

Australian Charities and Not-for-profits Commission (Consequential and Transitional) Regulations 2025 Exposure Draft - Submission

Introduction

Independent Schools Victoria (ISV) welcomes the opportunity to make a submission regarding the Treasury's Exposure Draft of the *Australian Charities and Not-for-profits Commission (Consequential and Transitional) Regulations 2025* (the Regulations).

This submission is made on behalf of ISV Member Schools, and in conjunction with the submission made by Independent Schools Australia.

Background

ISV was established in 1949. ISV is a not-for-profit organisation and a member of Independent Schools Australia. ISV represents approximately 230 Member Schools which educate more than 161,000 school students across metropolitan Melbourne and rural and regional Victoria. Many of these schools offer a range of other child-facing services, including childcare, kindergarten, out of school hours care and holiday care.

ISV is not an authority that operates or manages schools. ISV provides professional services and support to members. This includes providing advice to members about their regulatory obligations. Of particular relevance to this submission, ISV provides advice to Member Schools about their annual financial reporting obligations both to the Commonwealth Department of Education under the *Australian Education Act 2013* and to the Australian Charities and Not-for-Profits Commission (ACNC) under the *Australian Charities and Not-for-Profits Commission Act 2012* and the *Australian Charities and Not-for-Profits Commission (Consequential and Transitional) Act 2012*.

Recommendations

1. That the *Australian Charities and Not-for-profits Commission (Consequential and Transitional) Regulations 2025* be implemented as outlined in the Exposure Draft.
2. That the Treasury amend the relevant legislation and regulations to permit the current transitional reporting obligations, or equivalent, appropriate arrangements, to become permanent.

Submission

In 2015, the then-ACNC Commissioner, Susan Pascoe AM, announced that non-government schools would not be required to lodge financial information through the ACNC's Annual Information Statement for the 2014 and 2015 reporting periods. Instead, she announced that the ACNC would extract the necessary data for schools from the Commonwealth Department of Education's annual Financial Questionnaire (the FQ).

In an address to the Association of Independent Schools of New South Wales's 2015 Governance Symposium, Ms Pascoe indicated that, while these arrangements would apply for the 2014 and 2015 reporting periods, the ACNC also intended 'to seek amendment to the ACNC regulation to extend the transitional period to continue this arrangement while we work towards a long-term streamlined reporting solution for this highly regulated sector'¹. She further noted that this work was driven by an ACNC commitment 'to streamlining reporting processes for non-government schools... One of the objects of the ACNC Act is to contribute to the reduction of unnecessary regulatory obligations on the sector.'²

ISV supported the initial introduction of the consolidated reporting requirements for schools in 2014 and 2015, as well as the extension of the transition period from 2015 to 2024, as outlined in the *Australian Charities and Not-for-profits Commission (Consequential and Transitional) Regulation 2016*. We believe that these are sensible arrangements that remove the unnecessary duplication of effort by schools. ISV also supports the amendments that have been made over time to the FQ, to ensure that the financial data reported by schools to the Commonwealth Department of Education is consistent with the reporting obligations of charities to the ACNC (for instance, the addition of the requirement for schools to report investment income and donations separately from other private income).

On the same basis, ISV supports the extension of the existing transitional reporting arrangements for schools to 2028/29, as outlined in the draft *Australian Charities and Not-for-profits Commission (Consequential and Transitional) Regulations 2025*.

Recommendation One:

That the *Australian Charities and Not-for-profits Commission (Consequential and Transitional) Regulations 2025* be implemented as outlined in the Exposure Draft.

While ISV supports this extension of the existing regulations, we also support Ms Pascoe's desire to move beyond transitional arrangements to a 'long-term, streamlined reporting solution'. As things currently stand, financial reporting both to the ACNC through the Annual Information Statement and to the Commonwealth Department of Education through the FQ are required annually for all schools, with no indication or expectation that either of these reporting obligations would be removed. As indicated above, considerable work has been undertaken over the past decade to ensure that these reporting requirements are aligned. It is also appropriate that schools should continue to provide this level of reporting, both as funding recipients and as

¹ Australian Institute of Company Directors (2015). *The Boardroom Report*. Volume 13, Issue 8, 29 April 2015.

² Ibid.

charities. It is therefore reasonable to assume that schools will need to comply with both forms of accountability on an on-going basis.

For this reason, ISV would encourage Treasury, the ACNC, the Commonwealth Department of Education and sector representative bodies to work together over the next five years to amend the current legislation, so as to make the provision of a single set of financial accountability documents the default position, rather than additional 'transition' provisions that need to be updated on a regular basis.

Recommendation Two:

That the Treasury amend the relevant legislation and regulations to permit the current transitional reporting obligations, or equivalent, appropriate arrangements, to become permanent.

Making the current 'transitional' arrangements permanent would ensure that the ACNC was better positioned to meet its requirements to reduce the burden on charities and not-for-profit entities of unnecessary and burdensome regulation.