

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Additional Estimates 2012

15 – 17 February 2012

Question: AET 45 - 48

Topic: Australian Charities and Not for profit Commission Bill

Hansard Page: Written

Senator SIEWERT asked:

45. How is it that the Bill was released incomplete and with a consultation period which stretched over the Christmas period?
46. Are there any implications on operation of this Bill from the yet to be finalised:
 - a. statutory definition of Charities;
 - b. the better targeting of concessions initiative;
 - c. 'in Australia' special conditions test.
47. Many Charities and NFPs are currently monitored by Commonwealth accreditation and regulatory agencies – What is the role of the ACNC in relation to these accreditation and regulatory agencies?
 - a. Will these agencies be required to accept the reporting requirements of the ACNC?
48. Will this Bill increase or decrease the workload of charities?

Answer:

In order to have the ACNC in place and up and running by 1 July 2012 (as originally announced), legislation for the ACNC needed to be introduced into Parliament in the first quarter of 2012. This meant that the Government needed to consult on the exposure draft legislation and explanatory materials for the ACNC in December 2011 and early January 2012, to allow time to take account of any comments from the sector, prior to introduction into the Parliament.

To address concerns related to the tight timeframes, the Treasury released a number of fact sheets and engaged in open discussion forums in Melbourne on 14 December 2011 and in Canberra on 15 December 2011 with various members of the NFP sector to ensure the fullest engagement possible.

The Government announced on 1 March 2012 that it was extending the start date of the ACNC from 1 July 2012 to 1 October 2012, to allow time for further targeted consultation to take place. The former Assistant Treasurer's joint media release No. 011 of 2012 provides more details.

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The ACNC Bill does not directly impact on the measure to introduce a statutory definition of charity which was announced in the 2011-12 Budget. The ACNC will use the definition of charity developed by the common law to determine whether an applicant is a charity until the statutory definition commences. Treasury released a consultation paper on this measure in October 2011 and received over 200 submissions. The Government is currently considering these submissions and will release exposure draft legislation later in 2012. The statutory definition will commence on 1 July 2013, at which time the ACNC will have started operations, and will have had time to develop guidance materials for the sector on the operation of the statutory definition.

The 2011-12 Budget measure to better target NFP tax concessions will have no implications on the operation of the ACNC legislation, as the administration of tax concessions will remain the responsibility of the Commissioner of Taxation and separate from the operation of the ACNC.

The measure to restate and standardise the special conditions for tax concession entities (including the 'in Australia' conditions) will have some minor interaction with the ACNC Bill and is being progressed along similar timelines. A revised exposure draft was released on 17 April 2012 and consultation closed on 11 May 2012. The Assistant Treasurer's media release No. 015 of 2012 provides more details.

The ACNC will initially be responsible for providing education and support to the sector; implementing a 'report-once use-often' general reporting framework for charities; implementing a public information portal by 1 July 2013; and governance regulation.

It is expected that the ACNC regulatory framework will replace many existing Commonwealth requirements. For example, the ACNC will take over reporting arrangements of NFP companies from the Australian Securities and Investments Commission from 1 July 2013.

Commonwealth agencies are currently undertaking a review of all NFP regulation at the Commonwealth level. This review is exploring mechanisms to reduce any duplication of regulatory responsibilities between existing regulators and the soon to be established ACNC, to enable the ACNC to become a 'one-stop shop' regulator for the NFP sector.

This will provide benefits to the sector by way of reduced duplication and compliance costs, smarter regulation, and the minimum level of oversight necessary to ensure the good governance, accountability and transparency of NFP entities.

Further information can be found in ACNC Factsheets and Treasury Not-for-profit Reform Newsletters available at www.treasury.gov.au.