



Anglican Church Diocese of Sydney

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Circular to Ministers and Wardens

Australian Charities and Not-for-profits Commission (ACNC): dealing with surplus Australian Business Numbers

Purpose of this circular

1. The obligations set out in the *Australian Charities and Not-for-profits Commission Act 2012* apply to each registered charity with a separate Australian Business Number (ABN).
2. A number of parishes hold ABNs for ancillary or dormant charities associated with the parish in addition to the ABN for the parish itself. In such cases there will be a separate set of compliance obligations that apply to each additional ABN entity.
3. In order to simplify your compliance obligations it is advisable to minimise the number of ABNs that your parish holds where it is feasible to do so.
4. The purpose of this circular is to –
 - (a) outline in brief terms the requirement for an ABN,
 - (b) explore the circumstances in which parishes may hold additional ABNs,
 - (c) provide guidance on whether additional ABNs need to be retained, and
 - (d) outline the processes for having surplus ABNs cancelled and opting out of registration with the ACNC.
5. Please note that this circular provides general guidance about the circumstances in which it may be appropriate to cancel ABNs and opt out of registration with the ACNC based on surveys undertaken by the Secretariat in 2012 about the ABN arrangements in parishes. There may be a number of factors that you need to consider before cancelling one or more of your ABNs and opting out of registration. If you have any doubt, we recommend that you consult your professional advisers before doing so.
6. Please also note that if your parish only holds one ABN which is used for all activities associated with the parish, you can disregard this circular.

The requirement for an ABN

7. The Australian Business Number system came into effect on the commencement of the GST. Registration for an ABN was (and is) necessary for a charity to claim an input tax credit on purchases it makes which include a GST component.

8. Under the relevant legislation, an entity is entitled to an ABN if it is carrying on an enterprise. The definition of “enterprise” includes “an activity or series of activities done by a charity”. An “entity” includes any unincorporated association or body of persons, or a trust. In view of the breadth of these definitions and the relative ease of obtaining an ABN it was not uncommon for parishes to obtain multiple ABNs for their activities. However, it is generally only necessary for a parish to have one ABN for all of its activities (subject to some exceptional circumstances as detailed below).

Multiple ABNs in the parish context

9. The Secretariat conducted surveys in 2012 in order to gain an understanding of the ABN arrangements in parishes. This revealed that in addition to their main ABN, some parishes hold ABNs for one or more of the following –
 - (a) Specific trusts arising from bequests or other formal gifts.
 - (b) Public ancillary funds.
 - (c) Tax deductible funds –
 - (i) School Building Funds.
 - (ii) Religious instruction in public schools funds.
 - (iii) Funds for organisations on the Register of Cultural Organisations.
 - (iv) Necessitous circumstances funds.
 - (v) National Trust heritage restoration funds.
 - (d) Branch churches.
 - (e) Former parishes that have been amalgamated.
 - (f) Ancillary organisations (unincorporated) – eg, women’s guild.
 - (g) Ancillary organisations (incorporated) – eg, preschool, welfare agency, music academy.
 - (h) Sub-activities of a parish (eg, particular fundraising appeals, investment property holdings).

Retaining additional ABNs

Deductible Gift Funds

10. It is generally not necessary to maintain an ABN for a National Trust heritage restoration appeal since the fundraising is undertaken through the National Trust who will hold an ABN for the relevant fund.
11. It is possible for a parish to be endorsed to operate a school building fund, school scripture fund or a necessitous circumstances fund under the existing parish ABN rather than on a stand alone basis. If you currently operate one or more of these funds on a stand alone basis with its own ABN you could consider winding those funds up and applying for an endorsement to operate new funds under the parish ABN.
12. However while operating DGR funds under the parish ABN may be advantageous from the point of view of not having a separate set of compliance obligations to the ACNC in relation to each fund, there are a number of other factors you should carefully consider before proceeding. Such factors include the following –
 - (a) The ATO has recently issued a new tax ruling for school building funds which means it may be more difficult to obtain ATO endorsement to operate a new fund under your parish ABN. If the ATO did endorse a new school building fund, you would also lose the benefit of the transitional provisions in the ruling that apply to

an existing school building fund (see Circular to Ministers and Wardens dated 3 April 2013).

- (b) If you raise more than \$250,000 in a financial year through your DGR fund (or DGR funds in total) your parish would cease to be a “Basic Religious Charity” and lose the benefit of the exemptions that are granted to BRCs (see Circular to Ministers and Wardens dated 30 April 2013).
- (c) The cost of winding up existing funds and setting up new funds.

13. It's no longer possible to bring public ancillary funds held on a stand alone basis under the parish's ABN.

Ancillary Organisations (Incorporated)

14. It will be necessary to hold separate ABNs for any incorporated ancillary organisations that are associated with a parish. Incorporated entities have a distinct legal identity separate from the parish.

Bequests and other formal gifts

15. If your parish has received bequests or other formal gifts which are subject to specific trusts (eg, a Will or trust deed provides the gift is for the maintenance and upkeep of a particular building) it will generally be necessary to maintain a separate ABN for them until such time as the funds are exhausted. However if the trusts are general (eg, the purposes of the parish of X) and there is no requirement to preserve capital, there is no need to maintain a separate ABN since the funds can be treated as general revenue of the parish.
16. While there is a need for sensitivity, in order to avoid the need to hold a bequest or other formal gift under a separate ABN, you may want to encourage those considering making a bequest or other formal gift to the parish to frame the trusts in general terms (eg, for purpose of the parish of X) rather than in specific terms (eg, for the purposes of youth ministry in the parish of X). It is not in the interests of the donor to have the value of their gift eroded due to administration costs.
17. It is advisable that bequests or formal gifts over \$20,000 name the “Anglican Church Property Trust Diocese of Sydney” as the recipient on behalf of the parish, particularly where there is a requirement to preserve capital.

Branch churches and sub-activities of a parish

18. It is not necessary to hold separate ABNs for branch churches or sub-activities of a parish. These are activities within the “enterprise” of the parish and can be undertaken within the ambit of the main parish ABN.

Amalgamated parishes

19. Parishes which have ceased to exist due to an amalgamation no longer need an ABN. Upon amalgamation it will be necessary to choose one of the parish ABNs (usually the one of the parish whose minister will continue as minister of the amalgamated parish) and apply for a change of name for this ABN to reflect the new name of the amalgamated parish. The other ABN can then be cancelled.
20. If you hold dormant ABNs from previous amalgamations, you should cancel these ABNs with the ATO and opt out of registration with the ACNC.

Ancillary Organisations (Unincorporated)

21. It will generally not be necessary to hold separate ABNs for unincorporated ancillary organisations of a parish such as a women's guild or a Sunday school. If these are parish organisations under rule 3.18 of the Parish Administration Ordinance 2008, being established by the minister and under his control, they are activities of the parish and can be undertaken within the ambit of the main parish ABN.

The process for dealing with surplus ABNs

Winding Up

22. There will be particular processes that you need to undertake in order to wind up a DGR fund. You should check the fund rules. If there are no rules in respect to wind up, you need to make sure any remaining money or other assets are distributed in accordance with the charitable purposes of the fund.
23. For ABNs relating to branch churches, former amalgamated parishes, ancillary organisations (unincorporated) or sub-activities of a parish there is no action that you need to take to wind up the activities since the activities will be continuing under the main parish ABN rather than under a separate ABN.

Australian Taxation Office

24. You will then need to cancel the ABN registration with the Australian Taxation Office by either phoning 13 28 66 or completing ATO form *Application to cancel registration (NAT 2955)*. The form needs to be ordered from the ATO by phone (1300 720 092) or, if you are registered with the ATO, online (<https://business.iorder.com.au/bLogin.aspx>). The ATO will only accept phone or written applications from the authorised contact person for the ABN.

ACNC

25. Finally you need to notify the ACNC that you wish to opt out of registration on the ACNC register. Until 2 June 2013 you can do this by completing ACNC form *AA Transitional arrangements*. It is only necessary to complete section B of this form. After 2 June 2013, you will instead need to complete ACNC form *5A Application to revoke registration as a charity*. After 2 June 2013 the ACNC must approve your application for revocation before it is effective and you will need to provide information to substantiate your application. You can access the ACNC forms online at –

www.acnc.gov.au > publications > forms

Contact

26. Any parish wishing to discuss these matters is encouraged to contact our Charities Compliance Officer, Mr Bryan Ducker (bcd@sydney.anglican.asn.au or 9265 1646).

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