

# Senate Select Inquiry into Charitable Fundraising in the 21<sup>st</sup> Century



## Part 3 – Attachments

### Attachment B: Gap analysis comparing Fundraising Act 1991 (NSW) to other laws and codes

The detailed analysis contained in Attachment B **demonstrates that the matters set out in the *Charitable Fundraising Act 1991 (NSW)* and related licence conditions are now covered by:**

- **existing legislation:** *Australian Consumer Law* (nationally applicable via multi-regulatory framework) and the *Australian Charities and Not-for-profits Commission Act 2012 (Cth)*, and
- **existing codes of conduct:** specifically, the Public Fundraising Regulatory Association and the Fundraising Industry of Australia and the South Australian Code of Practice

or could be covered by our recommended core mandatory code (and/or amendment to existing codes, like the Public Fundraising Regulatory Association).

The NSW fundraising laws are widely regarded as being extremely comprehensive (in terms of the obligations imposed upon licence holders), so we expect a similar analysis of the laws applying in other jurisdictions would garner a similar conclusion.

**Charitable Fundraising Act 1991 (the Act) provision****Coverage in other legislation (ACNC Act, ACL)****Comments****3 Objects**

The objects of this Act are:

- (a) to promote proper and efficient management and administration of fundraising appeals for charitable purposes, and
- (b) to ensure proper keeping and auditing of accounts in connection with such appeals, and
- (c) to prevent deception of members of the public who desire to support worthy causes.

Objects and Powers of ACNC:

3(a) – ACNC Act, Part 1-2, Division 15, section 15-5 (1)(a)

3(b) – ACNC Act, Part 1-2, Division 15, section 15-5 (1)(a)

3(c) – ACNC Act, Part 1-2, Division 15, section 15-5 (1)(a)

3(c) – ACL, Part 2-1, section 18

The general powers and objectives of the ACNC cover the objectives of the Act as well as the ACL covering Object (c).

\*\* Relevant provisions of the ACL will only apply in respect of conduct that is in “trade or commerce”. Fundraising can be a “business or professional activity”, whether or not the NFP is itself (in an overall sense) operating as a business. It is the fundraising (the activity), rather than the organisation that is the focus. The more business-like and professional are the fundraising activities of the NFP, the more likely it is that they will constitute conduct undertaken in trade or commerce and be subject to the ACL

**7 Religious organisations exempt from Act**

- (1) This Act (apart from section 48) does not apply to:
  - (a) a religious body or a religious organisation in respect of which a proclamation is in force under section 26 of the *Marriage Act 1961* of the Commonwealth or a religious body, or an organisation or office, within a denomination in respect of which such a proclamation is in force, or
  - (b), (c) and (d) and (2) and (3)

Under the ACNC Act, a Basic Religious Charity does not have to:

- answer financial information questions in its Annual Information Statement;
- submit annual financial reports to the ACNC (section 60-60); or
- comply with the ACNC governance standards. (section 45-10(5))

The ACNC cannot suspend or remove a Basic Religious Charity (section 100-5(3)).

There are exemptions under the ACNC Act for a Basic Religious Charity.

However, exempting entities from registration is confusing to the public.

Charitable Fundraising Act 1991 (the Act) provision	Coverage in other legislation (ACNC Act, ACL)	Comments
<p><b>9 Conducting unlawful fundraising</b></p> <p>Someone who conducts fundraising without the requisite authority (either personally or on behalf of an organisation) is guilty of an offence.</p> <p>...</p> <p>(1) A person who conducts a fundraising appeal is guilty of an offence unless the person:</p> <ul style="list-style-type: none"> <li>(a) is the holder of an authority authorising the person to conduct the appeal, or</li> <li>(b) is a member of an organisation, or an employee or agent of a person or organisation, that holds such an authority and is authorised, by the person or organisation that holds the authority, to conduct the appeal, or</li> <li>(c) is authorised under subsection (3) to conduct the appeal without an authority.</li> </ul> <p>Maximum penalty: 50 penalty units.</p> <p>(2) A person who conducts a fundraising appeal in contravention of any condition attached to an authority authorising the appeal is guilty of an offence. Maximum penalty: 50 penalty units.</p> <p>(3) The following may conduct a fundraising appeal without being the holder of an authority:</p> <ul style="list-style-type: none"> <li>(a) an organisation or person, or one of a class of organisations or persons, authorised by the regulations,</li> <li>(b) an organisation established by an Act and subject to the control and direction of a Minister,</li> <li>(c) a member, employee or agent of any organisation or other person referred to in paragraph (a) or (b) who is authorised by the organisation or other person to conduct the appeal,</li> </ul>	<p>Section 9(2) – See analysis of Charitable Fundraising Authority Conditions in below table.</p>	<p>The exceptions are confusing to the public.</p> <p>One mandatory code covering all fundraisers and fundraising activities would be less confusing.</p>

Charitable Fundraising Act 1991 (the Act) provision	Coverage in other legislation (ACNC Act, ACL)	Comments
<p>(d) a person who, in accordance with section 11, conducts the appeal in conjunction with the holder of an authority.</p>		
<p><b>11 Appeals conducted by persons engaged in business or otherwise deriving benefit</b></p> <p>(1) A person (in this section called the "trader") must not conduct a fundraising appeal:</p> <p>(a) in connection with the supply of goods or services in the course of any trade or business carried on by the person, or</p> <p>(b) otherwise partly for the person's benefit, except in accordance with this section. Maximum penalty: 50 penalty units.</p> <p>(2) Such an appeal must be conducted in accordance with the following conditions:</p> <p>(a) the appeal must be conducted jointly by the trader and a person or organisation that holds an authority to conduct the appeal,</p> <p>(b) any advertisement, notice or information concerning the appeal must identify the trader and the holder of the authority,</p> <p>(c) any such advertisement, notice or information must give details (to the extent required by the conditions of the authority) of the intended distribution of funds raised in the appeal or of any guaranteed minimum payment, or proportion of profits, to be paid by the trader to any person or organisation as a result of the appeal.</p> <p>(3) Nothing in this section affects the Minister's discretionary power to attach any other condition to an authority.</p>	<p>11(2)(b)–(c) – ACL, Part 2-1, section 18 and Part 3-1, section 29(h)</p>	<p>Trader definition is confusing and out of date in terms of many modern methods of fundraising and the approach to corporate social responsibility and social enterprises. There are for profit fundraising entities which are not considered traders. There is uncertainty and a lack of understanding as to when this applies.</p> <p>Reliance on ACL achieves more coverage and consistency in protecting the public from misleading statements made by companies particularly those made by for profit entities.</p>

Charitable Fundraising Act 1991 (the Act) provision	Coverage in other legislation (ACNC Act, ACL)	Comments
<p><b>12 Publicity</b></p> <p>(1) A person who publishes any advertisement, notice or information relating to any fundraising appeal which the person knows, or could reasonably be expected to know, is being conducted unlawfully is guilty of an offence. Maximum penalty: 50 penalty units.</p> <p>(2) In this section, "<b>publishing</b>" includes: (a) (b) and (c)</p>	<p>ACL, Part 2-1, section 18</p>	<p>Amendments to the ACL as proposed, including to section 29 (false and misleading representations) would be relevant in relation to this section.</p>
<p><b>13 False representations in conduct of fund raising appeal</b></p> <p>(1) (Repealed)</p> <p>(2) A person:</p> <p>(a) who is conducting or is proposing to conduct a fundraising appeal, or</p> <p>(b) who is acting on behalf of a person who is conducting or is proposing to conduct a fundraising appeal,</p> <p>must not represent to an employee, agent or collector (whether voluntary or not) that any thing required or permitted by this Act to be done, or any condition precedent to a fundraising appeal to be complied with, has been done or complied with when in fact it has not. Maximum penalty: 50 penalty units or imprisonment for 6 months, or both.</p>	<p>ACL, Part 2-1, section 18</p>	<p>Amendments to the ACL (as proposed, including to section 29 (false and misleading representations) would be relevant in relation to this section.</p>
<p><b>16 How application dealt with</b></p> <p>(2) The Minister may refuse an application for an authority if the Minister is not satisfied as to any one or more of the following matters:</p> <p>(a) that the proposed appeal will be conducted in good faith for charitable purposes,</p>	<p>16(2)(a) – (c): ACNC Governance Standard 1, Standard 4 and Standard 5.</p> <p>16(2)(g) – ACL, Part 2-1, section 18</p>	<p>Fundamentally a person or organisation could proceed without an authority (in the same way a person can drive a vehicle without a licence). This also is relevant to discussion on general lack of compliance, as acknowledged by NSW (July 2016)</p>

Charitable Fundraising Act 1991 (the Act) provision	Coverage in other legislation (ACNC Act, ACL)	Comments
<ul style="list-style-type: none"> <li>(b) that all of the persons proposing to conduct the appeal, and all persons associated with the proposed appeal, are fit and proper persons to administer, or to be associated with, a fundraising appeal for charitable purposes,</li> <li>(c) that the proposed appeal will be administered in a proper manner,</li> </ul> <p>2(d) – (f), (5)-(7) are largely procedural</p> <p>(3), (4) (Repealed)</p> <p>(5) (6) (7)</p>		<p><i>“NSW does not undertake any specific compliance and enforcement under the Act because such an allocation of resources appears unjustified as there is no evidence of any particular problem in the sector. NSW has few complaints from persons donating to these appeals. Charitable</i></p> <p>Fundraising Review, Discussion Paper – July 2016. NSW Government</p>
<p><b>20 Proceeds of appeal</b></p> <ul style="list-style-type: none"> <li>(1) Any money or benefit received in the course of a fundraising appeal conducted by the holder of an authority is to be applied according to the objects or purposes represented by or on behalf of the persons conducting the appeal as the purposes or objects of the appeal.</li> <li>(2) Subsection (1) does not operate: <ul style="list-style-type: none"> <li>(a) so as to prevent the deduction of lawful and proper expenses in accordance with the authority under which the appeal is conducted, or</li> <li>(b) so as to prejudice the operation of the <i>Dormant Funds Act 1942</i> or of any Act or other law relating to the cy-pres application or other application of trust money.</li> </ul> </li> <li>(3) The regulations may specify, or make provision for or with respect to the determination (by the decision of the Minister or otherwise) of, what constitutes a lawful and proper expense in connection with particular fundraising appeals or any class or description of fundraising appeals or fundraising appeals generally.</li> </ul>	<p>20(1), (6): ACNC Governance Standards.</p> <p>ACL, Part 2-1, section 18 and Part 3-1, section 29(h)</p> <p>ITAA97 30-130 for DGR endorsed entities covers 20(6)</p> <p>TAA s8L covers 20(6)</p>	<p>ACNC Governance Standards require charities to take reasonable steps to make sure that the financial affairs of the charity are managed responsibly and to carry out the purposes and operate on a not for profit basis.</p> <p>The ACNC and ATO require proper record keeping – separate bank accounts are unduly restrictive given the sophisticated accounting software readily available.</p> <p>If there has been fraud or theft or a breach of fiduciary duties, the person will be liable to the charity for the repayment or loss.</p> <p>Relevant incorporation legislation will also be applicable.</p> <p>Criminal law may also be applicable</p>

Charitable Fundraising Act 1991 (the Act) provision	Coverage in other legislation (ACNC Act, ACL)	Comments
<p>(4) Any relevant Act or other law relating to the cy-pres application or other application of trust money applies to any money (not being trust money) that is subject to subsection (1).</p> <p>(5) Money or any benefit received in the course of a fundraising appeal may be applied outside New South Wales, except to the extent that:</p> <p>(a) to apply it in that way would contravene subsection (1) or any other law, or</p> <p>(b) the Minister, having regard to the public interest, prohibits the application of any such money or benefit by a condition of an authority authorising the appeal concerned.</p> <p>(6) Any money received in the course of a fundraising appeal, before the deduction of any expenses, is to be paid immediately into an account at a bank, building society or credit union or at any other institution prescribed (or of a class prescribed) by the regulations. The account is to consist only of money raised in the fundraising appeal concerned, or in that and other such appeals conducted by the same persons. The account is to be kept in the name of or on behalf of the person conducting the appeal and is to be operated by not fewer than 2 persons jointly. This subsection, however, has effect subject to the conditions of any particular authority.</p> <p>(7) A person conducting a fundraising appeal, or any member of the governing body of an organisation on whose behalf such an appeal is conducted, who:</p> <p>(a) by act or omission is in any way directly or indirectly concerned in or party to a contravention of this section, or</p> <p>(b) aids, abets, counsels or procures a contravention, is guilty of an offence. Maximum penalty: 50 penalty units or imprisonment for 6 months, or both.</p> <p>(8) A person convicted of an offence under this section in connection with a fundraising appeal conducted on behalf of an organisation is, in</p>		

Charitable Fundraising Act 1991 (the Act) provision	Coverage in other legislation (ACNC Act, ACL)	Comments
<p>addition to any liability for the offence, liable to the organisation for the loss incurred by the organisation as a result of the offence.</p> <p>(9) An amount for which a person is liable under subsection (8) may be recovered by the organisation concerned as a debt in any court of competent jurisdiction.</p>		
<p><b>21 Investment</b></p> <p>(1) Money received in the course of a fundraising appeal which is not immediately required to be applied to the purposes or objects of the appeal may be invested only in a manner for the time being authorised by law for the investment of trust funds.</p> <p>(2) This section is subject to the provisions of the <i>Public Authorities (Financial Arrangements) Act 1987</i> or any other Act which confers special powers of investment on the person or organisation concerned.</p>	<p>20(1):- ACNC Governance Standard 5.</p>	<p>ACNC Governance Standard 5 requires a charity to ensure that the financial affairs of the charity are managed responsibly.</p> <p>This is unduly prescriptive. The money raised is not always trust funds and the broader obligations under the ACNC Act are more suitable.</p>
<p><b>Division 4- Requirements to be met by fundraisers</b></p>		
<p><b>22 Keeping of records</b></p> <p>(1) A person or organisation that conducts or has conducted a fund raising appeal must keep, in accordance with this section, records of income and expenditure in relation to each such appeal.</p> <p>(2) The records must:</p> <p>(a) be kept in writing in the English language or so as to enable the records to be readily accessible and readily convertible into writing in the English language, and</p> <p>(b) include any particulars required by the regulations, and</p>	<p>Section 22(1): ACNC Act Part 3-2, Section 55-5(1)</p> <p>Section 22(2): ACNC Act Part 3-2, Section 55-5(2) – (3)</p> <p>TAA s 8L</p>	<p>Under the ACNC Act, charities are required to keep two types of records: financial records and operational records.</p> <p>These records must be kept for seven years and must be kept in English, or in a form that can be easily translated to English.</p> <p>The Taxation Administration Act makes it an offence to incorrectly keep records if the person is required</p>

Charitable Fundraising Act 1991 (the Act) provision	Coverage in other legislation (ACNC Act, ACL)	Comments
<ul style="list-style-type: none"> <li>(c) subject to the conditions of any authority, be kept at all times at the registered office of the person conducting the appeal, and</li> <li>(d) be kept for a period of at least 7 years (or such shorter period as the Minister may approve) after the receipt of the income or the incurring of the expenditure to which they relate.</li> </ul> <p>(3) A person or organisation that contravenes this section is guilty of an offence. In the case of an unincorporated organisation, every trustee or other person who, at the time of the offence, was a member of the governing body of the organisation is guilty of an offence. Maximum penalty: 50 penalty units.</p>		<p>pursuant to taxation laws, to keep accounts</p> <p>It is unnecessarily duplicative and prescriptive to require this level of detail in respect to one aspect of a charity's activities.</p>
<p><b>23 Periodic return by holder of authority (other than incorporated organisation)</b></p> <ul style="list-style-type: none"> <li>(1) A natural person or unincorporated organisation that for the time being holds an authority to conduct a fundraising appeal must send to the Minister returns giving details of the application of the proceeds of any fundraising appeals conducted by the person or organisation since the last such return was furnished (or, if no such returns have been lodged previously, since the authority was granted).</li> <li>(2) The returns are to be sent at such intervals as may be specified in the authority, at such times as may be so specified (or within such further time as the Minister may allow).</li> <li>(3) Each such return is to be in a form approved by the Minister and must show: (a) the gross amounts received from each appeal, and (b) the net amount received after the deduction of expenses.</li> <li>(4) A person or organisation that contravenes this section is guilty of an offence. In the case of an unincorporated organisation, every trustee or other person who, at the time of the offence, was a member of the governing body of the organisation is guilty of an offence. Maximum penalty: 50 penalty units.</li> </ul>	<p>Section 23: ACNC Act – Sections 60-B and 60-C.</p>	<p>Financial Records under the ACNC Act can include general account books, cash book records, banking records, creditors' records, debtors' records, records of expenses and tax invoices and other relevant tax records. Charities are required to keep these records.</p> <p>Charities are not required to submit financial records to the ACNC. However, charities report by submitting an Annual Information Statement and an annual financial report (if medium or large size, which means their annual revenue is greater than \$250 000).</p> <p>Additional reporting obligations may be placed on registered entities by the Commissioner in special circumstances, for example, if the</p>

<i>Charitable Fundraising Act 1991 (the Act) provision</i>	Coverage in other legislation (ACNC Act, ACL)	Comments
		Commissioner is concerned about an entity's compliance with the ACNC Act.

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## 24 Audit

- (1) The accounts of any person or organisation that for the time being holds an authority to conduct a fundraising appeal, in so far as those accounts relate to receipts and expenditure in connection with any such appeals, must be audited annually by a person qualified to audit accounts for the purposes of the *Corporations Act 2001* of the Commonwealth or having other qualifications or experience approved by the Minister.
- (2) The auditor must report on:
  - (a) whether the accounts show a true and fair view of the financial result of fundraising appeals for the year to which they relate, and
  - (b) whether the accounts and associated records have been properly kept during that year in accordance with this Act and the regulations, and
  - (c) whether money received as a result of fundraising appeals conducted during that year has been properly accounted for and applied in accordance with this Act and the regulations, and
  - (d) the solvency of the person or organisation.
- (3) If the auditor, in the course of the performance of the auditor's duties for the purposes of this section, is satisfied that:
  - (a) there has been a contravention of this Act or the regulations, and
  - (b) the circumstances are such that, in the auditor's opinion, the matter has not been or will not be adequately dealt with by comment in the auditor's report on the accounts or by bringing the matter to the notice of the person concerned or of the trustees or members of the governing body of the organisation concerned (as the case may be), the auditor must immediately report the matter to the Minister.
- (4) A person or organisation that fails to have accounts audited as required by this section is guilty of an offence. In the case of an unincorporated organisation, every trustee or other person who, at the time of offence, was a member of the governing body of the organisation is guilty of an offence. Maximum penalty: 50 penalty units.

Section 24(1) and 24(2): ACNC Act Sections 60-20 – 60-55.

Under the ACNC Act, medium and large charities must submit financial reports that have either been reviewed or audited, which are submitted to the ACNC along with the financial report.

In many jurisdictions, medium and large incorporated associations will be required to submit financial reports that have either been reviewed or audited, which are submitted to the regulator or the ACNC along with the financial report.

Charitable Fundraising Act 1991 (the Act) provision	Coverage in other legislation (ACNC Act, ACL)	Comments
<ul style="list-style-type: none"> <li>(5) The requirements of this section are in addition to the requirements of any other law (including the <i>Corporations Act 2001</i> of the Commonwealth).</li> <li>(6) The whole or any part of a report prepared for the purposes of this section in respect of a corporation may be included in an auditor's report prepared for the purposes of the <i>Corporations Act 2001</i> of the Commonwealth or any other law in respect of the corporation.</li> <li>(7) Nothing in subsection (6) is intended to provide for the inclusion of any matter in an auditor's report for the purposes of the <i>Corporations Act 2001</i> of the Commonwealth or any other law of the Commonwealth if the inclusion of that matter would be contrary to the provisions of that Act or law.</li> </ul>		
<p><b>25 Exemptions</b></p> <ul style="list-style-type: none"> <li>(1) The regulations may make provision for or with respect to the exemption of a person or organisation (or of a class of persons or organisations) from all or any of the provisions of this Division, other than any provision relating to the keeping of records.</li> <li>(2) If a person or organisation referred to in subsection (1) enters into a contract or arrangement with another person by which that other person will or might receive any remuneration or benefit for conducting or participating in a fundraising appeal, that other person is not, by virtue of this section or any regulation, exempt from any of the provisions of this Division.</li> </ul>	<p>Section 25(1): ACNC Act Sections 60-20 – 60-55.</p>	<p>Under the Charitable Fundraising Regulation 2015, for the purposes of section 25(1) of the Act, a person or organisation is exempt from the requirement imposed under section 24(1) of the Act to have its accounts audited if it: does not receive more than \$250 000 gross in any financial year from any fundraising appeals that person or organisation conducts in that financial year, and is not the subject of a direction made by the Minister.</p> <p>This aligns with the audit requirement under the ACNC Act, which exempts small charities (annual revenue is less than \$250 000) from submitting an audited financial report).</p>

Charitable Fundraising Act 1991 (the Act) provision	Coverage in other legislation (ACNC Act, ACL)	Comments
<p><b>26 Minister may inquire into fundraisers</b></p> <p>(1) The Minister may, with respect to any matter arising under this Act, inquire into any person or organisation that:</p> <ul style="list-style-type: none"> <li>(a) is conducting or has conducted, or is participating or has participated in, a fundraising appeal, or</li> <li>(b) the Minister has reason to believe is conducting or has conducted, or is participating or has participated in, a fundraising appeal.</li> </ul> <p>(2) The Minister may cause an inquiry under this section to be made by an authorised inspector, either with respect to a particular matter or with respect to any matter.</p>	<p>ACL regulators can investigate complaints about potential breaches of the ACL and take enforcement action where necessary. ACL regulators include the ACCC, ASIC and state and territory consumer affairs / fair trading bodies.</p> <p>ACNC has powers to investigate in the ACNC Act where there has or may have been a breach.</p>	<p>This is covered by existing legislation (i.e. ACNC or ACL or incorporations legislation) in most cases. Also criminal law may be relevant.</p>
<p><b>27 Power of Minister to require accounts etc</b></p> <p>(1) For the purposes of any inquiry under this Part, the Minister or an authorised inspector may require any person to do any one or more of the following:</p> <ul style="list-style-type: none"> <li>(a) to furnish accounts and statements in writing with respect to any matter in question at the inquiry, being a matter about which the person has or can reasonably obtain information,</li> <li>(b) to provide answers in writing to any questions addressed to the person on any such matter,</li> <li>(c) to verify any such account, statement or answer by statutory declaration,</li> <li>(d) to attend at a specified time and place and give evidence or produce documents in the person's custody or under the person's control which relate to any matter in question at the inquiry,</li> <li>(e) to furnish copies of or extracts from any document in the person's custody or under the person's control which relates to any matter</li> </ul>	<p>Section 27: ACNC Act Division 70 (Information gathering powers)</p>	<p>Under the ACNC Act, the ACNC has the compliance powers to gather information and monitor whether charities are meeting their obligations.</p> <p>The Commissioner can gather information necessary to monitor registered entities' compliance with certain provisions and to assess registered entities' ongoing entitlement to registration. The Commissioner can gather information and documents necessary to determine whether information given in compliance with certain provisions is correct.</p>

Charitable Fundraising Act 1991 (the Act) provision	Coverage in other legislation (ACNC Act, ACL)	Comments
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in question at the inquiry or to make any such document available for inspection.

- (2) Any requirement under this section is to be made by notice in writing served on the person concerned and specifying a reasonable time within which the requirement is to be complied with.
- (3) For the purposes of any inquiry under this Part, evidence may be taken on oath and the person conducting the inquiry may for that purpose administer oaths.
- (4) The person conducting the inquiry may take possession of documents produced to the person for such period as the person considers necessary for the purposes of the inquiry and may make copies of or take extracts from them. During that period the person conducting the inquiry must permit a person who would be entitled to inspect any one or more of those documents if they were not in the possession of the person conducting the inquiry to inspect at all reasonable times such of those documents as that person would be entitled to inspect.

**28 Power of entry and inspection**

- (1) If an authorised inspector believes on reasonable grounds that any documents relevant to an inquiry under this Part are likely to be found on any premises, the authorised inspector may:
  - (a) enter the premises, and
  - (b) require production of the documents, and
  - (c) take copies of or extracts from the documents or take possession of the documents for such period as he or she considers necessary for the purposes of the inquiry.
- (2) Section 27 (4) applies to documents taken under subsection (1) (c).
- (3) A power conferred by this section:

Section 28: ACNC Act, Division 75 (Monitoring)

Under the ACNC Act, an ACNC officer can monitor whether certain provisions have been, or are being complied with. An ACNC officer may enter premises for the purpose of monitoring. This includes the power to inspect and seek production of any documents on the premises, and the power to take extracts from, or make copies of, any such document.

Similar provisions generally exist in the incorporations legislation.

Charitable Fundraising Act 1991 (the Act) provision	Coverage in other legislation (ACNC Act, ACL)	Comments
<ul style="list-style-type: none"> <li>(a) may not be exercised in relation to any premises used as a dwelling, or in relation to a part of any premises so used, except with the consent of the occupier of the premises or part or by the authority of a search warrant, and</li> <li>(b) may be exercised only at reasonable times and on reasonable notice to the occupier of any affected premises, except where the Minister has certified that, in the circumstances, the power may be otherwise exercised (in which case it may be exercised in accordance with the Minister's directions).</li> </ul> <p>(4) A power conferred by this section may not be exercised unless the person exercising it is in possession of a certificate issued by the Minister which:</p> <ul style="list-style-type: none"> <li>(a) states that it is issued under this Act, and</li> <li>(b) gives the name of the person to whom it is issued, and</li> <li>(c) describes the nature of the powers conferred, and</li> <li>(d) bears the signature of the Minister.</li> </ul> <p>(5) A person exercising a power to enter premises must produce his or her certificate to the occupier of the premises.</p> <p>(6) If damage is caused by a person exercising a power to enter premises, a reasonable amount of compensation is recoverable as a debt owed by the Crown to the owner of the premises unless the occupier hindered or obstructed the exercise of the power.</p>		
<p><b>29 Search warrant</b></p> <p>(1) An authorised inspector may apply to an authorised officer (within the meaning of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i>) for a search warrant if the inspector has reasonable grounds for believing that documents relating to any matter in question at an inquiry</p>	<p>Section 29: ACNC Act Division 75 (Monitoring), Section 75-85 (Monitoring warrants).</p>	<p>Under the ACNC Act, a warrant may be issued if the issuing officer is satisfied, by information on oath or affirmation, that it is necessary that one or more ACNC officers should have access to the premises for the</p>

Charitable Fundraising Act 1991 (the Act) provision	Coverage in other legislation (ACNC Act, ACL)	Comments
<p>being conducted under this Part or Part 3A are kept at a particular place and that:</p> <ul style="list-style-type: none"> <li>(a) the place is used as a dwelling, or</li> <li>(b) a person having custody or control of those documents has neglected or failed to comply with a requirement under this Act to produce them or to furnish copies of or extracts from them, or</li> <li>(c) the place is unoccupied or the occupier is temporarily absent.</li> </ul> <p>(2) The authorised officer to whom the application is made may, if satisfied that there are reasonable grounds for doing so, issue a search warrant authorising an authorised inspector named in the warrant to enter the place and to search for and take possession of documents of a kind specified in the warrant.</p> <p>(3) An authorised inspector who enters any place by virtue of such a warrant may take with him or her such other persons as may be necessary, and on leaving any unoccupied place so entered must, as far as practicable, leave it as effectively secured against trespassers as he or she found it.</p> <p>(4) Division 4 of Part 5 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> applies to a search warrant issued under this section.</p>		<p>purpose of determining whether, certain provisions have been complied with or certain information being monitored is correct.</p> <p>Similar provisions generally exist in the incorporations legislation</p>
<p><b>30 Offences in relation to inquiries</b></p> <p>A person who:</p> <ul style="list-style-type: none"> <li>(a) neglects or fails to comply with a requirement duly made by a notice under this Division within the time specified in the notice, or</li> <li>(b) alters, destroys or conceals any document referred to in section 27 (l) (e), or</li> </ul>	<p>Section 30: ACNC Act Section 75-80.</p>	<p>Under the ACNC Act, Occupiers of premises to which a monitoring warrant relates must provide reasonable facilities and assistance. There is a penalty of 20 penalty units for contravention of this provision.</p> <p>Similar provisions generally exist in the incorporations legislation</p>

Charitable Fundraising Act 1991 (the Act) provision	Coverage in other legislation (ACNC Act, ACL)	Comments
<p>(c) refuses to take an oath required to be taken under this Division, or</p> <p>(d) hinders or obstructs the Minister or any authorised inspector in the exercise of his or her functions under this Division,</p> <p>is guilty of an offence.</p> <p>Maximum penalty: 50 penalty units or imprisonment for 6 months, or both.</p>		
<p><b>32 Application of funds in absence of authority</b></p> <p>(1) If the Minister has revoked the authority of any person or organisation or if the Minister is satisfied that a person or organisation is conducting or has conducted a fundraising appeal without lawful authority or in a manner contrary to the person's or organisation's authority to do so, the Minister may apply to the Supreme Court for an order for the disposition of assets of the person or organisation which the Supreme Court is satisfied are, or are traceable to, the proceeds of any fundraising appeal conducted by the person or organisation.</p> <p>(2) More than one such application may be made in respect of the same person or organisation.</p> <p>(3) Having regard to the purposes or objects of any fundraising appeals to which any such assets are referable, the Supreme Court may make such order for their disposition as it thinks fit.</p> <p>(4) The Supreme Court in any such case may make such consequential or ancillary orders as it thinks fit.</p>	<p>Section 32: No direct equivalent. However the ACNC enforcement powers are outlined under Division 80.</p>	<p>Under the ACNC Act, the ACNC has various enforcement powers. While these are not as extreme at those of the Minister under section 32 of the Act, they include an ability to ensure charities meet their obligations with compliance powers which allow the ACNC to:</p> <ul style="list-style-type: none"> <li>• issue formal warnings;</li> <li>• direct charities to do or not to something;</li> <li>• apply to the courts for enforceable undertakings or injunctions;</li> <li>• suspend or remove a responsible person;</li> <li>• disqualify a responsible person; or</li> <li>• revoke a charity's registration.</li> </ul>

Charitable Fundraising Act 1991 (the Act) provision	Coverage in other legislation (ACNC Act, ACL)	Comments
<p><b>47 Public access to information</b></p> <p>(1) A person or organisation that is (or, within the previous 12 months, was) the holder of an authority must, within 30 days after being requested to do so by any person, furnish the person with:</p> <p>(a) any audited financial statements requested by the person concerning, fundraising appeals conducted by the person or organisation concerned during its last financial year and, to the extent that the regulations so require, during previous financial years, and</p> <p>(b) in the case of an organisation – such information as the regulations may prescribe concerning the objects and constitution (including the names and addresses of members of the governing body of the organisation) of the organisation.</p> <p>Maximum penalty: 5 penalty units.</p> <p>(2) Any such information and financial statements may, at the request of any person, be supplied to the person by or on behalf of the Minister.</p> <p>(3) A person is not entitled to be supplied with information or financial statements under this section unless the person has paid any relevant fee prescribed by the regulations.</p>	<p>Section 47: ACNC Act, Division 40 (Australian Charities and Not-for-profits Register).</p> <p>ACNC Governance Standard 1</p>	<p>The ACNC Register contains information about the charities registered with the ACNC. The Commissioner must publish the Register on the internet. This information includes: details about the entity, information statements and any regulatory actions.</p> <p>Governance Standard 1 also requires charities to provide information about their charitable purpose to the public. Common steps a charity can take to meet these standard includes providing information about a charity's purpose and how it meets it on a website or through social media.</p>
<p><b>48 Remuneration of board members of charitable organisations</b></p> <p>(1) A person is not prohibited (despite any law to the contrary) from holding office or acting as a member of the governing body of a non-profit organisation having as one of its objects a charitable purpose merely because the person receives any remuneration or benefit from the organisation if:</p> <p>(a) the Minister, by order published in the Gazette, has declared that this section applies to that office, or</p>	<p>Section 48: ACNC Governance Standard 5.</p>	<p>This provision is outdated and cumbersome. The ACNC allows board members of charities to be remunerated in accordance with the Governance Standards, and in particular Governance Standard 5 requires that Responsible Persons act honestly and fairly in the best interests of the charity and for its charitable purposes and ensure that the financial</p>

Charitable Fundraising Act 1991 (the Act) provision	Coverage in other legislation (ACNC Act, ACL)	Comments
<ul style="list-style-type: none"> <li>(b) the Minister has given prior approval of a person who receives any such remuneration or benefit holding that office or acting in that capacity, or</li> <li>(c) the person concerned holds that office or acts in that capacity by virtue of his or her office as a minister of religion or a member of a religious order.</li> </ul> <p>(2) An approval under this section is subject to any conditions imposed by the Minister when giving the approval.</p> <p>(3) An approval under this section is to be in writing. Applications for such approvals must be addressed in writing to the Minister by the organisation concerned.</p> <p>(4) For the purposes of this section, everybody, organisation or office referred to in section 7(1) is taken to be a non-profit organisation having among its objects one or more charitable purposes.</p>		<p>affairs of the charity are managed responsibly. Accordingly, any payments to board members that are unreasonable, unauthorised or unjustifiable may mean that the charity is not complying with the Governance Standards.</p> <p>Charities that prepare financial statements may also need to disclose key management personnel (such as a board member), which will be publically available on the ACNC Register.</p>

## Schedule 1

## Part 1 – General Conditions

**1 Internal controls**

Proper and effective controls must be exercised by an authorised fundraiser over the conduct of all fundraising appeals, including accountability for the gross income and all articles obtained from any appeal and expenditure incurred.

ACNC Governance Standard 5

No explicit conduct rules. But both the PFRA Standard and the FIA Code require ethical conduct such as transparency which arguably cover these conditions generally

Intent of South Australian Code::

- establish required practices for the conduct and management of charitable collections;
- ensure collection activities give confidence to potential donors in the charity sector;
- ensure donors are given the opportunity to make informed decisions about donating;
- ensure donors' rights to privacy are respected;
- ensure that the decision not to donate is respected;
- ensure collectors' rights are respected by licensees

Covered by ACNC Governance Standard 5

While safeguarding of assets is not covered in codes, this will generally be addressed in internal rules of organisations, and duties of office holders for most organisations.

Accounting requirements generally required by other legislation (e.g. accounting/financial reporting requirements for IA and companies under state and federal legislation.), as well as organisations own rules

As proposed a “mandatory code” could be an option and could be explicit on this matter (although duplicative for ACNC charities)

**2. Safeguarding of assets**

An authorised fundraiser must ensure that all assets obtained during, or as a result of, a fundraising appeal are safeguarded and properly accounted for.

ACNC Governance Standard 5

As above

Covered by ACNC Governance Standard 5

While safeguarding of assets is not covered in codes, this will generally be addressed in internal rules of organisations, and duties

Annexure A – Charitable Fundraising Authority Conditions	Coverage in other legislation (ACNC Act, ACL)	Other regulatory codes	Comments
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of office holders for most organisations.

Accounting requirements generally required by other legislation (e.g. accounting/financial reporting requirements for IA and companies under state and federal legislation.), as well as organisations own rules

As proposed a “mandatory code” could be an option and could be explicit on this matter (although duplicative for ACNC charities)

**3. Maintenance of proper books of account and records**

- (1) An authorised fundraiser must, in relation to each fundraising appeal it conducts, maintain such books of account and records as are necessary to correctly record and explain its transactions, financial position and financial performance, including the following documents:
  - (a) a cash book for each account (including any passbook account), into which the gross income obtained from a fundraising appeal is paid in accordance with section 20(6) of the Act,
  - (b) a register of assets,
  - (c) a register recording details of receipt books or computerised receipt stationery,

ACNC Act Division 55 (Record keeping)  
TAA

No explicit conduct rules

Covered by ACNC Governance Standard 5

While safeguarding of assets is not covered in codes, this will generally be addressed in internal rules of organisations, and duties of office holders for most organisations.

Accounting requirements generally required by other legislation (e.g. accounting/financial reporting requirements for IA and companies under state and

Annexure A – Charitable Fundraising Authority Conditions	Coverage in other legislation (ACNC Act, ACL)	Other regulatory codes	Comments
<ul style="list-style-type: none"> <li>(d) a register recording details of tickets or computerised ticket stationery,</li> <li>(e) a petty cash book (if petty cash is used).</li> </ul> <p>(2) If the authorised fundraiser is an organisation, a minute book must be kept containing minutes of all business relating to fundraising appeals that is transacted by the governing body of the organisation (or by any committee of that governing body) and any general or extraordinary meeting of its general membership.</p> <p>(3) If the authorised fundraiser engages persons to participate (whether on a paid or voluntary basis) in a fundraising appeal, it must keep a register of participants.</p>			<p>federal legislation.), as well as organisations own rules</p> <p>As proposed a “mandatory code” could be an option and could be explicit on this matter (although duplicative for ACNC charities)</p>
<p><b>4. Report on outcome of appeal or appeals</b></p> <p>(1) An authorised fundraiser that is an unincorporated organisation must send to the Minister a return referred to in section 23 of the Act;</p> <ul style="list-style-type: none"> <li>(a) if the organisation ceases to conduct appeals, within two months after it ceases to conduct appeals, and</li> <li>(b) if in any financial year the gross income obtained from any appeals conducted by it exceeds \$100,000: <ul style="list-style-type: none"> <li>(i) within three months after the audited financial statements are adopted at its annual general meeting, or</li> <li>(ii) within seven months after the conclusion of the financial year concerned,</li> </ul> </li> </ul> <p>whichever occurs sooner.</p>	<p>ACNC Act – Sections 60-B (Annual information statements) and 60-C (Annual financial reports).</p>	<p>No explicit conduct rules</p>	<p>Covered by ACNC.</p> <p>As proposed a “mandatory code” could be an option and could be explicit on this matter (although duplicative for ACNC charities).</p> <p>Note 1: incorporated organisations are excluded presumably because they are held to similar accountability under their governing incorporating legislation, though potentially not to the same level of detail regarding the specific net amount received after deduction of expenses for each appeal.</p> <p>Note 2: (as above) s25 of the Act provides that the regulations may</p>

Annexure A – Charitable Fundraising Authority Conditions	Coverage in other legislation (ACNC Act, ACL)	Other regulatory codes	Comments
(2) An authorised fundraiser that is a natural person must send to the Minister, within one month after the close of each appeal conducted by the person, a return referred to in section 23 of the Act.			make exemptions for this reporting, however no exemptions are listed in the regulations. Further, no prescribed form is available from Fair Trading, and it appears this is not enforced currently.
<b>5. Maintenance of an account</b>	ACNC Governance Standard 5	PFRA Standard requires at 2.3.1 that: Where not otherwise prescribed by law, fundraisers must provide donors with a written disclosure that fees are paid to a named commercial fundraising organisation (this disclosure is typically made on a charity’s ‘pledge form’, which is provided to donors). This has recently been upgraded with a new ‘Enhanced Disclosure Notice. This provides more information about the employment/engagement status of the fundraisers, how they are remunerated and whether payment incentives and/or commissions are paid PRFA.	Covered by ACNC  As proposed a “mandatory code” could be an option and could be explicit on this matter (although duplicative for ACNC charities).  Also note software developments are such that money can be traced and a separate account is not necessary for integrity.
<p>(1) For the purposes of section 20(6) of the Act, the gross income obtained from fundraising appeals conducted by the authorised fundraiser may be paid into an account approved by this Office. The income must be clearly identifiable in the banking and accounting records maintained by that fundraiser.</p> <p>(2) If a fundraising appeal is conducted jointly by the authorised fundraiser and a trader, and the trader maintains an account for the purposes of section 20(6) of the Act, the account is to consist only of money raised in the fundraising appeal conducted on behalf of that fundraiser.</p> <p>(3) Disbursement from the account in amounts of \$260 or more must be either by crossed cheque or by electronic funds transfer.</p> <p>(4) For the purposes of section 20(6) of the Act, money is not No comparable conduct rules required to be paid into an account consisting only of money raised in the fundraising appeals conducted by the same authorised fundraiser in the following circumstances:</p> <p>(a) the money is paid into a general account of the authorised fundraiser held at an authorised deposit-taking institution and accounting procedures are in</p>			

place to ensure that money received in the course of a particular fundraising appeal can be clearly distinguished,

- (b) the money is collected by a branch or auxiliary of the authorised fundraiser and the money is paid into a general account bearing the name of the branch or auxiliary held at an authorised deposit-taking institution and accounting procedures are in place to ensure that money received in the course of a particular fundraising appeal can be clearly distinguished,
- (c) the money is collected by volunteers on behalf of the authorised fundraiser and is paid into a general account of the authorised fundraiser held at an authorised deposit-taking institution by way of credit card, cheque or electronic funds transfer and the authorised fundraiser obtains each volunteer's receipt book and reconciles it with any deposit made by that volunteer.

- (5) In relation to any appeals that are conducted for the authorised fundraiser by a trader, the gross income from those fundraising appeals may be paid into the account of the trader. This income must be clearly identifiable in the banking and accounting records of the trader and distributed to the authorised fundraiser in accordance with a written agreement between the trader and the authorised fundraiser.
- (6) In relation to the authorised fundraiser's appeals conducted by volunteers, voluntary organisations or business houses which do not receive any benefit from the appeal (such as an event based or one off type fundraising appeal), the gross income from those fundraising appeals may be paid into the account of the nominated person or organisation. This income must be clearly identifiable in the banking and

Annexure A – Charitable Fundraising Authority Conditions	Coverage in other legislation (ACNC Act, ACL)	Other regulatory codes	Comments
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accounting records of the person or organisation and distributed to the authorised fundraiser in accordance with a written agreement between the nominated person or organisation and the authorised fundraiser.

**6. Annual financial accounts**

- (1) The annual financial accounts (also known as financial reports) of an authorised fundraiser that is an organisation must contain:
  - (a) an income statement (also known as a statement of financial performance, a statement of income and expenditure or a profit and loss statement) that summarises the income and expenditure of each fundraising appeal conducted during the financial year, and
  - (b) a balance sheet (also known as a statement of financial position) that summarises all assets and liabilities resulting from the conduct of fundraising appeals as at the end of the financial year.
- (2) The annual financial accounts of an authorised fundraiser that is an organisation must also contain the following information as notes accompanying the income statement and the balance sheet if, in the financial year concerned, the aggregate gross income obtained from any fundraising appeals conducted by it exceeds \$100,000:
  - (a) details of the accounting principles and methods adopted in the presentation of the financial statements,
  - (b) information on any material matter or occurrence, including those of an adverse nature such as an operating loss from fundraising appeals,

ACNC Act – Sections 60-B (Annual information statements) and 60-C (Annual financial reports).

No explicit conduct rules

Covered by ACNC

As proposed a “mandatory code” could be an option and could be explicit on this matter (although duplicative for ACNC charities).

Annexure A – Charitable Fundraising Authority Conditions	Coverage in other legislation (ACNC Act, ACL)	Other regulatory codes	Comments
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- (c) a statement that describes the manner in which the net surplus or deficit obtained from fundraising appeals for the period was applied,
  - (d) details of aggregate gross income and aggregate direct expenditure incurred in appeals in which traders were engaged.
- (3) The annual financial accounts of an authorised fundraiser that is an organisation are to include a declaration by the president or principal officer or some other responsible member of the governing body of the organisation stating whether, in his or her opinion:
- (a) the income statement gives a true and fair view of all income and expenditure of the organisation with respect to fundraising appeals, and
  - (b) the balance sheet gives a true and fair view of the state of affairs of the organisation with respect to fundraising appeals conducted by the organisation, and
  - (c) the provisions of the Act, the regulations under the Act and the conditions attached to the authority have been complied with by the organisation and
  - (d) the internal controls exercised by the organisation are appropriate and effective in accounting for all income received and applied by the organisation from any of its fundraising appeals.
- (4) If the organisation is a company incorporated under the Corporations Act 2001 of the Commonwealth, the declaration above is required in addition to the directors' declaration provided under section 295 of that Act.
- (5) The annual financial accounts of an authorised fundraiser that is an organisation, after being audited in accordance with the provisions of section 24 of the Act or otherwise according

Annexure A – Charitable Fundraising Authority Conditions	Coverage in other legislation (ACNC Act, ACL)	Other regulatory codes	Comments
<p>to law, are to be submitted to an annual general meeting of the membership of the organisation within six months after the conclusion of the financial year.</p> <p>(6) In addition to the requirements of paragraph (2), the annual financial statements of the authorised fundraiser must contain, as notes accompanying the statement of financial performance and the statement of financial position:</p> <p>(a) details of the type and amount of remuneration or benefit received by a member of the governing body of the authorised fundraiser (other than reimbursement of reasonable out-of-pocket expenses), and</p> <p>(b) the name and position held by each recipient.</p>			
<p>For the purpose of this condition, details of the amount of remuneration or benefit is only required to be disclosed if it is received as a direct result of holding office as a member of the governing body of the authorised fundraiser. For example, the remuneration or benefit is received by payment of a director's fee, salary or allowance, or by the provision of free accommodation, a car, etc.</p>			
<b>7. Ratio of expenses to receipts</b>	ACNC Governance Standard 5	No explicit conduct rules	Covered by ACNC
(1) An authorised fundraiser conducting a fundraising appeal for donations only (that is, without any associated supply of goods or services) must take all reasonable steps to ensure that the expenses payable in respect of the appeal do not exceed 50 per cent of the gross income obtained, whether the appeal is conducted house-to-house, in a public place, by telephone canvassing or in any other manner.	ACL, Part 2-1, section 18	FIA Code (Section 6.3) requires members to ensure that costs incurred in fundraising are proportionate to the funds raise and represent a fair market value for services provided	The ACNC has released guidance on this point: ACNC Factsheet: <a href="#">Charities and administration costs</a>  As proposed a “mandatory code” could be an option and could be explicit on this matter (although duplicative for ACNC charities).
(2) An authorised fundraiser conducting a fundraising appeal otherwise than for donations only (that is, with associated			

Annexure A – Charitable Fundraising Authority Conditions	Coverage in other legislation (ACNC Act, ACL)	Other regulatory codes	Comments
supply of goods or services) must take all reasonable steps to ensure that the expenses payable in respect of the appeal do not exceed a fair and reasonable proportion of the gross income obtained.			
<b>8. Receipting requirements</b>			
Requires immediate receipting for all monies received, regardless of whether requested by donor.		No explicit conduct rules South Australian Code (s10) contains similar obligation to provide receipt, except only requires this upon request of the donor.	As proposed a “mandatory code” could be an option and could be explicit on this matter (although duplicative for ACNC charities).
<b>9. Record systems for items used in fundraising appeals</b>			
Requires all receipt books, collection boxes, and identification cards or badges to be logged and the date issued and returned recorded		No explicit conduct rules	As proposed a “mandatory code” could be an option and could be explicit on this matter.  The PFRA could incorporate such a requirement into its Standard
<b>10. Persons conducting or participating in a fundraising appeal on behalf of an authorised fundraiser</b>	Condition 10(2) – ACL, Part 2-1, section 18 and Part 3-1, section 29(h)	PFRA (Standard 2.3.2): fundraisers must always wear the prescribed identification badge and have this clearly visible to the public on their torso while working. Unless otherwise specified by legislation or permit conditions, this badge must contain at least: i) A recent photo of the fundraiser ii) Fundraiser	Covered by ACL to some degree (and furthermore with additional proposals for amendment).  The PFRA could incorporate additional requirements into its Standard pertaining to identification badges, including: Consecutive numbering Where fundraiser is paid, inclusion of the
(1) The authorisation given by an authorised fundraiser to a member, employee or agent who conducts or participates in a fundraising appeal otherwise than as a face-to-face collector must: <ul style="list-style-type: none"> <li data-bbox="273 1337 519 1359">(a) be in writing, and</li> <li data-bbox="273 1382 667 1404">(b) include the person's name, and</li> </ul>			

Annexure A – Charitable Fundraising Authority Conditions	Coverage in other legislation (ACNC Act, ACL)	Other regulatory codes	Comments
<ul style="list-style-type: none"> <li>(c) include the terms and conditions under which the authorisation is granted, and</li> <li>(d) include a description of the appeal or appeals to be undertaken, and</li> <li>(e) indicate the specific period for which the authorisation will apply, including the issue and expiry dates, and</li> <li>(f) be signed and dated by the authorised fundraiser (or a delegate of the authorised fundraiser or its governing body).</li> </ul> <p>(2) The authorisation given by an authorised fundraiser to a member, employee or agent who participates in a fundraising appeal as a face-to-face collector must:</p> <ul style="list-style-type: none"> <li>(a) be in the form of an identification card or badge, and</li> <li>(b) be consecutively numbered, and</li> <li>(c) include the name of the authorised fundraiser and a contact telephone number, and</li> <li>(d) include the name of the face-to-face collector, and</li> <li>(e) if the face-to-face collector receives a wage, commission or fee for services, the identification card or badge must include the words "paid collector" and the name of the collector's employer, and</li> <li>(f) indicate its issue and expiry dates, and</li> <li>(g) be signed and dated by the authorised fundraiser (or a delegate of the authorised fundraiser or its governing body, and</li> <li>(h) be of sufficient size to ensure that the particulars on it may be easily read by members of the public, and</li> </ul>		<p>name iii) Charity name and logo  iv) The words "Paid Collector" v)  Charity contact information vi)  agency name. Because the PFRA  relies upon reference to specified  legislation or permit conditions, it  does not duplicate existing  requirements.</p> <p>FIA (Standards 3 &amp; 4) requires  badge with name of fundraiser as  well as full name of organisation,  corporate registration number, full  business address and the logo.  Does not rely on but complements  existing legislation.</p> <p>South Australian Code (Rule 7)  requires wearing of a badge with  name, name of charity, and  organisations contact details or  website, and state whether paid.  Where not face-to-face must  disclosure whether paid, their  name, and the name of the  licensed charity</p>	<p>words "paid collector" Issue and  expiry dates Signature of charity  and/or agency Return  requirements.</p> <p>As proposed a "mandatory code"  could be an option and could be  explicit on this matter – but would  then duplicate the ACL to some  degree</p>

## Annexure A – Charitable Fundraising Authority Conditions

Coverage in other legislation  
(ACNC Act, ACL)

Other regulatory codes

Comments

- (i) be recovered by the authorised fundraiser from the face-to-face collector as soon as the face-to-face collector's authorised involvement in the appeal is ended.
- (3) In an appeal conducted jointly with a trader, the person signing the authorisation for the purposes of condition 10 (1)(f) or (2)(g) may be the trader, but only if the trader is authorised to do so under a written agreement between the trader and the authorised fundraiser.
- (4) Despite condition 10(2), the authorisation by Apex, the Country Women's Association, Lions, Quota, Rotary or Soroptimist or UHA of NSW Incorporated (being community service organisations) of a member as a face-to-face collector may be in the form of the organisation's membership badge if:
  - (a) the appeal concerned is of a type generally associated with the organisation, and
  - (b) the name and contact telephone number of the organisation is clearly shown at the place of solicitation on a banner or sign or similar display, and
  - (c) the organisation maintains a register of membership badges on which is entered, in relation to each badge issued, a number assigned to and shown on the badge, the name of the person to whom it was issued, the date of issue and the date it was returned, and
  - (d) the organisation recovers any membership badge it issues to a person as soon as the person ceases to be a member of the organisation.

Annexure A – Charitable Fundraising Authority Conditions	Coverage in other legislation (ACNC Act, ACL)	Other regulatory codes	Comments
<p><b>11. Fundraising through direct marketing</b></p> <p>If a fundraising appeal involves solicitation by way of direct marketing (including by telephone, electronic device such as a facsimile machine, the website or direct mailing), the authorised fundraiser must ensure that:</p> <ol style="list-style-type: none"> <li>(1) the content of all direct marketing communications is not misleading or deceptive or likely to mislead or deceive, and</li> <li>(2) if requested by the person being solicited, the person is informed of the source from which the authorised fundraiser obtained the person's name and other details, and</li> <li>(3) if requested by the person being solicited, the person's name and other details are removed as soon as practicable from the source of names or contacts used for the purposes of the appeal (or if removal of the name and details is not practicable, the name and details are to be rendered unusable), and</li> <li>(4) the name and other details of a person are not provided or sold to any other person or organisation without the express consent of the person to whom the information relates, and</li> <li>(5) each contract (entered into as a result of direct marketing) for the purchase of goods or services to the value of more than \$100, provides that the purchaser has the right to cancel the contract within a period of time that is not less than five business days (excluding weekends and public holidays), and</li> <li>(6) a purchaser that enters a contract referred to in paragraph (e) is notified, at the time of entering the contract, of the purchaser's right to cancel the contract and the time within that right must be exercised, and</li> <li>(7) all direct marketing by phone complies with the Telecommunications (Do Not Call Register) (Telemarketing</li> </ol>	<p>Condition 11(1) and (8) – ACL, Part 2-1, section 18</p> <p>Condition 11 – ACL, Part 3-2, sections 69-88 (unsolicited consumer agreements)</p> <p>ACNC Governance Standard 5</p>	<p>FIA (Code 4.11): Requires promotional material not to be false, misleading or deceptive</p>	<p>Covered by the ACNC</p> <p>Under ACNC Governance Standard 5 charities are required to ensure its responsible persons act with reasonable care and diligence and that they act honestly and fairly in the best interests of the charity for its charitable purposes, and this is applicable to a charity's processes and policies for managing people's information and data.</p> <p>Certain charities will also be required to comply with, or opt to comply with the Privacy Act, and Australian Privacy Principle 7, which sets out requirements for direct marketing.</p>

Annexure A – Charitable Fundraising Authority Conditions	Coverage in other legislation (ACNC Act, ACL)	Other regulatory codes	Comments
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and Research Calls) Industry Standard 2007 of the Commonwealth.

- (8) in relation to fundraising appeals involving telemarketing operations, a telemarketer who receives a wage, commission or fee, whether or not requested to do so by the person being solicited, is required to disclose to that person at the beginning of the conversation the fact that he or she is so employed and the name of his or her employer for the purposes of the appeal.

**12. Use of collection boxes for monetary donations**

- (1) If a collection box or similar device is used for monetary donations, it must be:
  - (a) securely constructed, and
  - (b) properly sealed, and

ACNC Governance Standard 5

No explicit conduct rules

Covered by ACNC

As proposed a “mandatory code” could be an option and could be explicit on this matter (although duplicative for ACNC charities).

Annexure A – Charitable Fundraising Authority Conditions	Coverage in other legislation (ACNC Act, ACL)	Other regulatory codes	Comments
<p>(c) consecutively numbered, and</p> <p>(d) clearly labelled with the name of the authorised fundraiser.</p> <p>(2) Proper supervision, security and control must be exercised over the use and clearance of the box or device.</p>			
<p><b>13. Authorisation of expenditure</b></p> <p>If the authorised fundraiser is an organisation, all payments made in connection with:</p> <p>(1) any expenditure involved with the conduct of a fundraising appeal, and</p> <p>(2) any disposition of funds and profits resulting from a fundraising appeal, must be properly authorised by or on behalf of the organisation.</p>	ACNC Governance Standard 5	No explicit conduct rules	<p>Covered by ACNC</p> <p>As proposed a “mandatory code” could be an option and could be explicit on this matter (although duplicative for ACNC charities).</p>
<p><b>14. Advertisements, notices and information</b></p> <p>(1) Any advertisement, notice or information provided as part of a fundraising appeal must:</p> <p>(a) clearly and prominently disclose the name of the authorised fundraiser, and</p> <p>(b) not be reasonably likely to cause offence to a person, and</p> <p>(c) be based on fact and must not be false or misleading.</p> <p>(2) A person conducting or participating in a fundraising appeal must use his or her best endeavours, at all times, to answer honestly any question directed to the person in relation to the</p>	ACL, Part 2-1, section 18 and Part 3-1, section 29(h)	<p>FIA Code: generally covered by ethical conduct requirements in section 3 requiring transparency, honesty and integrity. Specifically</p> <ul style="list-style-type: none"> <li>requests for information or questions by a donor are covered by section 4.4 of the ethics code</li> <li>ensuring promotional material is not misleading or deceptive is covered by section 4.11 of the ethics code and the</li> </ul>	<p>Covered by ACL (as proposed, including to section 29 (false and misleading representations) would be relevant in relation to this section</p> <p>Best practice and proper procedures can be set out in in ACNC guidance.</p> <p>The application of 2.4.2 in the PFRA Standard could be expanded so as not to be limited to ‘conversation’, as it is presently. It could be amended to</p>

Annexure A – Charitable Fundraising Authority Conditions	Coverage in other legislation (ACNC Act, ACL)	Other regulatory codes	Comments
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purpose of the appeal or the details of the appeal, or to arrange to find answers to questions that he or she is unable to answer. In particular, if it is requested, information is to be given as to how the gross income and any articles obtained from the appeal will be distributed and on the other matters referred to in sub-paragraphs (3)(a) and (4).

(3) If a fundraising appeal is jointly conducted with a trader or if a person, in the course of a trade or business, provides services directly related to the fundraising appeal, such as telemarketing services, the following additional requirements must be complied with:

- (a) any written or printed advertisement, notice or information must include:
  - (i) the full name under which the trader or person operates for purposes of the appeal, and
  - (ii) the normal place of business, the telephone number, the facsimile number, the e-mail address and the website address of the trader or person, and
  - (iii) the benefit to be received by the authorised fundraiser must be expressed as a percentage of the gross proceeds of the appeal or an actual dollar amount. The disclosure cannot be expressed as a percentage of the "net" income of the appeal or a percentage of the "wholesale" price of a product, and
  - (iv) the benefit to be received by the trader or business from the appeal must be expressed as a percentage of the gross proceeds of the appeal or an actual dollar amount. The disclosure

associated Practice Note: Promotional Materials

- The practice notes stipulate that such conduct includes misrepresentations about facts, results, and consequences regarding the cause/beneficiaries or fundraising outcomes which are undertaken, which is also partly addressed by Conduct section 5.1

SA Code of Practice

Section 9 requires that promotional materials disclose the purpose for which the funds are collected.

Section 12 requires that all collectors must be provided with an information sheet with various details including the purpose for which the funds are raised.

PFRA requires at 2.4.2 that: Fundraisers must never mislead a member of the public or use false information in a conversation in an attempt to obtain a donation. This has recently been updated to comply with the provisions of the ACL and the advice of CAANZ.

The PFRA Standard requires at PFRA standard at 2.4.2 that:

include explicit reference to providing information about how gross fundraising income will be distributed, upon request.

The PFRA's Standard could be amended to include the following disclosure information: Full name of trader Telephone and website address of trader Whether the appeal is of limited duration (commencement and end date) or an ongoing appeal (to include the words "this is an ongoing appeal")

The PFRA also recommends the inclusion of PFRA contact information should a donor or prospective donor be unable to resolve a complaint directly with the charity.

As proposed a "mandatory code" could be an option and could be explicit on this matter (although duplicative of ACL to some degree and ACNC charities).

Annexure A – Charitable Fundraising Authority Conditions	Coverage in other legislation (ACNC Act, ACL)	Other regulatory codes	Comments
<p>cannot be expressed as a percentage of the "net" income of the appeal, and</p> <p>(v) the date on which the appeal commenced, or will commence, and the date on which it will end,</p> <p>(b) in respect of any advertisement, notice or information provided or displayed:</p> <p>(i) the format and text of any advertisement or any notice must be approved by the authorised fundraiser, and</p> <p>(ii) if the name of the trader or person is shown, it must be in the same print size as the name of the authorised fundraiser, and</p> <p>(iii) if the logo of the authorised fundraiser is displayed (including any such logo in the form of a graphic or watermark), it must appear once only, and represent not more than 10 per cent of the surface area.</p> <p>(4) if a fundraising appeal involves the collection of donated goods or material, any advertisement, notice or information must also include particulars of what is to happen to any goods and material collected.</p> <p>(5) If a fundraising appeal referred to in condition 14(3) involves the collection of donated goods and material:</p> <p>(a) details of the basis for calculating or providing the benefit to be received by the authorised fundraiser, as referred to in condition 14(3)(a)(iii), must be expressed in the advertisement, notice or information as:</p> <p>(i) a percentage of the average gross income derived or expected to be derived from all goods</p>			<p>Fundraisers must never mislead a member of the public or use false information in a conversation in an attempt to obtain a donation. It is requires adherence to General Principles (1.1) including 'Integrity and Honesty' and 'Transparency'.</p> <p>Additionally, the PFRA Standard requires at 2.3.1 that: Where not otherwise prescribed by law, fundraisers must provide donors with a written disclosure that fees are paid to a named commercial fundraising organisation (this disclosure is typically made on a charity's 'pledge form', which is provided to donors) . This has recently been upgraded with a new 'Enhanced Disclosure Notice' for PFRA members. This provides more information about the employment/engagement status of the fundraisers, how they are remunerated and whether payment incentives and/or commissions are paid</p>

Annexure A – Charitable Fundraising Authority Conditions	Coverage in other legislation (ACNC Act, ACL)	Other regulatory codes	Comments
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and material collected over a specified period of the appeal, and

- (ii) if the collection device is a bin, an average dollar amount derived or expected to be derived from each bin for each month over a specified period of the appeal, and

- (b) if the advertisement, notice or information is continuously displayed:

- (i) the details referred to in condition 14(5)(a) must be reviewed at least once every 12 months (starting from the date the advertisement, notice or information is first displayed), and the advertisement, notice or information updated if the review reveals a significant change in those details, and

- (ii) the advertisement, notice or information must be updated if at any other time there is a significant change in those details.

- (6) The requirements of condition 14 do not apply in relation to a notice referred to in conditions 15(1)(e)(i) or (3)(a).

**15. Appeals for goods to be donated by way of collection bins or bags**

- (1) If a fundraising appeal involves the collection of donated goods or material jointly with a trader and the collection device is a bin, the following requirements must be complied with:
  - (a) each bin must be consecutively numbered, and the number displayed in a prominent manner on the bin,

ACL, Part 2-1, section 18 and Part 3-1, section 29(h)

No explicit conduct rules

ACL (as proposed, including to section 29 (false and misleading representations) would be relevant in relation to this section)

As proposed a “mandatory code” could be an option and could be explicit on this matter (although duplicative of ACL to some degree and ACNC charities).

Annexure A – Charitable Fundraising Authority Conditions

Coverage in other legislation  
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- (b) if there is more than one bin used in connection with the appeal, there must be a reference on the bin to the total number of bins currently used in connection with the appeal, and this reference should be reviewed and updated whenever there is a significant change in the number of bins in use but otherwise at least once every 12 months (starting from the date the appeal commences),
- (c) the trader must maintain a record of bins that includes the date, and the number and location of each bin,
- (d) at least once a month during the appeal, the trader must provide to the authorised fundraiser a report that includes the date, and the number and location of each bin
- (e) if the appeal is for the collection of donated articles of clothing:
  - (i) each bin must have continuously displayed on its chute a notice, to be obtained from this Office, that bears the words "COMMERCIALY OPERATED", and
  - (ii) the trader must maintain a record of the appeal (that relates to that appeal only), that includes the date, and the aggregate gross weight of unsorted clothing obtained from the appeal, and
  - (iii) at least once a month during the appeal, the trader must provide to the authorised fundraiser a report (that may be combined with the report referred to in condition 15(1)(d)) that includes the date, and the aggregate gross weight of unsorted clothing obtained from the appeal.

- (2) If a fundraising appeal involves the collection of donated goods or material jointly with a trader and the collection device is a collection bag, the following requirements must be complied with:
- (a) the trader must maintain a record that includes the date, and the locality and the number of bags distributed as part of the appeal
  - (b) at least once a month during the appeal, the trader must provide to the authorised fundraiser a report that includes the date, and the locality and the number of bags distributed as part of the appeal
  - (c) if the appeal is for the collection of donated articles of clothing:
    - (i) each bag, or any advertisement, notice or information distributed with each bag, must bear the words "COMMERCIALY OPERATED" in a clearly visible position, printed in accordance with the specifications set out in condition 15(4)
    - (ii) the trader must maintain a record of the appeal (that relates to that appeal only) that includes the date, and the aggregate gross weight of unsorted clothing obtained from the appeal, and
    - (iii) at least once a month during the appeal, the trader must provide to the authorised fundraiser a report (that may be combined with the report referred to in condition 15(2)(b)) that includes the date, and the aggregate gross weight of unsorted clothing obtained from the appeal.
- (3) If a fundraising appeal is for the collection of donated articles of clothing by the authorised fundraiser (not jointly with a trader), the following requirements must be complied with:

**Annexure A – Charitable Fundraising Authority Conditions**

**Coverage in other legislation  
(ACNC Act, ACL)**

**Other regulatory codes**

**Comments**

- (a) if the collection device is a bin, each bin must have continuously displayed on its chute a notice, to be obtained from this Office, that bears the words "CHARITY OPERATED",
  - (b) if the collection device is a collection bag, each bag, or any advertisement, notice or information distributed with each bag, must bear the words "CHARITY OPERATED" in a clearly visible position, printed in accordance with the specifications set out in condition 15(4).
- (4) For the purposes of conditions 15(2)(c)(i) and (3)(b), the words "COMMERCIALLY OPERATED" and "CHARITY OPERATED" must:
- (a) be in capital letters, in Helvetica, Arial or similar font style, and not less than 5 millimetres in height, and
  - (b) appear in black and white in the following format:



**17. Agreement with trader**

- (1) If a fundraising appeal is conducted jointly with a trader, the return to the authorised fundraiser must be governed by a written agreement between the authorised fundraiser and the trader,.
- (2) Such an agreement must include at least the following particulars:
  - (a) the amount of the return to be obtained by the authorised fundraiser from the appeal, or the basis or method by which this will be calculated, (the disclosure

ACNC Governance Standard 5

FIA Code Defines a Supplier, which although different to a trader, will generally overlap. Section 6 sets out requirement for a written contract outlining responsibilities of parties

FIA Practice note Fundraising Supplier Agreements further outlines the specifications of what an agreement with a Supplier should include, and generally

Covered by ACNC

Many of these are not relevant to agreements due to the diversity and innovation in fundraising. Better not to be so prescriptive and rely on good practice guidance from the ACNC.

The PFRA Standard could be amended to include similar

Annexure A – Charitable Fundraising Authority Conditions	Coverage in other legislation (ACNC Act, ACL)	Other regulatory codes	Comments
<p>cannot be expressed as a percentage of the "net" income of the appeal or a percentage of the "wholesale" price of a product) and the manner in which payment will be effected,</p> <p>(b) details of any commission, wage or fee payable to the trader and any other persons from the gross income obtained from the appeal,</p> <p>(c) details of the type, and any limitation on the amount, of expenses to be borne by the trader and the authorised fundraiser as part of the appeal,</p> <p>(d) the basic rights, duties and responsibilities of both parties,</p> <p>(e) insurance risks to be covered by each party (for example, public liability, workers compensation for employees, personal accident insurance for volunteers, third party property insurance),</p> <p>(f) details of any records and documentation to be maintained by the trader (including those required by or under the Act) and the requirement that the trader keep these at the registered office of the authorised fundraiser, except as provided by condition 19,</p> <p>(g) details of the specific internal controls and safeguards to be employed to ensure proper accountability for the gross income obtained from the appeal,</p> <p>(h) the process to be followed in resolving disputes between the parties to the contract or agreement, complaints from the public and grievances from employees,</p> <p>(i) the reporting requirements imposed on the trader,</p>		<p>mirrors the requirements in the Fair Trading fundraising condition.</p> <p>PFRA Standard does not impose any requirements in respect of the agreements entered into between charities and agencies, other than that we require members to follow all applicable state fundraising laws, but could be amended to include similar requirements in relation to charity-agency agreements</p>	<p>requirements in relation to charity-agency agreements</p> <p>As proposed a “mandatory code” could be an option and could be explicit on this matter (although duplicative of ACNC charities).</p>

Annexure A – Charitable Fundraising Authority Conditions	Coverage in other legislation (ACNC Act, ACL)	Other regulatory codes	Comments
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- (j) an undertaking by the trader to comply with the provisions of the Act, the regulations under the Act and the conditions of the authority,
- (k) a mechanism to deal with the effect on the contract of any subsequent addition, variation or deletion of an existing condition of the authority,
- (l) the circumstances in which the contract is or may be terminated.

**18. Management**

If the authorised fundraiser is an organisation, in relation to its fundraising activities:

- (a) it must be administered by a governing body of not fewer than three persons,
  - (b) all business transacted by the governing body must be properly recorded in the organisation’s minutes,
  - (c) the minimum quorum for all meetings of the governing body must not be fewer than three persons,
  - (d) persons who are members of the same family can not comprise more than one third of the governing body, and
  - (e) persons who are members of the same family can not be co-signatories on the same transaction on the bank account of the organisation.
- (2) If the authorised fundraiser has individuals acting as trustees for a trust, in relation to its fundraising activities: (a) it must be administered by not fewer than three trustees, (b) all business transacted by the trustees must be properly recorded in a minute book, (c) the minimum quorum for all meetings of the trustees must

Annexure A – Charitable Fundraising Authority Conditions	Coverage in other legislation (ACNC Act, ACL)	Other regulatory codes	Comments
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not be fewer than three persons, (d) persons who are members of the same family can not comprise more than one third of the trustees, and (e) persons who are members of the same family can not be co-signatories on the same transaction on the bank account of the organisation.

**19 (and 23) Location of records and length of retention**

19. Circumstances under which records may be kept at a place other than registered office Records may be removed from the authorised fundraiser’s registered office: (1) to be taken into the custody of the auditor for purposes of audit, or (2) for a purpose required by law or by a condition of the authority, or (3) to be taken to a place, the location of which has been notified in writing to this Office.

Act requires records to be retained for at least 7 years at the registered address provided in the authority application.

Condition 23 allows any non-accounting records to be retained for only three years

Condition allows records to be kept elsewhere when Fair Trading is notified, or for the purposes of auditing or as a legal requirement

**20. Conflicts of interest**

- (1) The authorised fundraiser must establish a mechanism for dealing with any conflicts of interest that may occur involving a member of the governing body or an office-holder or employee of the authorised fundraiser. This includes the

ACNC Governance Standard 5

FIA: Ethical conduct standards in section 3 generally require standards which would prevent conflicts of interest, but do not specify in details in the same way as the Fair Trading conditions.

Covered by ACNC

The ACNC has also released specific guidance on managing conflicts of interest and has a publicly available conflict of interest policy.

Annexure A – Charitable Fundraising Authority Conditions	Coverage in other legislation (ACNC Act, ACL)	Other regulatory codes	Comments
<p>establishment and maintenance of a register of financial interests.</p> <p>(2) Members of the governing body of the authorised fundraiser that are, or are to be remunerated, must be excluded from that part of a meeting of the governing body where their appointment, conditions of service, remuneration or any proposal for the supply of goods and services by them, or their immediate families, is being considered.</p> <p>(3) Members of the governing body that are, or are to be remunerated, must not be counted in a quorum for that part of the meeting where their appointment, conditions of service, remuneration or any proposal for the supply of goods and services by them, or their immediate families, is being considered.</p> <p>(4) The appointment, conditions of service, remuneration of, or supply of goods or services by a member of the governing body of the authorised fundraiser must be subsequently ratified by a general meeting of the members of the authorised fundraiser (or a committee to which this function has been delegated).</p>			<p>As proposed a “mandatory code” could be an option and could be explicit on this matter (although duplicative of ACL to some degree and ACNC charities).</p>
<b>21. Internal disputes</b>			
<p>If the authorised fundraiser is an organisation, its constitution must establish a mechanism for resolving internal disputes within the membership of the organisation in relation to its fundraising activities</p>			
<b>22. Complaint Handling Mechanism</b>		<p><b>FIA</b> (Code in section 2.4) only details FIA’s authority to make determinations where there is a</p>	<p>National peak bodies, including the FIA and PFRA) working in the charity sector launched a policy</p>

Annexure A – Charitable Fundraising Authority Conditions	Coverage in other legislation (ACNC Act, ACL)	Other regulatory codes	Comments
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Requires a fundraiser to provide a mechanism to deal with complaints by the public and employees regarding fundraising activities

complaint against a fundraiser under the code.

**PFRA** Standard does not require its members to have a complaint handling mechanism in place. However, it requires notification of complaints at 2.4.18 where: Fundraisers must notify their Team Leader or Manager of any complaint or incident alleging a breach of this Standard or otherwise likely to bring face to face fundraising in disrepute. And at 2.4.19, where: Members must notify the PFRA of any complaint or incident alleging a breach of this Standard or otherwise likely to bring face to face fundraising in disrepute which has been raised by a local authority, state government, business association or other body which the PFRA has responsibility for engaging with

(April 2018) to improve how charities handle complaints.

As proposed a “mandatory code” could be an option and could be explicit on this matter.

The PFRA Standard could be expanded to include explicit reference to members’ complaint handling processes, and outlining a process for escalation to the PFRA for management. In practice, all charities have a complaint handling process; this could also be required of fundraising agencies. A recent complaint handling framework has been established by the sector however, which could form the basis for inclusion in a wider fundraising regulatory framework

**23. See above at 19**

Unless otherwise approved by the Minister, all entries made in any record required to be kept by this Schedule must be maintained: (1) in the case of accounting records, for a period of at least seven years, and (2) in any other case, for a period of at least three years

Annexure A – Charitable Fundraising Authority Conditions	Coverage in other legislation (ACNC Act, ACL)	Other regulatory codes	Comments
<p><b>24. Soliciting from occupants of motor vehicles</b> Prohibits soliciting donations from cars which drivers or passengers being driven or temporarily stopped</p>		No explicit conduct rules	Conduct may be covered by ACL already, or with proposed amendments (i.e. coerce or harass which does not involve a supply of goods or services)
<b>PART 2 PARTICIPATION OF CHILDREN IN FUNDRAISING APPEAL</b>			
<b>25. Definitions</b>			
<b>26. Participation of children in fundraising appeals</b>			
<b>27. Application of the Division</b>			
<b>28. Parental Consent and contract</b>			
<b>29. Supervision of children</b>		<p><b>PFRA:</b> Covered broadly by PFRA standard 2.2 – Public and Fundraiser Safety but with far less specificity. Eg - no ratio or proximity requirements</p> <p>PFRA standard 2.4.4</p>	As proposed a “mandatory code” could be an option and could be explicit on this matter.
<b>30. Working with Children</b>	Other state legislation likely to apply in relation to working with children	<p>PFRA standard 2.2 requires accompaniment of one other person, but not necessarily a child</p> <p>Somewhat contradicted by PFRA standard 2.4.4</p>	As proposed a “mandatory code” could be an option and could be explicit on this matter.

Annexure A – Charitable Fundraising Authority Conditions	Coverage in other legislation (ACNC Act, ACL)	Other regulatory codes	Comments
31. Endangering Children	Other state legislation likely to apply in relation to working with children	Covered broadly by PFRA standard 2.2 – Public and Fundraiser Safety	As proposed a “mandatory code” could be an option and could be explicit on this matter.
32. Insurance			
33. Prohibition on entry to private homes and dealing with persons in motor vehicles			
34. Hours of participation			
35. Minimum breaks between shifts			
36. Maximum loads for lifting			
37. Food and drink			
38. Toilet facilities			
39. Travel			
41. Protection from elements			
42-44. Additional conditions where children receive benefit for participation in fundraising appeal			