

ANNUAL REPORT OF THE COMMISSIONER OF CHARITIES FOR 2005

REGISTERED CHARITIES

The Charities Act provides the legal and regulatory framework for charities in Singapore. Any organisation established exclusively for charitable purposes (other than those exempted) and carries out activities to achieve these purposes must apply for registration with the Commissioner of Charities. There are 4 charitable purposes that are explicitly recognised. These are the relief of poverty, the advancement of education, the advancement of religion, and other purposes beneficial to the community. In the 2005 Budget, the Minister for Finance had decided to explicitly recognise the following purposes as charitable under “other purposes beneficial to the community”:

- the advancement of health;
- the advancement of citizenship or community development;
- the advancement of arts, heritage or science;
- the advancement of environmental protection or improvement;
- the relief of those in need by reason of youth, age, ill-health, disability, financial hardship or other disadvantages;
- the advancement of animal welfare; and
- the advancement of sport, where the sport advances the health

In 2005, 76 charities were registered while 16 were deregistered. This brings the total number of registered charities in Singapore to 1,807 as at 31 December 2005. Charities established for the advancement of religion remained the majority at 53%. *Appendix 1* shows the distribution of the registered charities by charitable purposes. As at 31 December 2004, half of the registered charities¹ had annual income (including donations and Government grants) of less than \$250,000. 59 charities

had annual income exceeding \$10 million and received more than 75% of the \$4.35 billion of total income of all registered charities¹. Appendix 2 shows the distribution of registered charities by annual income for the year 2004.

FUND-RAISING APPEALS FOR FOREIGN CHARITABLE PURPOSES

Any organisation that wishes to conduct or participate in any fund-raising appeal for foreign charitable purposes must apply for a permit from the Commissioner of Charities. A total of 36 permits were issued in 2005 for various purposes such as the relief of victims of natural disasters (e.g. Hurricane Katrina, Pakistan earthquake, Iran earthquake), the provision of medical aids for orphans and needy children, and the construction of schools and orphanages in Sri Lanka, Indonesian and Cambodia.

INQUIRY INTO THE SINGAPORE ASSOCIATION FOR THE VISUALLY HANDICAPPED (SAVH)

Under the Charities Act, the Commissioner of Charities may institute inquiries with regard to charities or a particular charity or class of charities, either generally or for a particular purpose.

In September 2005, the National Council of Social Service (NCSS), in its capacity as the Central Fund Administrator for SAVH, brought to the attention of the Commissioner, areas of concern in SAVH's governance, management, financial controls and service programmes.

The Commissioner commenced an inquiry into the affairs of SAVH on 14 September 2005. The inquiry was completed on 15 December 2005. The Commissioner found 12 areas of weaknesses in SAVH's corporate governance,

¹ This refers to all registered charities whose tax assessments for the Year 2004 had been finalised as at 31 March 2006.

management, financial and operational controls, and procurement procedures. The Commissioner did not find any loss or misuse of funds.

The Commissioner then informed SAVH of the findings and gave SAVH six months from 1 January 2006 to take remedial actions. The Commissioner also referred the breach of SAVH's Constitution to the Registrar of Societies. SAVH had since rectified all the issues to the satisfaction of the Commissioner. In view of the improvements that have been made in SAVH's governance and management procedures, NCSS has also renewed SAVH's Approved Institution of a Public Character status (which allows it to raise tax-deductible donations) with effect from 18 September 06 for one year.

INVESTIGATION OF THE NATIONAL KIDNEY FOUNDATION (NKF)

In July 2005, the various disclosures over the way NKF rewarded its Chief Executive Officer (CEO) and misled the public on patient numbers and how long its reserves would last during the hearing of the defamation suit that NKF brought against Singapore Press Holdings led to a public outcry and the resignation of the entire NKF Board and the CEO on 14 July 2005.

The new NKF Board commissioned KPMG to review the past policies and procedures of the NKF, with a view to identify any wrong-doings, highlight any poor judgements, and correct any systemic weaknesses in corporate governance. KPMG highlighted several areas of concern to the new NKF Board. After analysing these concerns, the Inland Revenue Authority of Singapore (IRAS) decided to investigate whether NKF had complied with the regulatory provisions under its purview. The investigation revealed the following irregularities:

i Misleading accounts

There were several mistakes in NKF's accounts, including incorrect accounting for income at the par value of shares received instead of the market value, income from a fundraising project net of expenses instead of at gross, income not being recognized in the correct year, and related party transactions which may not be at arm's length. However, NKF did not breach the "80-20" spending rule² for income tax exemption in the respective years, even after adjusting for the incorrect accounting entries.

ii. Wrongful issue of tax deduction receipts / Wrongful claim of double tax deduction

There were instances of wrongful issue of tax deduction receipts by NKF and wrongful claim of double tax deduction by donors. IRAS asked NKF to withdraw the tax deduction receipts which were wrongly issued. The double deductions allowed to the donors will consequently be withdrawn.

iii. Non-compliance with Section 45A of the Income Tax Act

An analysis of the agreement with Forte System, Inc revealed that NKF should have withheld tax on the payments for services rendered in Singapore in accordance with Section 45A of the Income Tax Act. NKF did not do so. IRAS will recover the withholding tax from NKF accordingly.

iv. Non-compliance with the Goods and Services Tax Act

NKF submitted incorrect GST returns by understating the output tax from its supplies in respect of two agreements. IRAS asked NKF to account for the output tax understated in respect of the supplies from the two agreements.

² Under Section 13M(2) of the Income Tax Act, charities will be exempt from income tax if they spend at least 80% of their total income and other receipts for charitable purposes within Singapore by the following year.

Following the NKF incident, the Government has looked into ways to strengthen the regulatory regime and governance standards for charities and IPCs, while striking a balance between strict regulatory oversight and operational flexibility. Recommendations have been put forth to and accepted by the Government following reviews conducted by the Council on Governance of Institutions of a Public Character (IPCs) and Inter-Ministry Committee (IMC) on the Regulation of Charities and IPCs. These are elaborated in subsequent sections of this report.

REVIEW BY THE COUNCIL ON GOVERNANCE OF INSTITUTIONS OF A PUBLIC CHARACTER (IPCs)

In January 2004, the Ministry of Finance set up the Council on Governance of IPCs to establish minimum standards of governance for IPCs and promote best practices in transparency, accountability and governance among IPCs. The Commissioner of Charities was a member of the Fund-raising Workgroup under the Council. In May 2005, the Council submitted to the Government 19 recommendations on governance, fund-raising practices and financial reporting. The Government accepted 15 of the recommendations in full, another three with modifications, and the remaining one for adoption as best practice. The recommendations had taken effect from July 2006.

REVIEW BY THE INTER-MINISTRY COMMITTEE (IMC) ON THE REGULATION OF CHARITIES AND IPCs

In October 2005, the Government set up the IMC on the Regulation of Charities and IPCs to develop a regulatory framework for charities and IPCs with a view towards helping the sector to grow, rationalise existing regulations and the roles and powers of the various regulatory agencies, and streamline processes to facilitate the registration, reporting and fundraising requirements of charities and IPCs. The Commissioner of Charities was represented on the IMC. The IMC completed its

review in March 2006. All of its recommendations were accepted by the Government and the Government will be making the necessary legislative changes to implement them by FY2006.

REVIEW BY THE COMMISSIONER OF CHARITIES ON HIS ROLE AND FUNCTION

The Commissioner of Charities had on his own accord carried out an internal review of the role and function of the Commissioner to see how the regulatory requirements could be tightened without imposing too high an administrative burden on charities in general. Three areas were identified for this review, namely (i) the operating standards that charities and IPCs should adhere to, (ii) the roles and responsibilities of the Central Fund Administrators (CFAs, to be renamed as Sector Administrators (SAs)³ in line with their expanded roles in assisting the Commissioner Of Charities in overseeing both charities and IPCs in their respective sectors) and the Commissioner over their respective charities and IPCs, and (iii) the reporting of the performance of charities and IPCs under each SA's charge to the Commissioner.

Arising from this review, the Commissioner intends to carry out the following:

- i. All charities and IPCs, particularly those with annual income greater than \$10 million for two immediately preceding financial years, should for a start be encouraged to adopt the NCSS Code of Governance and Management as a best practice. The Commissioner will take reference from the NCSS Code as well as the Code of Governance for the National Sports Associations (NSAs) to consider applicable best practice guidelines for all charities and IPCs.

³ The 11 CFAs will be rationalized into 6 SAs, which are the Ministry of Education (MOE), Ministry of Health (MOH), Ministry of Information, Communications and the Arts (MICA), National Council of Social Service (NCSS), People's Association (PA) and the Singapore Sports Council (SSC).

- ii. Audit firms appointed by charities and IPCs with annual income greater than \$10 million must have no less than 3 partners and turnover of no less than \$0.5 million.
- iii. The SAs and Commissioner will audit large charities and IPCs with annual income greater than \$10m under their respective purview within the next few years. For a start, the SAs and Commissioner will collectively aim to complete at least 6 audits in the first year, at least 15 audits per year thereafter, with IPC-charities to be audited first.
- iv. The SAs and Commissioner will conduct field visits on charities and IPCs under their respective purview every year. For a start, the SAs and Commissioner will aim to complete 10 field visits collectively in the first year, and increase this number to at least 30 field visits from the second year onwards, with priority given to IPC-charities.
- v. The scope of field visits will be expanded to include explanation of the new guidelines on governance to charities and IPCs when the guidelines are ready, and to find out the possible problems they may encounter in meeting the guidelines.
- vi. The SAs will report to the Commissioner annually on the findings of the field visits and audits, and highlight issues of concern and the activities they have done to help their charities and IPCs achieve the best practices.

PLANS FOR 2006

Some of the recommendations of the IMC include transferring the Office of the Commissioner of Charities from IRAS to the Ministry of Community Development, Youth and Sports (MCYS) by end 2006, granting additional powers to the Commissioner to act for the protection of charities and IPCs, rationalising the current 11 CFAs into 6 SAs who will assist the Commissioner in overseeing both charities and IPCs in their sectors, and setting up a Charity Council comprising

representatives from the people sector to promote self-regulation and good governance.

The Commissioner will be working closely with MCYS and MOF to pass the necessary legislative amendments into law. MCYS is agreeable to the actions that the Commissioner intends to carry out to improve the regulation of charities and IPCs.

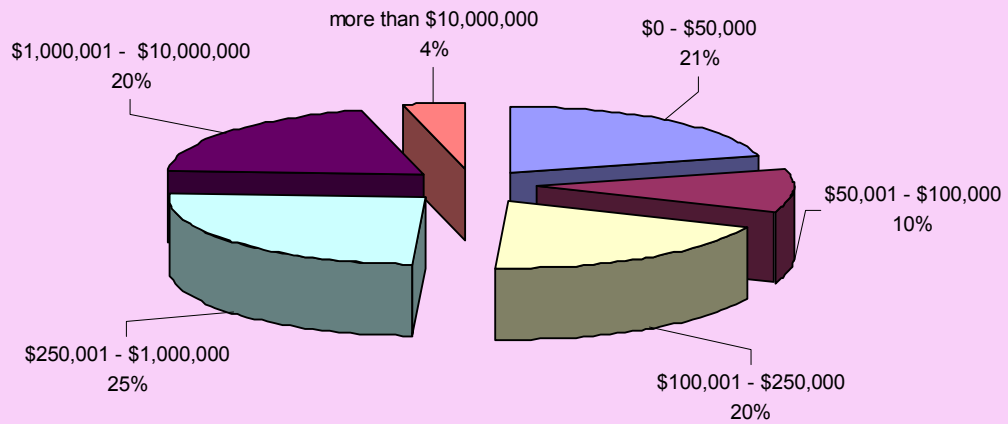
The Commissioner of Charities will continue to partner charities to achieve their objectives while ensuring that they comply with the Charities Act and principles of good governance.

APPENDIX 1

| NUMBER OF REGISTERED CHARITIES | | | | |
|---------------------------------------|--------------------------|---------------------------|-----------------------------|--------------------------|
| Charitable Objectives | As at 31 Dec 2004 | Registered in 2005 | Deregistered in 2005 | As at 31 Dec 2005 |
| Relief of Poverty | 14 | 0 | 0 | 14 (1%) |
| Mixed activities | 193 | 12 | 1 | 204 (11%) |
| Advancement of education | 216 | 11 | 2 | 225 (12%) |
| Purposes beneficial to the community | 392 | 25 | 5 | 412 (23%) |
| Advancement of religion | 932 | 28 | 8 | 952 (53%) |
| TOTAL | 1747 | 76 | 16 | 1807 (100%) |

APPENDIX 2

Distribution of registered charities¹ by total annual income for the Year 2004



¹ Registered charities whose tax assessments for the Year 2004 has been finalised as at 31 March 2006.