



Registered Charity – Fact Sheet

The Community Justice Services Branch of the Department of Justice and Attorney-General (**Department**) administers the *Collections Act 1966* (Qld) (**the Act**) and the *Collections Regulations 2008* (Qld) (**Regulations**) and controls how charities and community purpose organisations conduct appeals for public support or fundraising in Queensland. Any organisation that wants to publicly fundraise for a charitable or community purpose is governed by the Act and the Regulations as varied from time to time.

What permits or approvals are required?

Under the Act, an organisation may require either of the following 2 approvals:

Registering a charity

To be registered as a charity, an association's objectives must meet the definition of 'charitable purpose' under the Act. This definition includes supplying help, aid, relief, support, care, housing or education to any person in distress. The organisation must also have a constitution that contains a non-profit clause stating that the charity must use its income and property to promote its objectives and **not distribute it among members nor pay dividends to members**.

Your organisation must advertise for objections before applying to register as a charity. The advertisement must be published in:

- a Brisbane published newspaper that circulates throughout Queensland; and
- another newspaper that is published at least 5 days a week and circulates throughout the area where your organisation's registered address is situated.

The applicant needs to complete **Form 1 – Application for registration** together with the following attachments and lodge it with the Department for approval:

- a copy of your organisation's constitution certified by 2 governing body members;
- a copy of the resolution or minutes where your organisation resolved to apply for registration certified by 2 governing body members;
- a copy of your organisation's most recent balance sheet or a statement of its financial affairs; and
- the central body's written consent (if an organisation's branch applies).

If approved, the Department will issue the applicant with **Form 2 – Certificate of registration as a charity**. It is a one-off requirement for each charity to register if it intends conducting appeals for support. A registered charity may continue to fundraise until its registration is cancelled or it is directed to cease fundraising.

Can a company apply to become a registered charity?

Association is defined in the Act as any association of persons, and includes any society, institution, undertaking, organisation, **company**, or body, by whatever name called, and whether incorporate (sic) or unincorporated.

Obtaining a sanction for authority to fundraise

Organisations wanting to fundraise or conduct an appeal for a community purpose may be required to apply for a sanction. Community purposes include raising funds or conducting appeals for the general welfare of the community. The applicant needs to complete **Form 5 – Application for sanction** and lodge it with the Department for approval.

If approved, the Department will issue the applicant with **Form 6 – Certificate of sanction**. The organisation may continue to fundraise until the sanction expires or it is cancelled or it is directed to cease fundraising.

After registration

Registered charities and sanctioned organisations must have their financial records audited annually – section 31 of the Act. A copy of the financial statement must be submitted to the Department within 7 months of the end of the organisation's financial year. Schedule 2 of the Regulations describes the format of the accounts which must be kept by the Charity.

You must also notify the Department of any changes you wish to make to the constitution or management committee.

Subject to certain threshold requirements imposed by the Australian Tax Office, a Registered Charity may be exempt from paying income tax and may also receive various other taxation concessions.

Employment and Contracting

The Act and the Regulations are silent in terms of employment of staff. Additionally, there does not seem to be any requirement to disclose the salaries of executives of registered charities.

The terms and conditions on which a registered charity trades would presumably be on usual commercial terms subject to compliance with the charitable purpose and in the case of a company registered as a charity, the *Corporations Act 2001* (Cth) and the common law.

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"The information contained in this article is general in nature and cannot be regarded as anything more than general comment. Readers of this article should not act on the basis of this comment without consulting one of Rostron Carlyle's legal practitioners who will consider their particular circumstances".

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