

Commercial Insights

Changes to ACNC Governance Standards

The Australian Charities and Not-for profits Commission (**ACNC**) Governance Standards require registered charities to remain charitable, operate lawfully, and be run in an accountable and responsible way. For registered charities, complying with the Governance Standards not only ensures charity registration with the ACNC, but also continued Commonwealth charity tax concessions.

In recent months, two major changes were proposed that seek to clarify and strengthen the existing Governance Standards:

- amendments to Governance Standard 3; and
- the addition of Governance Standard 6.

Governance Standard 3

An [Exposure Draft](#) and [Explanatory Statement](#) released on 16 February 2021 proposed an expanded scope to Governance Standard 3, specifically that registered charities should not be entitled to remain registered if they:

- commit a summary offence under an Australian law relating to real property, personal property or causing personal injury or harm to an individual; or
- fail to take reasonable steps to ensure their resources are not used to promote acts by an entity that may be an indictable offence, a summary offence, or a civil penalty of 60 units or more.

Types of unlawful behaviour that may fall under these offences include unlawful gatherings, illegal blockades, vandalism, and theft of stock. Registered charities may soon have to reconsider using these means as a part of their activism and advocacy.

For example, an environmental charity that seeks to draw attention to climate change by encouraging their volunteers to engage in unlawful gatherings may soon be at risk of having their Commonwealth charity tax concessions and status with the ACNC revoked.

Governance Standard 6

On 7 December 2020, an [Exposure Draft](#) and [Explanatory Statement](#) proposed the introduction of a new standard, Governance Standard 6.

If implemented, the Governance Standard 6 will require registered charities to take reasonable steps to join the *National Redress Scheme for Institutional Child Sexual Abuse* if the charity is, or is likely to be, identified as being involved in the abuse of an applicant for redress under the Redress Scheme.

While the above amendments and additions are yet to be implemented, failure to comply with the current Governance Standards can lead to severe consequences. We encourage registered charities to stay up to date with the evolving requirements imposed by the Governance Standards.

The ACNC provides a useful self-evaluation tool for registered charities to assess if they are meeting the Governance Standards, which can be accessed [here](#).

This article was written by Principal, Mark Fitzgerald and Solicitor, Yashila De Silva. If you have any questions about the ACNC Governance Standards, please contact Mark Fitzgerald.



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