

## Circular

<b>Title:</b>	<b>Legal Requirements to Fundraise</b>
<b>Date:</b>	11 June 2020
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<b>Department:</b>	Fundraising
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<b>Audience:</b>	Club Administrators
<b>Summary:</b>	Surf Life Saving Clubs do not have an unrestricted right to fundraise, even if it is for not-for-profit purposes. There are legal requirements that must be taken into consideration when planning and carrying out fundraising activities. This circular highlights those requirements.
<b>Action:</b>	<ul style="list-style-type: none"> <li>• Review fundraising requirement information below</li> <li>• Complete and return attached <b>Club Notification Form</b> to SLSWA by COB Friday 1 July 2020</li> </ul>
<b>Attachments:</b>	<a href="#">Club Notification Form</a>

### SUMMARY

SLSWA and WA Surf Life Saving Clubs are the fortunate beneficiaries of generous support from the public through donations and fundraising activities. However, there are legal requirements that must be taken into consideration when planning and carrying out your fundraising activities

Western Australia's fundraising law regulates charitable collections. The term 'charitable collections' essentially covers fundraising activities that an organisation may undertake when those activities are wholly or partly for a charitable purpose.

When your club undertakes fundraising activities in Western Australia, it is compulsory that you comply with the requirements under Western Australia's fundraising law, including applying for a licence or permit where necessary.

A fundraising activity can be a single event over a limited period of time or an ongoing activity and may include:

- Events, functions, fetes
- Sale of discs, badges, tokens, flowers etc.
- Street collections and door knock appeals
- Sale of raffle tickets
- Telephone and radio appeals
- Internet advertising (e.g. funding pages)
- Mail outs

### WHAT DO YOU NEED?

- If you want to be legally recognised as a charitable organisation = You must register with ACNC
- If you want to fundraise = You must have a Charitable Collections Licence or collect under another organisation's licence
- If you want to offer tax deductible receipts = You must have DGR Status with ATO

To ensure we have an accurate record of your club's fundraising status, **please return the attached *Notification Form* as soon as possible, but no later than Wednesday 1<sup>st</sup> July 2020.**



## REGULATIONS AND LEGISLATION

Fundraising activities in Western Australia are potentially restricted by one or more pieces of legislation and regulations, including:

- The Charitable Collections Act (1946), regulates fundraising when it is for a charitable purpose;
- The Gaming and Wagering Commission Act (1987), controls fundraising activities such as raffles, bingo and all forms of gambling;
- The Street Collections (Regulation) Act (1940), regulates all fundraising in the form of street collections; and
- The Liquor Control Act (1988), imposes controls on fundraising events where liquor is to be sold.

## AUSTRALIAN CHARITIES & NOT-FOR-PROFITS COMMISSION - ACNC

The ACNC is responsible for registering organisations as charities. Registration with the ACNC is voluntary. However, ACNC registration is now a prerequisite for charities to access charity tax concessions.

### Why register as a charity

ACNC registered charities can:

- Apply for charity tax concessions as a charity (such as income tax exemption or goods and services tax concessions) from the ATO
- Apply for additional tax benefits as a public benevolent institution (PBI), health promotion charity (HPC) or charity for the advancement of religion
- Apply for certain categories of deductible gift recipient (DGR) status. Some categories of deductible gift recipient (DGR) status are only available to registered charities
- Receive a range of other concessions, benefits or exemptions available to charities under Commonwealth law.

### Apply to register as a charity

If you want to register your organisation as a charity, see the 'Start a charity' section of the ACNC website for guidance and information about how to register with the ACNC.

- <https://www.acnc.gov.au/for-charities/start-charity>

## CHARITABLE COLLECTIONS LICENCE

In Western Australia, any organisation collecting money or goods from the public for charitable purposes needs to:

- Obtain a Charitable Collections Licence, or
- Be collecting under the authority of an existing licence holder.

**Please note** that it is an offence to collect money or goods from the public for charitable purposes without a Charitable Collections Licence or the authority of an existing licence holder. If you are unable to obtain a licence or authority to fundraise you should not proceed with your proposed collection or fundraising activity.

### Apply for a Licence

To lodge an application through the Charitable Collections Advisory Committee and become a licensed charity, please visit:

- <https://www.commerce.wa.gov.au/consumer-protection/applying-charity-licence>

## DGR STATUS

A charity must be registered with the ACNC before it can receive any charity tax concessions from the ATO. Many charities may also be eligible to apply for deductible gift recipient (DGR) status.

You can apply for charity tax benefits including DGR status with the ATO when applying to register with the ACNC.

After the ACNC has decided your charity status, they will pass on your application for tax benefits including DGR status to the ATO. The ATO will decide whether your organisation is eligible.



### **Qualifying for DGR Status**

ATO endorsement requires the association to:

- Be covered by one of the eligible categories
- Have an Australian Business Number (ABN)
- Maintain a gift fund into which all gifts are deposited
- Make provision in the rules that, upon dissolution, all property (including the gift fund) be given to another deductible gift recipient
- Provide in the rules that the Tax Commissioner will be informed of material changes to the rules and winding-up
- Make application to the ACNC for deductible gift recipient status, as this is not automatic.

### **OTHER REQUIREMENTS**

#### **Raffles**

If you wish to raise funds for a charitable purpose by the sale of raffle tickets, lotteries or gaming activities you will require a charitable collections licence. You may also require a permit from the Department of Local Government, Sport and Cultural Industries – Racing, Gaming and Liquor.

- The Gaming and Wagering Commission Act (1987), controls fundraising activities such as raffles, bingo and all forms of gambling

You will need a permit or approval unless the:

- Raffle is for members, guests or people who work as part of your organisation and the ticket sales and prize declarations take place within eight days, and the maximum value of the prize does not exceed \$1,000;
- Raffle is for members, guests or people who work as part of your organisation and the organisation conducts the lottery on the same day as ticket sales, and the aggregate value of prizes is not more than \$2,000; or
- Total value of the prizes does not exceed \$200, then tickets can still be sold to members of the public.

For further information on permits for raffles, lotteries and gaming activities:

- <https://www.dlgsc.wa.gov.au/racing-gaming-and-liquor>

To apply for a Standard Lottery Permit:

- <https://portal.rgl.wa.gov.au>

#### **Street Collections**

Any organisation wanting to conduct a street collection in the Perth metropolitan area, whether or not licensed under the Charitable Collections Act 1946, must have a separate street collection permit.

- The Street Collections (Regulation) Act (1940), regulates all fundraising in the form of street collections

For further information on street collection regulations and applications:

- <https://www.commerce.wa.gov.au/consumer-protection/street-collections>

### **Questions?**

For any further information on requirements for your fundraising activities, or for assistance in applying for any of the above licencing requirements, please contact:

Ellaine Hislop, Fundraising & Philanthropy Supervisor  
[ehislop@slnwa.com.au](mailto:ehislop@slnwa.com.au) or (08) 9207 6666.

A handwritten signature in black ink that reads 'J. O'Toole'.

**James O'Toole**  
Chief Executive Officer