



Australian Government



Australian  
**Charities** and  
Not-for-profits  
Commission

12 July 2018

Senate Legal and Constitutional Affairs Committee  
PO Box 6100  
Parliament House  
Canberra ACT 2600

**BY EMAIL: [legcon.sen@aph.gov.au](mailto:legcon.sen@aph.gov.au)**

### **Submission to the Review of the Modern Slavery Bill 2018**

1. The Australian Charities and Not-for-profits Commission (**ACNC**) welcomes the opportunity to provide a submission to the Review (**Review**) into the Modern Slavery Bill 2018 (**the Bill**). This submission focuses on the impact of the Bill on charities registered with the ACNC.

#### **The ACNC's role**

2. The ACNC was established on 3 December 2012 by the *Australian Charities and Not-for-profits Commission Act 2012 (Cth)* (**ACNC Act**). The objects of the ACNC Act are to:
  - maintain, protect and enhance public trust and confidence in the Australian not-for-profit sector; and
  - support and sustain a robust, vibrant, independent and innovative Australian not-for-profit sector; and
  - promote the reduction of unnecessary regulatory obligations on the Australian not-for-profit sector.<sup>1</sup>
3. Just over 56, 000 charities are regulated by the ACNC.<sup>2</sup> Australia's charities deliver services, make grants and perform a wide range of other activities to advance health, education, welfare, religious and other charitable causes. Charities range in size from extra small (less than \$50,000 – 39.8% of all charities) to extra large with revenue over \$100 million (0.3% of all charities). Half of charities have no paid staff, and the sector is supported by 2.9 million volunteers.<sup>3</sup>

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<sup>1</sup> ACNC Act, section 15-5.

<sup>2</sup> As of 10 July 2018. See [www.acnc.gov.au](http://www.acnc.gov.au) for the most up to date figure for registered charities.

<sup>3</sup> 2016 Australian Charities Report – available [here](#).



### Number of charities to be 'reporting entities'

4. The ACNC believes that fewer than 120 registered charities will meet the definition of 'reporting entity' set out in the Bill (s 5).<sup>4</sup> As mentioned in paragraph 3 above, the majority of charities are small and therefore will not be captured by the revenue limit of \$100 million. The ACNC is of the view that charities with annual revenue of more than \$100 million will be in a position to undertake the due diligence required to complete a modern slavery statement.
5. The ACNC notes that most elements of the Act, once passed, will come into force on a single day to be fixed by Proclamation, not more than six months after the Act receives Royal Assent. The ACNC would encourage the government to ensure that sufficient information is provided to those entities that will be impacted by the Act as soon as possible, to allow them adequate time to put necessary arrangements in place. The ACNC assumes that the Department responsible for the Modern Slavery Statement Register will provide educative resources to the public, and particularly those required to complete modern slavery statements, including examples of the types of due diligence required under the scheme.

### Reporting by Commonwealth non-corporate entities – potential impact on charities

6. As set out in s 15, the Minister must prepare a combined modern slavery statement for the Commonwealth covering all non-corporate Commonwealth entities within the meaning of the *Public Governance, Performance and Accountability Act 2013* (Cth). Paragraph 118 of the Explanatory Material states:

*The Commonwealth Modern Slavery Statement will address the mandatory criteria in section 16 on a whole-of-government basis. The statement will focus on potential modern slavery risks in Commonwealth procurement at a whole-of-government level and the operations of the Australian Government, including its investments. Consistent with its strategic, whole-of-government focus, the statement will not necessarily refer to specific Commonwealth entities or provide entity specific details about procurement.*

7. The ACNC would like to draw the Committee's attention to the fact that many charities supply goods or services to Commonwealth non-corporate entities. An example of this is charities which supply services under the Commonwealth Home Support Program, such as local Meals on Wheels organisations. These charities cover the spectrum of sizes, and as stated above, many are small charities earning less than \$250,000 in revenue annually. Small charities received a total of \$194.7 million revenue from government<sup>5</sup> in 2016.<sup>6</sup>

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<sup>4</sup> Using data from available 2017 Annual Information Statements as at 10 July 2018. Note, this is individual charities and the numbers may be slightly higher depending on the number of charities captured by the requirements for joint reporting as set out in ss 4 and 14 of the Bill.

<sup>5</sup> That is, financial assistance provided by the Commonwealth, state or territory government, or local government body, to a charity for a purpose, such as to provide goods or services to others. This includes revenue received under a contract with the government to provide specified services.

<sup>6</sup> Statistics taken from [australiancharities.acnc.gov.au](http://australiancharities.acnc.gov.au) using data from 2016 Annual Information Statements. Website accessed on 11 July 2018. It is not possible to ascertain how much of this funding comes from the Commonwealth Government.



8. As the ACNC reads s 15, it would not require Commonwealth non-corporate entities to obtain modern slavery statements from all their suppliers, nor would it require new clauses in contracts requiring suppliers to guarantee that they have undertaken due diligence to ensure supply chain integrity as this relates to slavery and risks of slavery. This is appropriate in our view, given the size of many of the charities involved and the potential regulatory burden should these charities be required to prepare modern slavery statements.

### **NSW Modern Slavery Act 2018**

9. The ACNC notes that the NSW Parliament recently passed the *Modern Slavery Act 2018* (NSW). There are several significant points of difference between this Act and the Commonwealth Bill, such that the requirements in the Act will increase regulatory burden on charities with employees in NSW. Firstly, more charities will be required to complete a NSW modern slavery statement as the revenue trigger for requiring a statement is \$50 million in the NSW Act. Secondly, it is likely the NSW Act will require NSW government entities to require evidence from all suppliers that the supplier is undertaking due diligence to ensure its goods and services are not the product of slavery.
10. The ACNC would encourage state and Commonwealth governments to discuss ways of reducing this burden. Should other states also introduce separate legislation, charities operating in multiple jurisdictions could find themselves answerable to seven or eight different regulatory schemes for modern slavery.

### **Further information**

11. The ACNC is able to provide further information on any of the concerns raised above, should this be useful to the Senate Committee on Legal and Constitutional Affairs. Contact information is provided below.

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