

**Senate Economics Legislation Committee**

**ANSWERS TO QUESTIONS ON NOTICE**

**Treasury Portfolio**

Additional Estimates

2016 - 2017

**Division/Agency:** Australian Charities and Not-for-profits Commission (ACNC)

**Question No:** 137

**Topic:** The Royal Flying Doctor Service

**Reference:** Written

**Senator:** Rhiannon, Lee

**Question:**

1. The Royal Flying Doctor Service (RFDS) is 'made up of seven legal entities operating around Australia, under a federated structure, and working together under a joint venture agreement. Each of the entities is independent, both financially and operationally, with their own Board and management'. Further, each RFDS entity is registered separately with the ACNC:

a. Which entity of the RFDS has a contract with Elbit Systems to construct, operate and maintain a flight simulator in Dubbo, NSW?

2. Are there any rules that RFDS needs to follow with regard to joint activities with a commercial venture?

3. As RFDS is using public land for its commercial joint project with Elbit Systems, are there any restrictions on RFDS using such land?

4. The ACNC website states the ACNC can conduct an investigation into a registered charity if it is alleged that among other things a charity a) is not entitled to be registered as a charity or as a specific subtype (subtypes must match the charity's purpose); or b) has failed to ensure its responsible people have complied with their duty to act in good faith, with a reasonable degree of care and diligence, in the charity's best interests and pursuing its purpose.

a. Considering Elbit Systems is a major weapons manufacturer does this conflict with RFDS charity work to assist sick and injured people across Australia?

5. When a registered charity goes into commercial partnership with a private company does it have to demonstrate that it maintains a charitable purpose for the public benefit?

**Answer:**

1. There are 15 registered charities on the Australian Charities and Not-for-profits Commission (ACNC) Charity Register that appear to be associated with the Royal Flying Doctor Service.

<b>ABN</b>	<b>Charity name</b>
29067077696	Royal Flying Doctor Service Of Australia (Western Operations)
42095875264	Royal Flying Doctor Service Of Australia (South Eastern Section) Victorian Operations
49374868849	Royal Flying Doctor Service Dubbo Support Group Incorporated
57055764315	White Cliffs Royal Flying Doctor Auxiliary
71004196230	Royal Flying Doctor Service Of Australia (Victorian Section)

73647678739	Royal Flying Doctor Service (Eastern Goldfields Section) Auxiliary Incorporated
74438059643	Royal Flying Doctor Service Of Australia
78095874669	Royal Flying Doctor Service Of Australia (South Eastern Section) Tasmanian Operations
80009663478	Royal Flying Doctor Service Of Australia (Queensland Section)
81108409735	Royal Flying Doctor Service Of Australia Central Operations
82457248223	Royal Flying Doctor Service Of Aust.-Broken Hill Auxiliary
86000032422	Royal Flying Doctor Service Of Australia (South Eastern Section)
88095873840	Royal Flying Doctor Service Of Australia (South Eastern Section) New South Wales Operations
93785910050	Royal Flying Doctor Service Tasmania Inc
26161472199	RFDS (Qld) Services Limited

Information about all of the above registered charities can be found on their individual Charity Register listings at [acnc.gov.au/findacharity](http://acnc.gov.au/findacharity).

a. Registered charities are not obliged to report to the ACNC on contracts they may enter into in the course of their operations.

2. In addition to meeting the requirements of any relevant Commonwealth or state/territory legislation, registered charities must ensure that they are meeting their obligations under the *Australian Charities and Not-for-profits Commission Act 2012* (Cth) (ACNC Act) and governance standards. The governance standards that registered charities must adhere to are:

**Standard 1: Purposes and not-for-profit nature**

Charities must be not-for-profit and work towards their charitable purpose. They must be able to demonstrate this and provide information about their purposes to the public.

**Standard 2: Accountability to members**

Charities that have members must take reasonable steps to be accountable to their members and provide them with adequate opportunity to raise concerns about how the charity is governed.

**Standard 3: Compliance with Australian laws**

Charities must not commit a serious offence (such as fraud) under any Australian law or breach a law that may result in a penalty of 60 penalty units (currently \$10,200) or more.

**Standard 4: Suitability of responsible persons**

Charities must take reasonable steps to:

- be satisfied that its responsible persons (such as board or committee members or trustees) are not disqualified from managing a corporation under the *Corporations Act 2001* (Cth) or disqualified from being a responsible person of a registered charity by the ACNC Commissioner, and
- remove any responsible person who does not meet these requirements.

**Standard 5: Duties of responsible persons**

Charities must take reasonable steps to make sure that responsible persons are subject to, understand and carry out the duties set out in this standard.

More information about the ACNC governance standards is available at [acnc.gov.au/governancestandards](https://www.acnc.gov.au/governancestandards).

3. The ACNC Act and *Charities Act 2013* (Cth) do not regulate the use of public land by registered charities for the purposes described. Registered charities need to ensure that their activities and operations comply with Australian laws, and the ACNC Act and governance standards.

4. To raise a concern about a registered charity, members of the public can visit [acnc.gov.au/charityconcern](https://www.acnc.gov.au/charityconcern) or call 13 ACNC (13 22 62).

a. Commercial activities involve transactions (sales and purchases) that aim to provide goods and services to businesses and individuals for the purpose of generating revenue. A registered charity can undertake commercial activities that are not inherently charitable.

However, the registered charity must ensure that the commercial activity is advancing its charitable purposes. There are three scenarios where a charity can undertake commercial activities in a way that is consistent with the requirements of being a registered charity, examples are available in our guidance at [acnc.gov.au/moneymyths](https://www.acnc.gov.au/moneymyths).

5. To be eligible for registration as a charity, and to continue to be eligible for registration, an organisation must be a non-for-profit entity (please refer to s.25-5(3) of the ACNC Act, and the definition of 'charity' in s.5 of the Charities Act. The charity definition also includes the requirement of public benefit).