lawful and ethical fundraising helps to maintain public trust and confidence in the charity and not-for-profit sector, which is important for the fundraising efforts of all in sector.

This guide provides an overview of the different fundraising regimes across Australia (the specific fundraising laws that exist in each state and territory – set out in Part 1 of this guide). It is designed to help organisations that fundraise in multiple states and territories of Australia (or fundraise online) to navigate the different regimes, which can be tricky and time-consuming. The Guide provides step-by-step guidance to help you identify which of the regimes might apply to your specific fundraising activities, and provides summaries of the requirements under each regime. This guide should not be considered a comprehensive overview of how to comply with fundraising laws in every state. There is a more detailed Fundraising Guide for each state and territory available on Not-for-profit Law's Information Hub at [www.nfplaw.org.au/fundraising](http://www.nfplaw.org.au/fundraising).

There are a range of other laws that apply to your fundraising activities beyond the state-based fundraising regimes. These laws are set out in more detail on the Information Hub Fundraising page ([www.nfplaw.org.au/fundraising](http://www.nfplaw.org.au/fundraising)), and are summarised at Part 4 of this Guide. There are links to related Information Hub pages and other relevant resources at the end of this guide. In particular, fundraisers should note that the Australian Consumer Law sets out rules against misleading and deceptive conduct and unconscionable conduct that apply to the conduct of fundraisers. Local government requirements will also apply to certain fundraising activities (eg. for face-to-face collections), and additional permits or approvals from local government may be required. This guide does not cover these requirements in detail.

This guide is intended to assist those undertaking fundraising activities for charities, not-for-profits and causes under the various fundraising regimes. The requirements outlined do not necessarily apply in the same way to 'private fundraising' (for example, asking for support from friends or family for a private activity, like undertaking overseas study), or fundraising in the context of capital or equity raisings by for-profits for business purposes.

## RELATED RESOURCES



For more information about other laws that may apply to your fundraising activities, in addition to those discussed in this guide, visit the following pages of the Not-for-profit Law Information Hub ([www.nfplaw.org.au](http://www.nfplaw.org.au)):

- [Raffles and minor gaming](#)
- [Events](#)
- [Communications and Advertising](#)
- [Insurance and risk](#)
- [The people involved](#)
- [Deductible Gift Recipient Endorsement](#)
- [Privacy](#)
- [Laws for charities](#)

For more information about new not-for-profit funding approaches, such as impact investing, which are in most cases not regulated by fundraising laws, go to the Seeking funding page on the Not-for-profit Law Information Hub at [www.nfplaw.org.au/seekingfunding](http://www.nfplaw.org.au/seekingfunding).

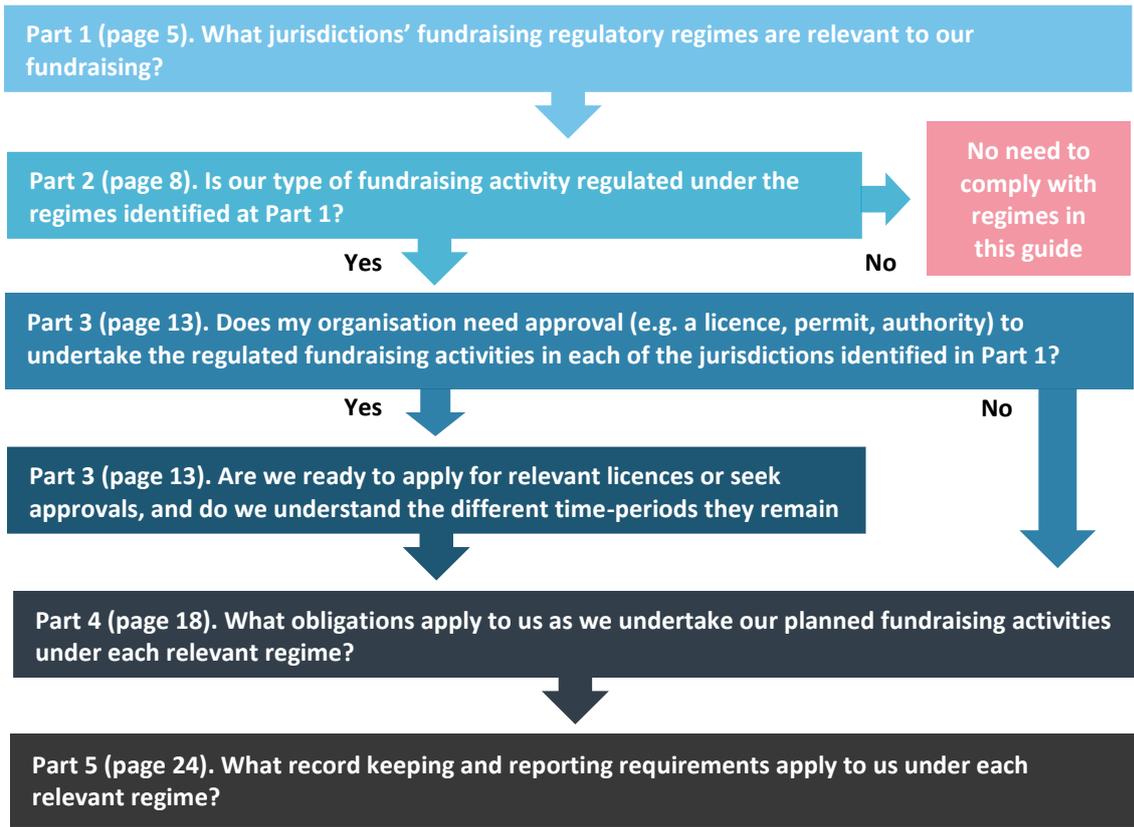
The self-regulatory bodies - [Fundraising institute of Australia](#) and [Public Fundraising Regulatory Association](#) - also provide codes and guidance on fundraising best-practice.

## Identifying and complying with relevant fundraising laws

When planning a fundraising activity, you need to first identify which fundraising regimes are relevant to the activity based on where it is located and who it will be reaching. You then need to assess whether or not your planned type of fundraising activity is covered by the particular regime(s) (they all apply differently), and then understand what you need to do to comply with obligations under the relevant regimes.

The main purpose of this guide is to help you undertake this analysis and to provide some tips on how to meet the different requirements of each of the regimes.

Each part of this guide helps you work through a particular question that you will need to answer to make sure that you are complying with all relevant fundraising laws, as set out in the flow chart on the next page.



There is a checklist at the end of each part of the guide that you can use to check that you are ready to comply with fundraising laws.

Not-for-profit Law is part of a coalition of organisations advocating for reform and harmonisation of fundraising laws across Australia to reduce complexity for charities and not-for-profits. You can read more about the campaign on our [Fundraising Policy Page](#).

# Terminology

## 'Charity' and 'Not-for-profit'

Many people do not realise that 'charity' and 'not-for-profit' mean different things. A 'not-for-profit' organisation is restricted from distributing profits, which means any profit made is used to further the aims of the organisation rather than for private gain. Charities must be not-for-profits, but also need to meet some narrower requirements such as having 'charitable purposes', for the 'public benefit'. Both charities and not-for-profits regularly undertake fundraising. Understanding the difference is important, because in some states and territories fundraising for, or by, any not-for-profit (including charities) is regulated, and in others, only fundraising by charities, or for charitable purposes is regulated.



It is also important to note that while the term 'charity', and the concept of 'charitable purposes', have similar meanings across Australia, slightly different definitions apply in different states, territories and at a federal level. In public communications, the word 'charity' is used most commonly to refer to organisations that are registered with the Australian Charities and Not-for-profits Commission (**ACNC**) (a federal body) under the definition in the *Charities Act 2013* (Cth). However, when it comes to fundraising, it is the state and territory meanings of 'charity' and 'charitable purposes' that are relevant. This guide makes clear which definition of charity is relevant at each point.

### NOTE FOR CHARITIES REGISTERED WITH THE ACNC

Charities registered with the ACNC [must meet Governance Standards](#) to be registered and remain registered. Lawful fundraising is an important part of meeting the requirements of the Governance Standards.

It is also very important that fundraising campaigns by registered charities align with the charity's organisational purpose, as the campaign may jeopardise a charity's registration if it indicates that a charity is undertaking activities that do not align with its purposes.



## 'Fundraiser' and 'fundraising'

Many individuals, groups of individuals, clubs, businesses, not-for-profits, charities and commercial fundraisers engage in fundraising activities in Australia. In this guide, we refer to anyone undertaking fundraising activities as 'fundraisers'.

'Fundraising' is defined differently under the different fundraising regimes. In general, the following types of activities are fundraising:

- requesting donations to help a person, cause or organisation (whether in person or online)
- selling merchandise where some or all of profits will go towards helping a person, cause or organisation, or
- holding events to raise money for a person, cause or organisation.

# 1. What fundraising regulatory regimes are relevant to my fundraising activities?

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Each state and territory in Australia has a fundraising regulatory regime, with the exception of the Northern Territory. Many of these regimes were drafted years ago, when fundraising activities looked very different to how they do today. In the past, fundraising was conducted locally, for example through collection tins or through fundraising events like trivia nights and balls. Modern fundraising takes many forms, and often crosses between jurisdictions (for example, online fundraising campaigns). Unfortunately, most fundraising regulatory regimes do not contemplate modern fundraising methods.

The table below sets out the fundraising regulatory regime and relevant regulator for each state and territory. Fundraisers need to determine which jurisdictions their fundraising is taking place in, and then consider what they need to do to lawfully undertake their fundraising activities in those jurisdictions.

This assessment is not always straight-forward as ‘taking place in’ can include the place where an appeal is run (e.g. the office where campaign letters are sent from), as well as the place where people receive fundraising communications, and the place where people actually make their donation. If your fundraising activities are ‘taking place in’ multiple states, it will need to comply with multiple fundraising regimes, which might require obtaining a number of fundraising approvals (with varying conditions attached).

## Online/email fundraising: where does fundraising take place?

Online and email fundraising activities raise particularly difficult issues when it comes to identifying which fundraising regimes fundraisers need to comply with. In general, fundraising regulation applies where the solicitation (making an appeal), the making of a donation (whether by making a donation or purchasing a product or service as part of a fundraising campaign), or receiving of a donation or funds from purchase of a fundraising product has occurred in a state or territory.

This means that if you run an online campaign that is promoted broadly online (e.g. through Facebook, or emails to subscribers), the fundraisers involved need to comply with regimes in all the states and territories where the soliciting occurs (e.g. where the email is sent from), the receipt of the fundraising communications (e.g. where the people who open the email are), where the making of donations occurs (e.g. where an individual fills in an online donation form), and where the receipt of a donation occurs (e.g. the fundraising headquarters).

A strategy to manage this tricky issue is to choose a limited number of states and territories for your campaign, make it clear on your campaign materials which states and territories the campaign relates to, and require donors to confirm that they are in those states and territories before making a donation. This way, you only need to comply with fundraising regulation in the states and territories listed in your campaign.

## EXAMPLE

In Tasmania, “soliciting” means seeking a donation by a request made in person or by mail, fax, telephone, email, documents left on premises, through the internet or any appeals through the media (newspaper, radio or television). This means that if you send a fundraising email from your office in Sydney, to subscribers on your list based in Tasmania, you may be technically fundraising in Tasmania, as well as NSW.



Table of fundraising regulatory regimes for each state and territory

|                                     | <b>Relevant laws</b>   | <b>Regulator</b>                                     | <b>Register</b>  |
|-------------------------------------|--|--|--|
| <b>New South Wales</b>              | <i>Charitable Fundraising Act 1991</i> (NSW)<br><i>Charitable Fundraising Regulation 2015</i> (NSW)  | NSW Fair Trading                                     | Publicly searchable <a href="#">register</a> of licensed fundraising organisations in NSW.   |
| <b>Victoria</b>                     | <i>Fundraising Act 1998</i> (Vic)<br><i>Fundraising Regulations 2009</i> (Vic)   | Consumer Affairs Victoria                            | Publicly searchable <a href="#">register</a> of registered fundraisers in Victoria.  |
| <b>South Australia</b>              | <i>Collections for Charitable Purposes Act 1939</i> (SA)   | Consumer and Business Services                       | Publicly accessible full <a href="#">list</a> of current, expired and revoked charity fundraising licenses.  |
| <b>Queensland</b>                   | <i>Collections Act 1966</i> (QLD)<br><i>Collections Regulation 2008</i> (QLD)  | QLD Office of Fair Trading                           | Publicly searchable <a href="#">register</a> of charities and associations in QLD (both charitable and community purposes).<br>Charities need to apply to be entered on the QLD charities register.    |
| <b>Tasmania</b>                     | <i>Collections for Charities Act 2001</i> (Tas)<br><i>Collections for Charities Regulations 2011</i> (Tas)   | Consumer Affairs and Fair Trading                    | Publicly accessible full <a href="#">list</a> of approved fundraisers in Tasmania.   |
| <b>Western Australia</b>            | <i>Charitable Collections Act 1946</i> (WA)<br><i>Charitable Collections Regulations 1947</i> (WA)<br><i>Street Collections Act 1946</i> (WA)<br><i>Street Collections Regulations 1999</i> (WA) | Department of Commerce, Consumer Protection Division | Publicly accessible full <a href="#">list</a> of licensed charities in WA.<br><br><a href="#">Roster</a> of all organisations conducting street collections in Perth and the days they are collecting. |
| <b>Australian Capital Territory</b> | <i>Charitable Collections Act 2003</i> (ACT)<br><i>Charitable Collections Regulation 2003</i> (ACT)  | Access Canberra                                      | Publicly searchable <a href="#">register</a> of ACT Charitable Collections Licence holders.  |

### **PART 1 CHECKLIST**

- Have we identified which jurisdictions' fundraising laws could apply to our proposed fundraising activities?

## 2. Is the fundraising activity regulated in the relevant jurisdiction?

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Each state and territories' fundraising laws are different – they regulate different fundraisers and types of fundraising activities and impose varied obligations about licencing and reporting on those activities. Sometimes, the regimes specifically set out activities that are exempt from regulation or from a certain requirement (such as needing an approval), even though those activities would otherwise meet the definitions of fundraising activities. This means that the same fundraising activity may be regulated in one jurisdiction, regulated but exempt from the requirement for an approval in another, and not regulated whatsoever in a third jurisdiction.

Generally, the following are always regulated fundraising activities regardless of the jurisdiction involved (except the Northern Territory where there is no fundraising regime):

- a charity running a fundraising appeal for itself, or providing a mechanism for receipt of donations for itself (e.g. an online form, or a collection box in a public place), and
- a group running a fundraising campaign for a charitable purpose (note: some states have a broad definition of charitable purposes and some more narrow) or for a particular charity (e.g. a benefit ball where funds will be provided to a charity, or a campaign run to raise funds for an individual for charitable purposes, such as helping an individual who cannot afford to pay for their own medical expenses).

The following activities are only sometimes regulated, and whether or not they are regulated depends on the rules in each jurisdiction:

- raising funds for a community, patriotic, philanthropic or animal welfare purposes
- an individual raising funds for a charity, charitable purpose, or community purpose
- a not-for-profit (that is not a charity) raising funds for itself
- an individual raising funds for a not-for-profit (that is not a charity), or
- third party commercial fundraisers raising funds on behalf of a charity, not-for-profit or other group that needs to comply with fundraising regimes.

The following types of activities are excluded from regulation under some fundraising regimes – you will need to check the table below to see if the exclusion applies in a jurisdiction where you are fundraising:

- raising funds for non-charitable or non-community purposes (e.g. a person raises funds from friends and family to support their overseas study)
- asking for and receiving membership or joining fees of a club or group
- fundraising within an organisation between employees, or that is targeted to past and present members or their friends and relatives
- seeking bequests (for more information, see Gifts, wills, bequests and endowments on the Information Hub at [www.nfplaw.org.au/seekingfunding](http://www.nfplaw.org.au/seekingfunding))
- applying for grants of money, goods, services or benefits from a government body, and

- seeking, receiving or providing sponsorship or corporate partnership arrangements.

If your fundraising activities are regulated fundraising activities in any jurisdiction, you will need to consider the next parts of this guide (whether approvals are required, what obligations apply while fundraising, and whether you need to report to a regulator about your fundraising).

## RELATED RESOURCES

A summary of regulated fundraising activities in each state and territory is set out in the table below. For more information, there is a detailed fundraising guide for each state and territory available at [www.nfplaw.org.au/fundraising](http://www.nfplaw.org.au/fundraising).



## Different meanings of ‘charitable purpose’ and ‘charity’

In many states and territories, a range of types of fundraising are covered by fundraising laws, and one common type of fundraising covered is ‘charitable’ fundraising, or fundraising by/for a ‘charity’. The meaning of ‘charity’ and ‘charitable purposes’ differs between states and territories, and is different again under federal laws.

At various points, the table below references the common law (judge made law) definition of ‘charitable purpose’. This common law definition of ‘charitable purposes’ is based on the preamble to the 1601 Statute of Charitable Uses (Parliament of England). It is a different definition of charitable purposes to the modernised definition applied by the ACNC, contained in the *Charities Act 2013* (Cth) (**Charities Act**).

There are four main categories of charitable purposes under the common law definition:

- relief of poverty, age or impotence
- advancement of education
- advancement of religion, and
- other purpose beneficial to the community that is within the spirit and intention of the Statute of Charitable Uses (a long list of ‘other purposes’ has developed over time through judge made law).

Many definitions of charitable purposes in the state and territory fundraising regimes use the common law definition as a starting point, and add extra things that are considered charitable purposes in that state or territory. For example, Tasmania, NSW and WA add extra purposes of “philanthropic, benevolent and patriotic” purposes to the common law purposes. QLD adds a long list of extra purposes to the common law starting point. SA and WA do not use the common law definition or the Charities Act, but rather have their own particular lists of charitable purposes.

SA and QLD maintain their own registers of ‘charities’ which are separate to the register of charities that is maintained by the ACNC. Registration on these state registers is one of the ways to fundraise lawfully in those states (more information on other types of fundraising approval processes in these states is set out below). To be registered on the QLD and SA charity registers, fundraising laws require the SA and QLD state regulators to assess your organisation against the *state-based* definition of ‘charity’ contained in the fundraising regimes of SA and QLD.

## Table of regulated fundraising activities

| State/territory | Regulated fundraising activities   |
|-----------------|--|
| New South Wales | <p>NSW fundraising law regulates “<b>fundraising appeals</b>” for a purpose that is or includes a “<b>charitable purpose.</b>”</p> <p>“Fundraising appeals” means the soliciting or receiving by any person of any money, property or other benefit if before or in the course of any such soliciting or receiving, the person represents:</p> <ul style="list-style-type: none"> <li>• that the purpose of that soliciting or receiving, or</li> <li>• that the purpose of an activity or enterprise of which that soliciting or receiving is a part, is or includes a charitable purpose.</li> </ul> <p>“Charitable purpose” includes charitable purposes as defined under common law (see above), with the addition of any benevolent, philanthropic or patriotic purpose.</p> <p><u>Examples of exempt fundraising activities:</u></p> <ul style="list-style-type: none"> <li>• Request for or receipt of money by educational facilities or services, child-minding services, goods or services supplied through a supported employment service for people with disabilities, nursing or medical services, other care or welfare services.</li> </ul> |
| Victoria        | <p>The Victorian fundraising regime regulates “<b>fundraising appeals</b>” which are the soliciting or receiving of money or a benefit on the basis of a representation that the soliciting or receiving is “<b>not solely for the profit or commercial benefit</b>” of the person or any other person, cause or thing on whose behalf the person is soliciting or receiving the money or benefit.</p> <p><u>Examples of exempt fundraising activities:</u></p> <ul style="list-style-type: none"> <li>• raising money for a patriotic fund (as defined in the <i>Veterans Act 2005</i> (Vic))</li> <li>• memorial gifts</li> <li>• soliciting or receiving money from corporations, partnerships or trusts that are permitted to donate under their constitutive documents (e.g. a trust deed or constitution).</li> </ul>  |

| State/territory | Regulated fundraising activities  |
|-----------------|---|
| South Australia | <p>SA's fundraising regime regulates <b>“collectors”</b> where collecting (or attempts to collect) is wholly or partly for a <b>“charitable purpose”</b>.</p> <p>“Collectors” are those who:</p> <ul style="list-style-type: none"> <li>• obtain or attempt to obtain money or property (including by the sale of a disc, badge, token, flower, ribbon or other device)</li> <li>• obtain or attempt to obtain a bequest, devise or other grant of money or property, or</li> <li>• charge or attempt to charge for admission to entertainment, where it is held out that the proceeds are to be devoted,</li> </ul> <p>wholly or partly for a <b>“charitable purpose”</b>.</p> <p>“Charitable purpose” means:</p> <ul style="list-style-type: none"> <li>• the affording of relief to diseased, disabled, sick, infirm, incurable, poor, destitute, helpless, or unemployed persons, or to the dependents of people in those categories</li> <li>• the relief of distress due to war (whether caused by a war in SA or elsewhere)</li> <li>• the affording of relief, assistance, or support to people who are or have been members of the armed forces of Australia or to their dependents, or</li> <li>• the provision of welfare services for animals.</li> </ul> <p><u>Examples of exempt fundraising activities:</u></p> <ul style="list-style-type: none"> <li>• if the collector fundraises by collecting money or property from people known to the collector and, the money or property is given to the holder of a Section 6 Licence (see page 12 below), and the collector is a volunteer, the collection is exempt</li> <li>• if the collector fundraises by collecting money or property for the benefit of a particular person or the dependants of that person, and the money or property is given to that person or the dependants of that person, and the collector is a volunteer</li> </ul>                                       |
| Queensland      | <p>QLD's fundraising regime regulates any <b>“appeal for support” for “charitable” and/or “community purposes”</b>.</p> <p>“Appeal for support” means any invitation (expressed or implied, and whether made verbally, or by writing or conduct, or by any advertisement), to the public, which is designed to obtain money or articles for that purpose.</p> <p>“Charitable purposes” means:</p> <ul style="list-style-type: none"> <li>• a purpose which is exclusively charitable under the common law of QLD (see discussion of common law definition of charity above)</li> <li>• the supplying of help, aid, relief, or support to, or the education or instruction (whether spiritual, mental, physical, technical, social, or otherwise) of, or the care, housing, or assistance otherwise of, any persons in distress</li> <li>• the aiding in any manner howsoever, of any hospital or ambulance or nursing service in the state, whether established or proposed to be established</li> <li>• a purpose of an organisation considered to be a charity (an association established solely for charitable purposes, or declared a charity by the relevant Minister), or</li> <li>• any purpose which the Minister determines to be a charitable purpose or is declared charitable under regulations.</li> </ul> <p>A “community purpose” means a purpose that promotes the general welfare of the public (e.g. constructing a building, maintaining a park, repairing a recreation facility).</p> <p><u>Examples of exempt fundraising activities:</u></p> <ul style="list-style-type: none"> <li>• appeals for support made solely for the purpose of advancement of religion by or on behalf of any recognised religious denomination</li> <li>• appeals for support for a charitable or community purpose by or on behalf of any recognised religious denomination (except in relation to door-to-door or street collections).</li> </ul> |

| State/territory              | Regulated fundraising activities  |
|------------------------------|---|
| Tasmania                     | <p>Tasmania’s fundraising regime regulates <b>“soliciting” for “charitable purposes”</b>. It is unclear whether the soliciting must be conducted solely for a charitable purpose or whether soliciting in part for a charitable purpose is regulated as it is in most other jurisdictions.</p> <p>“Soliciting” means seeking a donation by a request made in person or by mail, fax, telephone, email, documents left on premises, through the internet or any appeals through the media (newspaper, radio or television).</p> <p>In Tasmanian fundraising laws, “charitable purpose” is purposes charitable under common law charity (as discussed above) as well as benevolent, philanthropic or patriotic purposes and purposes for the protection of the environment or the welfare of animals.</p> <p><u>Examples of exempt fundraising activities:</u></p> <ul style="list-style-type: none"> <li>• soliciting using the sale of goods or services (e.g. fundraising through sale of a commercial product)</li> <li>• an appeal within premises that are used by a club or religious organisation</li> <li>• soliciting by a religious organisation by an appeal to its adherents or any other person who has attended a religious service held by that organisation</li> </ul> |
| Western Australia            | <p>WA’s fundraising law regulates any person or organisation that intends to <b>collect or attempt to collect</b> money or goods (including by the sale of any disc, badge, token, flower or other device), conduct entertainment, a function or advertise (where it is held out that any part of the proceeds of the entertainment or function are to be devoted) <b>wholly or partly for a “charitable purpose”</b>.</p> <p>“Charitable purpose” means a purpose for:</p> <ul style="list-style-type: none"> <li>• the relief of the sick, diseased, poor, destitute, helpless or unemployed</li> <li>• the relief of distress caused by war and the support of people who are members of the armed forces</li> <li>• support of hospitals, child health centres, schools, kindergartens</li> <li>• support of activities of a social or welfare character</li> <li>• animal welfare, conservation and environmental causes, and</li> <li>• any benevolent, philanthropic or patriotic purpose.</li> </ul> <p>There are no specifically exempt fundraising activities under the WA fundraising laws.</p>  |
| Australian Capital Territory | <p>ACT’s fundraising regime regulates <b>“collections” wholly or partly for a “charitable purposes”</b>.</p> <p>“Collections” means soliciting or receiving money or a benefit, and can be made using any method (e.g. via internet or email). A benefit includes property or any gain or reward.</p> <p>“Charitable purposes” are not defined under the ACT fundraising legislation; however, the Director General has indicated the common law definition of charity is applied (see above).</p> <p><u>Examples of exempt fundraising activities</u></p> <ul style="list-style-type: none"> <li>• collections within an organisation’s premises conducted for its own benefit</li> <li>• collections between people sharing a common employer/workplace</li> <li>• collections by a school or affiliated body (e.g. parents’ association or alumni) if the money is a genuine fee or voluntary contribution for education purposes from a person whose child is enrolled at the school.</li> </ul>  |

## PART 2 CHECKLIST

- Are our fundraising activities regulated in any of the jurisdictions identified in Part 1?
- Are our fundraising activities exempt from regulation in any of the jurisdictions identified in Part 1?

### 3. Who needs approval to undertake regulated fundraising activities?

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Generally, approval in each relevant jurisdiction is required to conduct regulated fundraising activities, unless the activity or the fundraiser is exempt. Once you have determined in which jurisdictions you will need to apply for approval, you should apply for that approval, and note the length of the approval (which differs in each jurisdiction) and set reminders for renewals.

The exact form of approval needed will depend on the jurisdiction, the type of fundraising activity, and whether the fundraiser is raising funds for their own organisation, or on behalf of another (either on a commercial basis, or as a volunteer fundraiser).

The table below sets out the circumstances in which individuals or organisations will need to seek formal approval (e.g. through a registration, authority, permit or licence).

#### RELATED RESOURCES

A summary of the requirements for obtaining fundraising approval in each state and territory is set out in the table below. For more information, there is a detailed Fundraising Guide for each state and territory available at [www.nfplaw.org.au/fundraising](http://www.nfplaw.org.au/fundraising). These guides provide details of how to apply for relevant licences or approvals and the steps and timing involved.

Many charities engage third party/commercial fundraisers (fundraisers that are contractors to your organisation rather than employees who work for your organisation) to conduct regulated fundraising activities. The table below does not cover obligations in relation to engaging these third parties.



#### NOTE

Even if approval is not required under the various fundraising laws, individuals and organisations may still need to comply with certain obligations while undertaking regulated fundraising activities (see Part 4 below).



## Table of approvals required under different fundraising regimes

|                        | <b>Who needs approval?</b>  |
|------------------------|---|
| <b>New South Wales</b> | <p>An <b>organisation</b> intending to fundraise in NSW needs to:</p> <ul style="list-style-type: none"> <li>• obtain an <b>authority to fundraise</b>, or</li> <li>• enter into an <b>arrangement with the holder of an authority</b> to fundraise on that holder's behalf.</li> </ul> <p>The regime contemplates that an <b>individual</b> intending to fundraise in NSW needs to obtain authority from a licence holder to fundraise on its behalf, or individually apply for an authority. In practice, individuals rarely obtain authorities themselves, and rather operate under an arrangement with the holder of an authority.</p> <p>An authority to fundraise may be granted for an indefinite period of time for an indefinite number of appeals. However, in practice, authorities are issued for a specific period, such as <b>five years</b>. The time period of an authority will be clear in the conditions of the authority issued by the regulator.</p> <p><u>Examples of some organisations/individuals that are exempt from the general requirement to obtain an authority to fundraise:</u></p> <ul style="list-style-type: none"> <li>• an organisation or person that receives less than \$15,000 in a financial year from fundraising (small fundraisers)</li> <li>• local councils</li> <li>• trusts with a local council as a trustee</li> <li>• universities</li> <li>• certain religious organisations (these organisations are exempt from the NSW fundraising laws in their entirety, so need not comply with the obligations set out in section 4 of this guide).</li> </ul> |
| <b>Victoria</b>        | <p>An <b>organisation</b> or <b>individual</b> intending to <b>conduct fundraising appeals</b> in Victoria will need to <b>register as a fundraiser</b>.</p> <p>The registration period is for <b>three years</b>.</p> <p>If beneficiaries will receive less than 35% of proceeds of a fundraising appeal, the regulator may only grant registration if it is satisfied that the proposed fundraising activity is in the public interest and the applicant can 'show cause' why it should be registered (e.g. the administration costs are high due to the nature and type or maturity of the appeal or the size of the appeal means that a significant benefit will ultimately flow to the beneficiaries).</p> <p><u>Examples of some organisations/individuals that are exempt from general requirement to register:</u></p> <ul style="list-style-type: none"> <li>• an organisation/individual that receives less than \$10,000 (gross or total amounts before deductions and tax) in a financial year from fundraising <b>and</b> only unpaid volunteers are used to conduct the fundraising</li> <li>• religious organisations (recognised denominations)</li> <li>• registered trade unions and political parties</li> <li>• hospitals and certain other health organisations funded by the government (e.g. state-funded residential care services)</li> <li>• licensed children's services receiving funding for a kindergarten program from the Department of Education and Early Childhood Development</li> </ul>  |

|                        | <b>Who needs approval?</b>  |
|------------------------|---|
| <b>South Australia</b> | <p>An <b>organisation</b> or <b>individual</b> intending to fundraise needs to obtain:</p> <ul style="list-style-type: none"> <li>• a <b>Collections for Charitable Purposes Licence</b> or</li> <li>• authority from a holder of a Licence to fundraise on behalf of the licence holder.</li> </ul> <p>Licences are granted for a period of <b>one year</b> (renewable 6 months after the financial year date ends).</p> <p>Note that as a result of recent changes to SA fundraising laws, both Section 7 Licences (which permitted charging an admission fee for entertainment, with proceeds going to a charitable purpose) and Section 6A Licences (for collection agents) no longer exist.</p> <p><u>Exempt organisations</u></p> <p>As of 1 December 2016, organisations registered as charities with the ACNC are deemed to hold a Licence (provided certain steps are taken). This means they do not need to apply for a Licence if they want to engage in regulated fundraising activities.</p> <p><u>While there are no other exemptions</u>, it is worth noting that the category of organisation requiring a licence is much narrower in SA than in many other jurisdictions. Only fundraising for a charitable purpose is regulated (and therefore fundraising for sports or community groups is not regulated).</p>  |
| <b>Queensland</b>      | <p>An <b>organisation</b> intending to fundraise needs to either:</p> <ul style="list-style-type: none"> <li>• <b>register as a charity under the QLD fundraising law</b> (while registered it can lawfully fundraise)</li> <li>• obtain a <b>sanction for a particular appeal</b></li> <li>• obtain a <b>sanction for a community purpose</b>, or</li> <li>• obtain <b>an authority from an organisation registered as a charity in QLD, to fundraise on behalf of the charity</b>.</li> </ul> <p>An <b>individual</b> intending to fundraise needs to obtain:</p> <ul style="list-style-type: none"> <li>• a sanction for a particular appeal (note other individuals need to be included in the application), or</li> <li>• authority from an organisation that can lawfully fundraise to raise funds on behalf of that organisation.</li> </ul> <p>Registration as a charity continues so long as the organisation is eligible to be registered as a charity under QLD fundraising law.</p> <p>Sanctions will be for the duration of time approved by the regulator (applicants include the desired time frame in the initial application form, which can be a defined period of time, or indefinitely).</p> <p>At September 2016, there were some differences between the QLD fundraising laws and materials on the QLD Office of Fair Trading website. For more information on navigating QLD fundraising laws, go to the detailed QLD Fundraising Guide at <a href="http://www.nfplaw.org.au/fundraising">www.nfplaw.org.au/fundraising</a>.</p> <p><u>Examples of some exempt organisations</u></p> <ul style="list-style-type: none"> <li>• Religious organisations (recognised denominations)</li> <li>• Hospital Foundations</li> <li>• Parents and Citizens Associations</li> </ul> |

|                          | <b>Who needs approval?</b>   |
|--------------------------|--|
| <b>Tasmania</b>          | <p>An <b>organisation</b> will need to obtain <b>approval to fundraise</b> in Tasmania if it is:</p> <ul style="list-style-type: none"> <li>• incorporated outside of Tasmania</li> <li>• a company under the Corporations Act with a principal office located outside of Tasmania, or</li> <li>• an unincorporated group or association in Tasmania.</li> </ul> <p><b>Individuals</b> will also need an approval to fundraise, unless they are doing so on behalf of an organisation that has an approval (or is exempt from the requirement to gain an approval). Importantly, the Tasmanian fundraising laws do not specifically address whether unincorporated groups located outside of Tasmania can fundraise (e.g. through an email campaign) in Tasmania. It is possible that an unincorporated group outside of Tasmania could apply for approval to fundraise in Tasmania in their capacity as individuals.</p> <p>The duration of an approval to fundraise for an organisation or individual will vary and will be stipulated as a condition when granted.</p> <p>The application of Tasmanian fundraising laws to some types of incorporated and unincorporated structures such as cooperatives and public and private ancillary funds is unclear (the Tasmanian fundraising laws do not contemplate these structures). The Tasmanian fundraising law also does not specifically address fundraising in Tasmania by unincorporated groups based outside of Tasmania. For more information, see the Tasmanian Fundraising Guide at <a href="http://www.nfplaw.org.au/fundraising">www.nfplaw.org.au/fundraising</a>.</p> <p><u>Examples of some exempt organisations</u></p> <ul style="list-style-type: none"> <li>• an incorporated association based in Tasmania</li> <li>• a corporation whose principal office is located in Tasmania, or</li> <li>• an approved organisation or a member of a class of approved organisations (approval is given by the Governor).</li> </ul> |
| <b>Western Australia</b> | <p>An <b>organisation</b> intending to fundraise in WA will need to obtain:</p> <ul style="list-style-type: none"> <li>• a Charitable Collections Licence, or</li> <li>• authority to fundraise on behalf of a holder of an existing licence (the regulator is required under the fundraising laws to consider whether the charitable purpose would be more effectively or economically carried out by an existing licence holder).</li> </ul> <p>An <b>individual</b> must obtain authority to fundraise from an organisation holding an existing licence. While the legislation allows for the granting of a licence to an individual or unincorporated body, licences are generally only granted to incorporated bodies.</p> <p>There are no specific organisations exempt from the requirement to obtain a licence or authority.</p> <p>Licences are granted for a period of <b>three years</b>.</p> <p>Any individual or organisation intending to conduct a <b>street collection</b> in the Perth metropolitan area (regardless of whether they hold a licence to fundraise), must have a separate street collections permit. The <i>Street Collections (Regulation) Act 1940</i> only allows for 50 days to be allocated each year for street appeals, which means that generally only one appeal is allowed for each applicant each year.</p> <p>Street collections must be held on a Friday unless otherwise approved by the Minister for Commerce. Only three organisations can conduct street appeals on any one day.</p>   |

|                                     | <b>Who needs approval?</b>   |
|-------------------------------------|--|
| <b>Australian Capital Territory</b> | <p>An <b>organisation or individual</b> intending to fundraise in the ACT will need to obtain:</p> <ul style="list-style-type: none"> <li>• a <b>Charitable Collection Licence</b>, or</li> <li>• <b>authority to fundraise</b> on behalf of the holder of an existing licence.</li> </ul> <p>A licence may be granted for a period of <b>up to five years</b>.</p> <p><u>Examples of some exempt organisations</u></p> <ul style="list-style-type: none"> <li>• organisations (or individuals) who collect less than \$15,000 from ACT residents in a year, or</li> <li>• non-government aid organisations accredited with AusAID.</li> </ul> |

### **PART 3 CHECKLIST**

- Is a licence, authority, registration or approval generally required in any of the relevant jurisdictions for our regulated fundraising activities?
- Is our type of organisation exempt from needing to register/get a licence/get approval in any relevant jurisdictions?
- Have we downloaded the relevant jurisdiction guides from [www.nfplaw.org.au/fundraising](http://www.nfplaw.org.au/fundraising) to help with the application process/es?
- Have we considered the local government requirements for the particular location(s) in which we intend to fundraise?
- Do we have enough lead time to apply for relevant authorities and licences before we start fundraising?
- Have we noted the lengths of each licence/approval and set reminders for renewals if required?

## 4. Ongoing obligations while fundraising

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Fundraisers undertaking regulated fundraising activities must meet certain obligations under fundraising laws. Generally, fundraisers should:

- ensure that fundraising campaigns are truthful, make no misrepresentations, and comply with requirements for adding licence or registration numbers to advertising materials, packaging or communications
- ensure that any money raised is given to the intended beneficiaries or used for the purpose for which it was obtained
- ensure that high standards of governance and risk management are applied to any campaign, including considering whether people involved are suitably qualified and of proper character (you may like to consider screening volunteers and staff [see www.nfplaw.org.au/recruitment](http://www.nfplaw.org.au/recruitment)), and whether appropriate safety measures have been taken to protect people involved
- meet specific requirements for involving children in fundraising (see the table below), and ensure that there is appropriate risk management where children are involved
- ensure all people authorised to collect on their behalf are aware of obligations applicable to the fundraising activities
- provide people participating with an appropriate identification badge, including a unique identifying number (see the table below for further details on information required to be included on identification badges)
- maintain appropriate records of collectors and their identifying number
- properly account for funds received through fundraising activities, which may include issuing receipts (especially where donations are received in cash) and putting funds raised into a dedicated bank account
- ensure appropriate safeguards for managing cash donations, including around the collection, storage and emptying of collection tins/boxes/envelopes
- meet reporting requirements for funds raised
- conduct the fundraising activities in accordance with the conditions of the approval/s received, and
- comply with directions given by relevant fundraising regulators, if written notice is given.

In addition to obligations under fundraising regimes, fundraisers need to make sure that they are complying with other laws and standards, that may apply to their fundraising activities, including:

- **The Australian Consumer Law (ACL)**, which prohibits conduct in ‘trade or commerce’ (many fundraising activities would be in ‘trade or commerce’) that is misleading or deceptive and prevents fundraisers from making false or misleading representations in relation to the sale of goods and services as part of a fundraising campaign (eg. merchandise or event tickets). The ACL also imposes requirements in relation to Unsolicited Consumer Agreements entered into as part of a fundraising campaign involving the sale of goods and services. ‘Unsolicited consumer agreements’ has a particular meaning under law, and a range of criteria need to be met for these requirements to apply (such as the fundraising being unsolicited, and the product sold as part of

the fundraising meets certain value thresholds. For more information, see NFP Law's 'Guide to Advertising in Australia' at [www.nfplaw.org.au/advertising](http://www.nfplaw.org.au/advertising).

- **The Telemarketing Standard**, published by the Australian Communications and Media Authority, which sets out rules relating to fundraising telemarketing, including information to be provided in calls, the timing of calls, caller identification and the termination of calls (for more information, see the full Standard at [www.acma.gov.au](http://www.acma.gov.au))
- **Privacy laws** (state and federal), which set out requirements relevant to the collection, use and disclosure of 'personal information' in connection with fundraising activities (for more information, see NFP Law's Privacy Guides and Privacy Compliance Manual at [www.nfplaw.org.au/privacy](http://www.nfplaw.org.au/privacy))
- **Local government requirements**, which can relate to when and where you fundraise. Many local governments require fundraisers to apply for permits to door-knock or undertake face-to-face fundraising. Fundraisers should contact all relevant local councils to make sure they have relevant permits in place and understand extra requirements that may apply.
- **Work, health and safety/Occupational Health and Safety (WHS/OHS) laws**, which set out obligations around protecting the health, safety and welfare of employees and other persons who are at, or come into contact with, a 'workplace' (for more information, see NFP Law's WHS/OHS Guides at [www.nfplaw.org.au/OHS](http://www.nfplaw.org.au/OHS))
- **Workplace laws**, which cover national employment standards and other worker entitlements, set out under the *Fair Work Act 2009* (Cth) and *Independent Contractors Act 2009* (Cth). Child employment and child safety laws in each jurisdiction must also be observed.
- **Child safety laws**, set out under state-based working with children check, child employment, child safety and mandatory reporting schemes.

There are a range of self-regulatory codes that fundraisers can sign up to that provide further requirements as well as guidance on conducting fundraising activities properly. More information on self-regulation is available on the Fundraising page of the Information Hub at [www.nfplaw.org.au/fundraising](http://www.nfplaw.org.au/fundraising).

#### NOTE

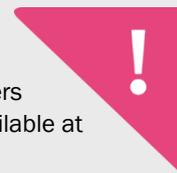
Organisations often engage third party commercial fundraisers to raise funds on their behalf. While this resource does not cover third party fundraisers, the ACNC has published a guide, '[Working with fundraising agencies](#)', to help charities identify and manage key issues associated with these arrangements. The guide is a useful resource for any not-for-profit organisation engaging third parties to assist with their fundraising.



## Table of ongoing obligations under fundraising regimes

### CAUTION

Note that the information in this table is not exhaustive, and provides a guide only. Fundraisers should look at detailed information in the Fundraising Guides for each state and territory available at [www.nfplaw.org.au/fundraising](http://www.nfplaw.org.au/fundraising).



|                 | Ongoing obligations while fundraising   |
|-----------------|---|
| New South Wales | <p>Specific obligations exist in relation to:</p> <ul style="list-style-type: none"> <li>• direct marketing such as by phone, email, internet or mail (i.e. certain information must be provided on request)</li> <li>• supplying goods and services</li> <li>• face-to-face appeals (i.e. collectors must wear consecutively numbered identification badges with their name, the name and phone number of the authorised fundraiser, include the words “paid collector” if applicable, and the issue and expiry date for the appeal)</li> <li>• children participating in fundraising appeals (i.e. the minimum age is 8 years for volunteering, 13 years for paid work, and 14 years and 9 months for door-to-door appeals)</li> <li>• using collection boxes, bins or bags (i.e. they must be securely constructed, sealed, consecutively numbered and labelled with name of the authorised fundraiser, and the authorised fundraiser must ensure the use and emptying is properly supervised and controlled)</li> <li>• advertisements, notices and information (i.e. certain details must be included on communication about fundraising and products being sold, such as the authority number and address of the fundraiser – these details are usually included as conditions attached to a fundraising authority)</li> <li>• soliciting from motor vehicles (a fundraising appeal <b>must not</b> be conducted by soliciting from people in motor vehicles)</li> <li>• when seeking donations of money only (rather than fundraising through a sale of goods and services) must take all reasonable steps to ensure that total expenses are not more than 50% of the gross proceeds.</li> </ul> |
| Victoria        | <p>Specific obligations exist in relation to:</p> <ul style="list-style-type: none"> <li>• face-to-face collections (i.e. collectors in public places must wear clearly visible identification badges with their name, name of organisation/person conducting the appeal, sequential identification numbers where soliciting from motor vehicles and must state whether they are paid or a volunteer – font must be at least 4mm in height – if handwritten, all in capitals. A sample badge is available on the regulator’s website)</li> <li>• using collection tins/other receptacles (i.e. they must be secure, sealed, clearly labelled and consecutively numbered, the organisation/person conducting the appeal must ensure the use and emptying is supervised)</li> </ul> <p>If, upon registration, it is estimated that less than 50 per cent of fundraising proceeds will be distributed to beneficiaries, a public disclosure condition may apply to fundraising activities (the registered fundraiser must tell prospective donors, either in person or in writing and clearly label all products offered for sale with the same message; e.g. ‘the fundraiser estimates that 40 per cent of funds donated to the fundraiser will be distributed to beneficiaries’).</p>  |

|                        | <b>Ongoing obligations while fundraising</b>   |
|------------------------|--|
| <b>South Australia</b> | <p>All individuals and organisations (including charities registered with the ACNC that are deemed to hold a Licence) must comply with the <a href="#">Charities Code of Practice</a> when collecting for charitable purposes in SA. Specific obligations exist in relation to:</p> <ul style="list-style-type: none"> <li>• face-to-face collections (i.e. collectors must wear clearly visible identification badges with their name or a unique identifier, the name of the authorised fundraiser and collector where applicable, the telephone number or website of the authorised charity and must state whether the collector is paid or a volunteer. Collections must only take place between 9am and 6pm on weekdays, 9am and 5pm on Saturdays, 11am and 5pm on Sundays and public holidays)</li> <li>• telephone collections (i.e. collectors must state their name, or unique identifier, the name of the authorised fundraiser and collection agent where applicable and whether they are paid or a volunteer, must not take place on Sundays or public holidays, before 9am or after 8pm on weekdays or before 9am and after 5pm on Saturdays)</li> <li>• using attended collection boxes (i.e. must be marked, in a reasonably prominent position, with the name and contact details of the authorised fundraiser)</li> <li>• using unattended collection boxes (i.e. must be marked in a reasonably prominent position with the phone number and address of authorised fundraiser and if a return has been submitted the website where the income and expenditure statement for the can be viewed)</li> <li>• conducting entertainment, selling or attempting to sell tickets for entertainment or advertising entertainment (i.e. tickets must contain licensee information and disclosure of amounts paid to entertainers, on request)</li> <li>• promoting collection activities by authorised fundraisers or collection agents (i.e. websites must display promotional material, internet advertising must include the authorised fundraiser's or collection agent's name and contact details and the purpose for which the funds are being collected, radio and television advertising must include the authorised fundraiser's or collection agent's name and contact details and the purpose for which the funds are being collected).</li> </ul> |
| <b>Queensland</b>      | <p>Specific obligations exist in relation to:</p> <ul style="list-style-type: none"> <li>• door-to-door and street collections (i.e. collectors must wear a distinctive armband or badge signed by the collector, must only take place on assigned days and between 9am and 5pm, a record of each collector must be kept and a written itinerary provided for each paid collector and lodged with the regulator 14 days before collections, collectors must not take part in a 'hijack' collection, or wear a mask or use a toy firearm while collecting. Collectors must not unreasonably annoy or intimidate or stay in a residence or place of employment if asked to leave)</li> <li>• collections boxes (i.e. they must be securely constructed, sealed, clearly labelled with an identification number and the name of the association conducting the appeal, the seal can only be broken by a person authorised by the association's governing body)</li> <li>• unattended collection boxes left at place of residence or employment (i.e. they must be collected or emptied at least once a month)</li> <li>• envelope collections (i.e. the association must ensure it has a gummed flap that can be securely closed, and the collector must only receive a contribution in a closed envelope)</li> <li>• selling devices door to door or through street collections where an authorised fundraiser has applied for an exclusive right to distribute a particular device (i.e. a register of devices must be kept. For door-to-door and street sales, a price tag must be on the devices)</li> <li>• advertising (i.e. an advertisement about an appeal must state the name and address of the promoter of the appeal and the charity or association conducting the appeal and must be approved by the regulator before distributed)</li> <li>• children participating in collections (i.e. a child under 15 must have written consent from a parent or guardian and be accompanied by an adult).</li> </ul>  |

## Ongoing obligations while fundraising

|                          |  |
|--------------------------|--|
| <b>Tasmania</b>          | <p>Specific obligations exist in relation to:</p> <ul style="list-style-type: none"><li>• street collections (i.e. collectors must wear an identity card with their name, the name of the approved fundraiser and the location of its principal office. Collectors must obtain separate approval from Tasmania Police to undertake street collections)</li><li>• door-knocking (i.e. collectors must wear an identity card with their name, the organisation name of the approved fundraiser and the location of its principal office, and the purpose of the donation. They can collect on any day only between 9am and 8pm (between 1 November and 31 January), 9am and 7pm (between 1 February and 30 April), 9am and 5pm (1 May and 31 August), and 9am and 7pm (between 1 September and 31 October)</li><li>• telephone appeals (i.e. they must only take place between 9am and 8pm, the caller must state their name, the name of the approved fundraiser and the location of its principal office)</li><li>• written, electronic media or advertisements (i.e. they must include the name of the approved fundraiser, the address of its principal office and its contact number, and a statement of the purpose for which the donation is being sought)</li><li>• children taking part in collections (i.e. those under 12 must be under immediate control of an adult; those aged 12 to 15 must be under adult supervision)</li></ul> <p>An organisation must not permit any of its officers, agents or employees to engage in any activity which contravenes the Tasmanian fundraising laws.</p> <p>An organisation must not permit its agent, contractor, officer or employee to receive any benefit which is excessive if that benefit in whole or in part is derived from funds obtained by donation.</p> |
| <b>Western Australia</b> | <p>Specific obligations exist in relation to:</p> <ul style="list-style-type: none"><li>• street collections (i.e. a separate street appeal permit is required, collections can only take place on an allocated Friday between 7am and 9pm unless otherwise approved, and collectors must wear numbered identification badges with their name, the name of the authorised fundraiser and the period of time the fundraiser has authority to collect)</li><li>• door-knocking (i.e. it can only take place Monday to Saturday between 9am and 6pm; no Sundays or public holidays)</li><li>• telephone appeals (i.e. they can only take place Monday to Saturday between 9am and 8pm; no Sundays or public holidays)</li><li>• collection boxes (i.e. they must be secure, sealed, consecutively numbered, prominently display name of authorised fundraiser, date of collection, must not be fixed to a pole or otherwise designed to be held beyond the reach of the collector. A register of boxes and their corresponding collector must be kept)</li><li>• children taking part in collections (i.e. must be over 16 unless there is authority in writing from the Minister; no pre-school or primary school-aged children).</li></ul> <p>Once an organisation or individual becomes licensed it may choose to comply with a <a href="#">voluntary code of practice</a> for public fundraising, which sets out a set of principles and guidelines.</p>  |

## Ongoing obligations while fundraising

### Australian Capital Territory

Specific obligations exist in relation to:

- street collections and door-knocking (i.e. collectors must wear an identification tag with their surname or unique number given to the collector by the authorised fundraiser, the fundraiser's name or logo – if the logo is reasonably well known to the general public, the fundraiser's contact number, the purpose of the collection and how and where the proceeds will be spent, and notification that the person is a 'paid collector' if applicable)
- telephone appeals (i.e. collectors must state the purpose of the collection, how and where the proceeds will be spent, the authorised fundraiser's name and phone number, and notification that the person is a 'paid collector' if applicable)
- written and website collections (i.e. must state the purpose of the collection, how and where the proceeds of the collection will be spent, the fundraiser's name and phone number, and notification that the person is a 'paid collector' if applicable)
- collection bins (i.e. they must show the authorised fundraiser's name and phone number and the purpose of collection)
- children taking part in a collection – there are extensive requirements set out in the Regulations (e.g. they cannot take part before 6am or sunrise (whichever is later) or after 7pm or sunset (whichever is earlier) unless with an adult, can do no more than 3 hours a day, and require direct supervision (aged under 6) or adequate supervision (aged over 6)).

### PART 4 CHECKLIST

- Are we prepared and ready to comply with obligations under the relevant fundraising regimes in relation to our fundraising activities?
- Are we conducting any types of fundraising that have extra requirements like door-knocking, and do we understand those extra requirements?
- Have we considered other laws that apply to our fundraising activities, like the Australian Consumer Law, and are will we be complying with these laws as well?

## 5. Financial and reporting obligations

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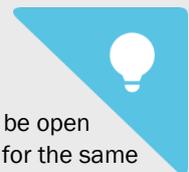
The state and territory fundraising regimes have different reporting requirements. Fundraising reporting is generally required in addition to any reporting to regulators of an organisation's incorporation or, if registered as a charity, to the ACNC. Unfortunately, meeting the reporting obligations associated with fundraising can be a significant burden on fundraisers, especially when fundraising is occurring in a number of jurisdictions.

In general, the following guidance can help fundraisers comply with reporting requirements of fundraising regulators. However you will need to carefully look at the detailed requirements of each relevant regime.

- keep accurate records of fundraising, including keeping records of which campaigns that funds received relate to if your organisation is running multiple campaigns, and complying with relevant accounting standards so that audits can properly be undertaken of accounts
- keep funds raised appropriately separate and safeguarded from other personal or organisational funds
- make a calendar of reporting dates for your fundraising activities – they may be different in each jurisdiction. Some regulators, including in particular Consumer Affairs Victoria, may be open to having a conversation about harmonising reporting dates so that if a fundraiser needs to report in multiple jurisdictions, they can prepare only one set of fundraising reports
- note that some regulators have power to request further information to that which is ordinarily required in a report
- check whether extra reporting requirements above and beyond general requirements set out in fundraising regimes have been included in conditions attached to fundraising approvals, and
- remember that in some jurisdictions fundraisers need to notify regulators if certain things change, such as key contact people for fundraising, or the registered address of the fundraiser.

### TIP

Where an obligation seems overly onerous, it is worth speaking to relevant regulators to ask whether the requirements can be waived in your circumstances. In particular, regulators may be open to a discussion with you if you have to meet conflicting requirements in different jurisdictions for the same campaign, or if your campaign is small and low-risk, and requirements seem overly onerous.



### Table of financial and reporting obligations

Note that the meaning of 'audit' and 'auditor' is different under each fundraising regime. In general, auditors must be 'independent', which means that they cannot be involved with the organisation (e.g. sit on the committee or board), and cannot have been involved in the preparation of the accounts and records that will be audited.

## Financial and reporting obligations

|                               |   |
|-------------------------------|---|
| <p><b>New South Wales</b></p> | <p>All funds raised by a fundraiser must be deposited immediately into a separate bank account that only contains money raised in fundraising appeals by the fundraiser (this requirement may be relaxed if accounting practices are in place at an organisation that allows for easy differentiation of different types of income, or if provided for in a licence).<br/>Licence holders must submit annual financial accounts (reports), which include an income statement and balance sheet. If certain thresholds are met, additional requirements apply:</p> <ul style="list-style-type: none"> <li>• if the gross income from any fundraising appeals is more than \$100,000 in a financial year, information must accompany the income statement (i.e. accounting principles and methods adopted in the preparation of the statement).</li> <li>• If the gross income from any fundraising appeals is more than \$250,000 in a financial year, audited financial reports must be prepared and submitted to NSW Fair Trading. The audit must be completed by an independent auditor.</li> </ul> |
| <p><b>Victoria</b></p>        | <p>All funds must be deposited into a separate bank account that is used exclusively for money received in the course of fundraising appeals - in either the name of the beneficiary of the funds or a bank account with a name that indicates it contains fundraising proceeds.<br/>Registered fundraisers must submit annual financial returns in order to continue fundraising. The relevant form is emailed directly to the organisation 6 weeks before every 12 months after the original registration date. Details to be included in the annual return can be found in the blank annual fundraiser return on the regulator's <a href="#">website</a>.</p>  |
| <p><b>South Australia</b></p> | <p>The holder of a Licence must keep proper records and submit a copy of audited accounts for the last financial year. Licence holders must also submit a 'Fundraising Income and Expenditure Statement', at the time stated on the Licence. This Statement will be publicly available on the regulator's <a href="#">website</a>.<br/>If your organisation is a registered charity with the ACNC (and has been deemed to hold a Licence) and it has complied with its reporting requirements to the ACNC, it will not be required to comply with the reporting requirements in relation its fundraising activities outlined above.<br/>Note that there may be exemptions from audit requirements for individuals fundraising – individuals will need to speak to CBS to confirm this position in relation to their fundraising.</p>  |
| <p><b>Queensland</b></p>      | <p>All amounts collected must be paid, as soon as practicable, into a separate bank account in the name of the registered charity or sanctioned association.<br/>For registered charities and organisational holders of sanctions:</p> <ul style="list-style-type: none"> <li>• within 7 months of the end of the organisation's financial year - must lodge a financial report with QLD Fair Trading, including a statement of income and expenditure of the organisation, balance sheet and an auditor's report.</li> </ul> <p>For sanctioned one-off appeals, within one month of the end of an appeal, holders of sanctions must lodge with QLD Fair Trading an audited statement of receipts and payments in relation to the appeal and written confirmation from the beneficiary that they have received the donation.<br/>The audited reports must be completed by a person with appropriate qualifications.</p>   |
| <p><b>Tasmania</b></p>        | <p>There are no standard reporting requirements. However, the regulator (Consumer Affairs and Fair Trading) may compel an organisation to report in certain circumstances and may attach certain reporting conditions to an approval of a fundraiser.<br/>For example, the regulator has indicated that:</p> <ul style="list-style-type: none"> <li>• for organisations based outside of Tasmania, there are no annual reporting requirements, but the conditions attached to the fundraising approval may require that they provide details of all donations received.</li> <li>• for unincorporated associations in Tasmania and individuals, the regulator will require a financial statement to be lodged annually detailing donations received.</li> </ul>   |

|                                     | <b>Financial and reporting obligations</b>  |
|-------------------------------------|---|
| <b>Western Australia</b>            | <p>All organisations engaging in regulated fundraising activities must deposit funds into a separate bank account (opened for this purpose) within 7 days of receipt. All licensed organisations are required to submit audited financial statements within the period nominated by the relevant Minister (which is currently six months) of the end of their financial year.</p> <p>The auditor must complete the Form '<a href="#">Audit report: Auditor appointed by special approval</a>' and the auditor must not be a member of the committee of management of the licensed organisation, or involved in any other way in the management or the preparation of the accounts of the organisation.</p>  |
| <b>Australian Capital Territory</b> | <p>A licence holder must deposit proceeds into a separate bank account with a name that indicates it contains the proceeds of a collection and it must be used exclusively for the money received from the fundraising activities. The account must be operated with the signature of 2 people. Funds collected must be deposited into the bank account within 5 days of receipt.</p> <p>A licence holder must provide a financial report to the Director General in relation to all collections under the Licence as follows:</p> <ul style="list-style-type: none"> <li>• a licence for less than 12 months - report within 120 days of expiry of the Licence.</li> <li>• a licence for more than 12 months - report within 120 days after the end of each 12-month period and within 120 days after expiry of the licence.</li> </ul> <p>The financial report provided to the Director General must be audited if the fundraising income within the relevant 12-month period exceeds \$50,000.</p> |

#### **PART 5 CHECKLIST**

- Do we understand what kinds of reporting we need to provide to which regulators, and when we need to do so? Have we set up reminders around when reports are due?
- Have we set up systems and records management so that we will be able to report in the ways required?
- Do we need an auditor under any of the relevant jurisdictions?

# What can you do with funds raised?

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If you have successfully raised funds through fundraising activities, keep in mind the following restrictions on what you can do with those funds:

- if you have said in your fundraising that you will put funds raised to a particular use or purpose, then you should follow through on this representation. If you cannot do so (for example, the charity that you raised funds for no longer exists), you should contact the relevant regulators and they will advise what to do with the funds. Often this will be to provide the funds to charities or beneficiaries similar to those that you originally raised the funds for, and
- ‘non-distribution’ rules apply to charities and not-for-profits. This means that funds cannot be distributed outside of an organisation unless that distribution is in furtherance of the purpose or mission of the organisation. It is okay to make payments to cover the expenses of running a fundraising campaign, or running the organisation, but the non-distribution rule means that if you make unreasonably extortionate payments to third-party providers (whether they are providers of fundraising services, or to a landlord) these payments may be characterised as a distribution in contravention of the non-distribution rules, especially if there is a relationship between those approving the payment and the third party receiving the payment. Unreasonably high payments to third parties may also amount to a breach of directors’ duties to exercise care, skill and diligence. Also if there is a relationship between the directors and the person receiving the high payment, this may be a conflict of interest. For more information on directors’ duties visit our Governance page on the Information Hub at [www.nfplaw.org.au/governance](http://www.nfplaw.org.au/governance). For further information on managing conflicts of interest, read the [ACNC’s guide](#) for charity board members.

# Resources

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## Related Not-for-profit Law Resources

The Not-for-profit Law Information Hub contains many fact sheets on different topics. It can be accessed at [www.nfplaw.org.au](http://www.nfplaw.org.au). The following topics contain further relevant information:

✔ Fundraising [www.nfplaw.org.au/fundraising](http://www.nfplaw.org.au/fundraising)

This page contains Not-for-profit Law's detailed fundraising guides for each state and territory and further information on gifts, wills and bequests, raffles and minor gaming, and trade promotions.

✔ Fundraising Policy [www.justiceconnect.org.au/fundraisingreform](http://www.justiceconnect.org.au/fundraisingreform)

Not-for-profit Law is part of a coalition of organisations advocating for reform and harmonisation of fundraising laws across Australia to reduce complexity for charities and not-for-profits. You can read more about the #fixfundraising campaign here.

✔ Grant funding [www.nfplaw.org.au/seekingfunding](http://www.nfplaw.org.au/seekingfunding)

The Grants and government funding page on the Information Hub provides detail on another common source of funding for not-for-profits.

✔ New funding approaches [www.nfplaw.org.au/newfunding](http://www.nfplaw.org.au/newfunding)

The New funding and financial models page on the Information Hub offers information on new approaches to fundraising including social impact bonds and microfinancing.

✔ Events [www.nfplaw.org.au/events](http://www.nfplaw.org.au/events)

The Events page on the Information Hub features useful resources on the legal issues to consider when holding an event.

✔ Communications and advertising [www.nfplaw.org.au/comms](http://www.nfplaw.org.au/comms)

The Communications and advertising page on the Information Hub covers laws that apply to public and private communications including the Australian Consumer Law.

✔ Insurance and risk [www.nfplaw.org.au/riskinsurance](http://www.nfplaw.org.au/riskinsurance)

The Insurance and risk page on the Information Hub features resources on insurance, background checks, negligence, and occupational health and safety.

✔ The people involved [www.nfplaw.org.au/people](http://www.nfplaw.org.au/people)

The people involved page on the Information Hub page offers important information on legal issues relating to clients, employees, recruitment, members and volunteers.

✔ Deductible Gift Recipient Endorsement [www.nfplaw.org.au/DGR](http://www.nfplaw.org.au/DGR)

The DGR Endorsement page on the Information Hub explains the different categories for endorsements, the application process, and issues that arise in maintaining DGR endorsement.

✔ Privacy [www.nfplaw.org.au/privacy](http://www.nfplaw.org.au/privacy)

This page explains why it is best practice to assume that all privacy laws will apply to your not-for-profit group.

✔ Registering as a charity [www.nfplaw.org.au/charity](http://www.nfplaw.org.au/charity)

The Charity page on the Information Hub features an Introduction to Charities Law fact sheet.

## Australian Charities and Not-for-profits Commission (ACNC)

✔ ACNC [www.acnc.gov.au](http://www.acnc.gov.au)

✔ [ACNC governance standards](#)

Charities registered with the ACNC must meet Governance Standards to be registered and remain registered.

✔ [ACNC - Charities and fundraising](#)

## State and territory regulators

✔ [NSW Fair Trading](#)

✔ [Consumer Affairs Victoria](#)

✔ [Consumer and Business Services South Australia](#)

✔ [Queensland Office of Fair Trading](#)

✔ [Tasmanian Office of Consumer Affairs and Fair Trading](#)

✔ [Western Australia Department of Commerce, Consumer Protection Division](#)

✔ [Access Canberra](#)

## Fundraising registers and lists

You can search the following registers and lists for fundraising organisations in each state and territory.

✔ [NSW register of organisations authorised to fundraise](#)

✔ [Victoria register of fundraisers](#)

✔ [South Australia list of current, expired and revoked charity licences](#)

✔ [Queensland register of authorised fundraisers](#)

✔ [Tasmania list of approved charities](#)

✔ [Western Australia list of licensed charities](#)

✔ [Western Australia street collections roster](#)

✔ [ACT public register search](#)

## Legislation

✔ [The Australian Consumer Law](#)

✔ [Corporations Act 2001 \(Cth\)](#)

✔ [Charities Act 2013 \(Cth\)](#)

✔ [Charitable Fundraising Act 1991 \(NSW\)](#)

✔ [Charitable Fundraising Regulation 2015 \(NSW\)](#)

✔ [Fundraising Act 1998 \(Vic\)](#)

✔ [Fundraising Regulations 2009 \(Vic\)](#)

- [Collections for Charitable Purposes Act 1939 \(SA\)](#)
- [Collections Act 1966 \(QLD\)](#)
- [Collections Regulation 2008 \(QLD\)](#)
- [Collections for Charities Act 2001 \(Tas\)](#)
- [Collections for Charities Regulations 2011 \(Tas\)](#)
- [Charitable Collections Act 1946 \(WA\)](#)
- [Charitable Collections Regulations 1947 \(WA\)](#)
- [Street Collections \(Regulation\) Act 1940 \(WA\)](#)
- [Street Collections Regulations 1999 \(WA\)](#)
- [Charitable Collections Act 2003 \(ACT\)](#)
- [Charitable Collections Regulation 2003 \(ACT\)](#)

### Other related resources

- [The Telemarketing Standard](#)
- [ACFID code of conduct](#)
- [Fundraising Institute of Australia](#)
- [Public Fundraising Regulatory Association](#)
- [Australian Taxation Office – Gifts and Fundraising](#)

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