



nsw Federation of
Housing Associations inc

Federation Bulletin



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The ACNC Exposure Draft Bills Open for Comment

The establishment of a national not-for-profit regulator is progressing

On 5 July 2012 the exposure draft legislation establishing the new national regulator for the charity and non-profit sector was referred to the House of Representatives Standing Committee on Economics for parliamentary scrutiny. The enquiry will also provide for additional public consultation. The two draft bills and the explanatory materials can be accessed at Treasury's [Not-For-Profit Consultation page](#).

The main purpose of the proposed legislations is the establishment of the Australian Charities and Not-for-profits Commission (ACNC) as the national regulator of not-for-profit organisations and charities.

The primary ACNC function will be registration of charities as a pre-condition to receiving subsidies and other assistance from the government. Division 25 of the Bill outlines several conditions that need to be met before registrations are to take place ("Entitlement to Registration"). While this effectively provides the first legislative basis for the definition of charity, for the time being it simply refers to the Common Law definition of charity – until the proposed reform to establish a statutory definition of charity is complete.

While the proposed Bill provides further assurances for the establishment of a regulator for community services independent of the Australian Taxation Office, there are still some issues to be resolved:

- Critical reforms pertinent to the legislations are still to be resolved, most notably the unrelated business income test (UBIT) and statutory definition of 'Charity';
- Excessive and duplicated administrative penalties for late lodgement of documentation relevant to registration;
- The definition of the governance requirements is not included in the Bill;
- The lack of thorough consultation with the not-for-profit sector and the lack of take-up of issues identified in the consultation;
- For the community housing sector the most important issue is the absence of any information about the interaction of the Bill and National Community Housing Regulation.

The Federation will continue to advocate on behalf of the sector for resolution of these issues in collaboration with the Australian Council of Social Service (ACOSS) and the Community Housing Federation for Australia (CHFA). The ACOSS Draft submission can be accessed [here](#).

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