



How to gain Deductible Gift Recipient status for your animal charity

This Factsheet is for general information purposes and is not legal advice. It provides a brief overview only of this area of the law. If you require legal advice relating to your particular circumstances you should contact the ADO or your solicitor.

Donations to a charity or organisation are tax deductible **if** it has ‘Deductible Gift Recipient’ (DGR) status. Any organisation or charity wishing to obtain DGR status must be **endorsed** by the Australian Tax Office (ATO). To be endorsed, the organisation or charity must fall within a **specific DGR category**.

For animal organisations, there are two possible categories.

If the organisation focuses on animals in general, it will need to meet the requirements for ‘animal welfare charities’.

If the organisation focuses on native wildlife, it will need to meet the requirements for ‘environmental organisations’.

1. Animal Welfare Charities (non-wildlife groups)

To fall within this category, the organisation must do one or both of the following as its MAIN activity:

- Provide **short-term direct care** to animals (not only native wildlife) who have been lost or mistreated or are without owners
- **Rehabilitate** orphaned, sick or injured animals (not only native wildlife) who have been lost or mistreated or are without owners

The organisation can do other things, but the main activity (either or both of the two activities listed above) must outweigh all the other categories.

If the main focus of the group is native wildlife, then the group must be endorsed as an **environmental organisation** (see below), not as an animal welfare charity.

If the main focus of the group is public education, lobbying, or campaigning for animal rights, then the ATO will not consider the group to be an ‘animal welfare charity’ for the purpose of endorsement.

Implications for animal organisations seeking DGR status as an ‘animal welfare charity’

Your organisation’s constitution will need to make clear that the principal focus of the organisation is short-term direct care and/or rehabilitation of animals who have been lost or mistreated or who don’t have an owner.

For example, activities such as catching stray cats in order to de-sex them may help demonstrate that an organisation engages in short-term direct care and/or rehabilitation. Such activities would, however, have to be the *main* activity of the organisation. The combination of all other activities the organisation may engage in (such as education or lobbying) would have to be secondary to the short-term direct care and/or rehabilitation activities, and this would have to be clear in the organisation’s constitution. The constitution would also need to make clear that the main activity of the organisation is not limited to native wildlife.

If the main activity of your organisation is native wildlife, then it would need to fall within the category of ‘environmental organisations’ rather than ‘animal welfare charities’.

2. Environmental Organisations (native wildlife groups)

To fall within this category, the organisation must be entered on the Register of Environmental Organisations (the Register). The Register is a list of environmental organisations eligible to receive tax deductible donations. The Register is maintained by the Commonwealth Department of the Environment.

To be entered on the Register, an organisation must be a **body corporate** (ie an incorporated association or similar).

A body corporate can be entered on the Register only if it has at least **50 members** who are financial (ie paid up) and entitled to vote at annual general meetings.

To be an ‘environmental organisation’ the group’s **principal purpose** must be:

- the protection and enhancement of the natural environment (or of a significant aspect of the natural environment); or
- the provision of information or education, or the carrying on of research, about the natural environment (or a significant aspect of the natural environment).

The ‘natural environment’ can include **wildlife and their habitats**.

To show that the organisation’s principal purpose is the protection and enhancement of, or education about, the natural environment, these activities must be included in the organisation’s objects or goals as part of its constitution (along with other more specific matters).

The organisation must also establish and maintain a **public fund**. It is the public fund that is endorsed as a DGR.

A public fund must have:

- its own name;
- its own objects (ie the environmental purpose of the organisation);
- its own management committee;
- its own bank account (separate to the environmental organisation); and
- its own rules.

Further information about the requirements for seeking DGR status as an environmental organisation is available in the Register of Environmental Organisations Guidelines. The Guidelines are available here: <http://goo.gl/Y4xqqz>

Examples of 'wildlife' groups (*and their public funds*) on the Register are:

- Animals Asia Foundation (Australia) Limited (*Animals Asia Fund*)
- Australian Native Dog Conservation Society Limited (*Merigal Dingo Sanctuary Gift Fund*)
- Australian Platypus Conservancy Inc (*Australian Platypus Conservancy Research and Conservation Fund*)
- AWARE Australian Wildlife Assistance Rescue and Education Incorporated (*AWARE Wildlife Fund*)
- Wildcare Queanbeyan Incorporated (*Wildcare Queanbeyan Public Fund*)
- Wildlife Preservation Society of Queensland Ltd (*Wildlife Preservation Society of Queensland Gift Fund*)
- Wildlife Protection Association of Australia Inc (*Wildlife Protection Association of Australia Fund*)
- Wildlife Victoria Inc (*Wildlife Rescue and Rehabilitation Fund*)

Implications for animal groups seeking DGR status as an 'environmental organisation'

Your organisation must focus on wildlife rather than all animals. The organisation's constitution would need to show that its main purpose is the protection and conservation of, or education about, wildlife and its habitat.

Your organisation would also need to establish and maintain a public fund, which would include setting up a separate bank account.

The Register of Environmental Organisations Guidelines contain examples of rules (or 'model clauses') that you would need to include in your constitution before you can be entered on the Register and obtain DGR status. These include model clauses for public funds. You should consider these examples when drafting or amending your organisation's constitution.

More information from the ATO for native animal groups can be found here:

<http://goo.gl/UdYVag>

Information from the Department of the Environment about the Register of Environmental Organisations, including Guidelines and an application form, can be found here:

<http://goo.gl/jaZCyo>

About the Animal Defenders Office Inc.

The Animal Defenders Office Inc. (ADO) is a Community Legal Centre specialising in public interest animal law. We aim to support, empower and advocate for individuals and groups in the ACT and surrounding region who want to use the law and legal system to protect animals, and to do this through the provision of information, advocacy and advice. If you have a query about anything in this Fact Sheet, or would like the Animal Defenders Office to help you to protect animals, please email us: contact@ado.org.au

To learn more about the ADO please visit our website: www.ado.org.au

DISCLAIMER

While all care has been taken in preparing the information on this fact sheet, it is not a substitute for legal advice. For any specific questions we recommend you seek legal advice. The Animal Defenders Office accepts no responsibility for any loss or damage suffered by people relying on the information on this fact sheet.

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