

CONSULTATION PAPER ON DRAFT CHARITIES (AMENDMENT) BILL 2017

AIM

1. The Office of the Commissioner of Charities invites the public to provide feedback on the draft Charities (Amendment) Bill. This public consultation will run from 21 August to 11 September 2017.

BACKGROUND

2. The Charities Act (“the Act”) was last amended in 2010. The key amendments then sought to: (a) clarify the roles and responsibilities of governing board members of charities and protect them from personal liability; (b) enhance the accountability and governance in the charity sector, particularly through accounting standards and audit requirements; and (c) strengthen the regulation of fund-raising appeals.

3. The proposed amendments to the Act aim to further enhance the regulatory framework to increase the accountability of charities and fund-raisers in Singapore. It also seeks to afford stronger regulatory powers to the Commissioner of Charities (“the Commissioner”) in the discharge of his duties to maintain public trust and confidence in the charity sector, including fund-raising appeals for charitable, benevolent or philanthropic purposes.

STAKEHOLDER FEEDBACK

4. For this round of review, a focus group discussion was held in November 2016 with charity representatives across various sectors (such as the social and welfare, health, education, religious, sports, and animal welfare sectors) to seek views on the proposed amendments. The Office of the Commissioner has also taken into account feedback and recommendations from the 4th and 5th Charity Council, and our five Sector Administrators (i.e. Ministry of Education, Ministry of Health, Ministry of Social and Family Development, People’s Association and Sport Singapore).

SCOPE OF PROPOSED AMENDMENTS

A. Enhancing the Regulatory Framework to Increase Accountability of Charities and Fund-Raisers

5. The following key enhancements to the regulatory framework are proposed:

(a) Section 27 of the Act specifies the circumstances under which a person would be disqualified from being a key personnel¹ of a charity. The following enhancements are proposed to be made to strengthen and update the disqualification regime:

(i) Include the following new grounds for disqualification:

(A) conviction for an offence involving terrorism, terrorism financing or money laundering; and

(B) removal from the office of officer, agent or employee of a charity by an order of the Commissioner under section 25(1)(i) of the Act or by the High Court;

(ii) Prevent disqualified persons from being a governing board member or key officer of any entity that is a governing board member or a member of any charity; and

(iii) Make clear that the criminal conviction ground for disqualification will not apply to spent convictions²;

(b) Clarify the type of penalties that may be imposed for the contravention of regulations concerning Institutions of a Public Character, and provide for these penalties to be specified in the regulations;

(c) Provide the power to make regulations to mandate the filing of annual submissions and other regulatory submissions via electronic means; and

(d) Clarify the definition of “fund-raising appeal” in the Act.

¹ Key personnel of a charity under the current Act refers to a governing board member or key officer of a charity or trustee for a charity.

² Under the Registration of Criminals Act, the criminal records for minor offences can be rendered spent if certain criteria are satisfied, such as the concerned individual fulfilling a five-year crime-free period and provided the sentence imposed was not more than three months' imprisonment or \$2,000 in fines. Criminal records for offences such as outrage of modesty, attempt to murder and voluntarily causing grievous hurt cannot be spent.

B. Enhancing Regulatory Powers

6. The Office of the Commissioner also seeks to enhance the Commissioner's powers so that he can better regulate charities and fund-raising appeals in Singapore. The following key amendments are proposed:

- (a) Section 25 of the Act specifies, amongst other powers, the circumstances under which the Commissioner can remove a charity's related persons³. The following enhancements are proposed to strengthen and update the removal regime:
 - (i) Allow the Commissioner to remove, under section 25(4) of the Act, individuals who, despite being disqualified under the proposed sections 27(1) or (4), continue to act as governing board members or key officers of a charity;
 - (ii) Make clear that the criminal conviction ground for removal will not apply to spent convictions; and
 - (iii) Allow the Commissioner to make a removal order against a charity's related person even though the person in question has resigned from the charity;
- (b) Empower the Commissioner to extend the suspension period of a charity's related persons;
- (c) Empower the Commissioner to suspend improper fund-raising appeals pending the completion of investigations into such fund-raising appeals; and
- (d) Enhance the Commissioner's power to call for documents and information.

7. Other administrative and consequential amendments are also proposed to be made to the Act for greater clarity and consistency.

³ Related person of a charity refers to a trustee, governing board member, officer, agent or employee of a charity.

ANNEXES

8. Please refer to:

(a) Annex A for the Table of Proposed Amendments in the Draft Charities (Amendment) Bill; and

(b) Annex B for the Consultation Charities (Amendment) Bill.

FEEDBACK

9. Charities and all interested members of the public are invited to provide their comments and feedback on the draft Charities (Amendment) Bill from 21 August to 11 September 2017.

10. Respondents are requested to observe these guidelines:

(a) Indicate your name, and the organisation you represent (if applicable) as well as contact details (email address and/or telephone number) to enable us to follow up and seek clarification, if necessary;

(b) Focus your comments on how the policy proposals can be improved, whether generally or in the form of the legislative amendments, to make them clearer and to facilitate compliance; and

(c) If you wish to suggest edits to the proposed amendments, quote the relevant section(s) of the Act and set out your suggested edits to the section(s) of the Act.

11. Written comments and feedback can be submitted via the following channels:

- Email to: MCCY_Charities@mccy.gov.sg

- Post to: Office of the Commissioner of Charities
Ministry of Culture, Community and Youth
140 Hill Street, #02-00
Old Hill Street Police Station
Singapore 179369
Subject: "Consultation on Draft Charities (Amendment) Bill 2017".

12. We regret that we will not be able to individually acknowledge or address every comment we receive. However, a summary of comments received and our responses

will be published following the close of the consultation exercise. The summary will not disclose the identity of respondents, to maintain the confidentiality of the source of the feedback received.

13. We seek your understanding that the Office of the Commissioner can only consider comments and feedback that are received by 11 September 2017.

Issued by:
Office of the Commissioner of Charities
Ministry of Culture, Community and Youth
21 August 2017