

SUMMARY OF REGULATORY SYSTEM FOR CHARITIES IN SINGAPORE (September 2006)

1. CREATING NGOS

Estimates on the size and economic value of the NGO sector:

There are 1,747 registered charities in Singapore as at 31 December 2004. Charities established for the advancement of religion remained the majority at 53%.

As at 31 December 2003, more than half of the 1,659 registered charities had annual income (including donations and Government grants) of less than \$250,000. Of these, 292 registered charities had income of \$50,000 or below. 47 large charities had income exceeding \$10 million and received more than 80% of the \$5 billion of total income of all registered charities.

(Ref: Annual Report of the Commissioner of Charities for 2004)

Different types of NGOs that exist:

- Charities
- Voluntary Welfare Organisations (VWOs)
- Institutions of a Public Character (IPCs)

Legal definition(s) of the different types of NGOs that exist:

Charities are organisations set up for any of the following charitable purposes:

- relief of poverty;
- advancement of education;
- advancement of religion; and
- other purposes beneficial to the community.

The charitable status is conferred by the Commissioner of Charities (COC) or by the Minister (for exempt charities).

A **Voluntary Welfare Organisation (VWO)**, as defined by the National Council for Social Services (NCSS), refers to an organisation that:

- is a voluntary set-up and governed by an elected volunteer board;
- is non-profit making;
- promotes and provides social and community services in financial, emotional, educational, health and social aid and support;
- caters for those in need, distress or at-risk and helps the disadvantaged and disabled to be independent;
- is driven by a strong spirit of volunteerism; and
- works with volunteers, government authorities, public and private organisations and the community.

An approved **Institution of a Public Character** must either be a charity (as above) or an institution or fund which is:

- a hospital not operated or conducted for profit;
- a public or benevolent institution not operated or conducted for profit;
- a public authority or society not operated or conducted for profit and which is engaged in research or other work connected with the causes, prevention or cure of disease in human beings, where the gift is for such activities;
- a university or a public fund for the establishment, maintenance, enlargement or improvement of a university;
- an educational institution not operated or conducted for profit, or a public fund for the

establishment, maintenance, enlargement or improvement of such an educational institution;

- a public or private fund for the provision, establishment or endowment of a scholarship, exhibition or prize in a university, or an educational institution not operated or conducted for profit;
- a public fund established and maintained for the relief of distress among members of the public;
- a charitable institution or a body of persons or a trust established for charitable purposes only; or
- an organisation not operated or conducted primarily for profit which is engaged in or connected with the promotion of culture or the arts or with the promotion of sports.

In addition, its activities must be beneficial to the community in Singapore as a whole, and not confined to sectional interests or group of persons based on race, creed, belief or religion, unless otherwise approved by the Minister for Community Development Youth & Sports.

Requirements for creating an NGO:

To be registered as a charity, the organisation must be set up as a:

- Society (under Societies Act),
- Company limited by guarantee not having a share capital (under Companies Act), or
- Trust under a trust deed.

2. REGISTERING NGOS

NGOs which are required to register and details of the agencies they must register with (including contact details):

They may register with the following agencies:

- Registry of Societies (to register as societies)
- Accounting & Corporate Regulatory Authority (ACRA) (to register as companies)
- Law firms which are qualified to set up trusts under a trust deed.

Organisations are required to register as a society, a company limited by guarantee or a trust, before they can register as a charity.

NGOs which may register voluntarily and details of the agencies they can register with (including contact details):

N.A.

The registration process:

All charities set up in Singapore must apply for registration under the Charities Act within 3 months of its set-up unless they are exempted from doing so. It is the duty of charity trustees to apply for registration. There are no fees payable for the registration.

There are altogether 6 sector administrators covering the social service, health, education, sports, arts and heritage, community and youth sectors. The charity will apply for registration directly with its Sector Administrator (SA).

To apply for registration as a charity, application form and the following documents have to be submitted:

- A set of the governing instrument (i.e. Memorandum and Articles of Association, Constitution, Trust Deed, etc.),
- Latest set of audited Statements of Accounts, (if available),
- Particulars (names, I.C No., address, position held in committee, date of appointment) of the charity trustees /management committee,
- Information on activities carried out by the organisation to attain its objectives, (For newly established charities, detailed plans of activities to be carried out within the first two years of establishment should be furnished.)
- Information on whether the activities or programs of the society are open to the public or confined only to members or sectional interest groups,
- Information on whether the society is affiliated to any organisation in Singapore or overseas and the nature of the affiliation (if any),
- Information on whether fees will be charged for their activities,
- Photographs (both internal and external views) of the charity premises, particularly for faith-based cases. (This will give us an idea of the size of the faith-based organisation and whether it is open for public worship.)

The Commissioner's office provides charities with assistance in registrations by providing information and guidance via hotlines, websites and brochures.

3. GOVERNANCE REQUIREMENTS FOR NGOS

Requirements for governing documents:

The governance requirements are as follow:

- A set of the governing instrument (i.e. Memorandum and Articles of Association, Constitution, Trust Deed, etc.),
- Particulars (names, I.C No., address, position held in committee, date of appointment) of the charity trustees / management committee,
- Information on activities carried out by the organisation to attain its charitable objectives, (For newly established charities, detailed plans of activities to be carried out within the first two years of establishment should be furnished.)

The Commissioner's office provides assistance to charities in meeting governance requirements by providing information and guidance via hotlines, websites and brochures.

What responsibilities and/or liabilities are imposed upon governing bodies of NGOs?

"Charity trustees" is defined in the Charities Act as persons having the general control and management of the administration of a charity. Their duties under the Act are to:

- register the charity;
- notify the Commissioner of change in trust or particulars or if the charity ceases to exist;
- ensure accounting records are properly kept;
- preserve accounting records for at least 7 years;
- prepare annual report and statement of accounts within 6 months for the end of the financial year;
- provide any interested person with a copy of the charity's most recent accounts within 2 months of the request.

Regulations relating to payments and distribution of profits:

Remuneration & Benefits

According to the NCSS Code of Governance for VWOs, Board members and volunteers shall

serve without a remuneration for their voluntary service to the VWO so as to maintain the integrity of serving for public trust and community good instead of personal gain. However, VWOs may reimburse Board members or volunteers for out-of-pocket expenses directly related to the service.

In addition, the Guide to Best Practices for IPCs states that the IPCs shall disclose to the public the remuneration and/or benefits received by Board members for their voluntary service to the IPC.

Distribution of profit/ surplus

Charities incorporated as companies will generally have governing instruments and memorandum of associations that restricts the distribution of their profit/ surplus to members. Although there are no legal restrictions on registered societies, they may have their own constitutional clauses on the distribution of their profit/ surplus.

All charities with an IPC status have to apply their tax-deductible donations for purposes in line with the objectives which they have applied for. Hence, the distribution of the IPCs' profit/surplus will generally not be allowed.

4. COLLECTING INFORMATION ON NGOS

Collecting information:

All charities are required by the Charities Act to submit their annual report to the Commissioner of Charities every year. The annual report to be prepared by the charity trustees of a charity shall contain —

(a) the following particulars:

- (i) a description of the instrument setting up the charity;
- (ii) the charity registration number;
- (iii) where the charity is a society registered under the Societies Act or a company, the registration number of the society or the company;
- (iv) the registered address of the charity;
- (v) the names of the charity trustees and their dates of appointment;
- (vi) the names, designations and dates of appointment of the members of the management committee, advisory council or other similar body, if any; and
- (vii) the names of the bankers, lawyers, auditors, investment advisers or other advisers of the charity;

(b) a report by the charity trustees containing —

- (i) an explanation of the objectives of the charity and a description of the way in which the charity is organised, and the policies adopted during the financial year in pursuance of its objectives;
- (ii) a review of the activities during the financial year;
- (iii) a review of the financial state of the charity and an explanation of all major financial transactions and salient features of the statement of accounts; and
- (iv) an explanation of the purposes for which the charity's assets are held and an indication of the charity's future plans and commitments, with particular regard to on-going items of expenditure, projects not yet completed and obligations not yet met;

and

- (c) a statement of accounts or, if allowed, a receipts and payments account and a statement of assets and liabilities.

The powers of Commissioner of Charities is such that any person who, without reasonable excuse, is persistently in default in relation to any requirement imposed under the Charities Act shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000.

The Commissioner's office provides assistance to charities in their annual submissions by providing information and guidance via hotlines, websites and brochures.

Analysis of information:

The Commissioner's office examines the amendments to governing instruments, statement of accounts, annual report and returns from charities. Staff will contact the charity if clarifications and more information are required. Generally, verification of the accuracy of accounts will be made by appointed external auditors if the Commissioner of Charities institutes an investigation or inquiry on any particular charity.

Making information publicly available:

(1) Any annual report or other document kept by the Commissioner of Charities in pursuance of the Charities Act shall be open to public inspection at all reasonable times —

- (a) during the period for which it is so kept; or
(b) if the Commissioner so determines, during such lesser period as he may specify.

(2) Where any interested person —

- (a) requests the charity trustees of a charity in writing to provide him with a copy of the charity's most recent accounts; and
(b) pays the charity trustees such reasonable fee (if any) as they may require in respect of the costs of complying with the request,
those trustees shall comply with the request within the period of 2 months beginning with the date on which the request is made.

5. ACCOUNTABILITY AND ACCOUNTING

Requirements and standards:

Please refer to Section 4 on collecting information above.

Charities have to comply with annual reporting requirements (Annual Returns, Annual Reports, Audited Accounts). Charities are encouraged to put up key financial information on the website so that donors and the public can better assess if they want to support these charities. Charities are to follow the requirements of the Financial Reporting Standards.

If charities fail to comply, their applications to issue tax exempt receipts and permits to do fund-raising may be affected.

Analysis of information:

Charities are required to submit their annual financial accounts/statements to the COC and ROS (for societies) or ACRA (for companies). Government agencies do routine checks on

the accounts. Complaints received by the authorities about financial irregularities are also looked into seriously.

Government agencies usually rely on the external auditors' reports. For large charities e.g. income is more than \$10m, separate audits may be commissioned. The current legislation allows for government agencies to have access to information on accounting, programmes and activities if needed.

6. PREVENTING AND INVESTIGATING ABUSE

Regulatory intervention:

The legislation was recently amended giving investigative powers to all bodies monitoring charities. When the monitoring bodies suspect mismanagement whether it has to do with the service or the board, these bodies can initiate a preliminary investigation and have full access to information. The Commissioner of Charities has the power to remove and replace trustees, institute a scheme to administer the charity and manage the property of the charity if needed.

Right of appeal:

In the event of an investigation, charities are given a fair hearing and asked to produce evidence to substantiate their stand. The Commissioner of Charities can decide on how the funds seized or received are distributed, in accordance with the constitution of the charity. In the case where a charity is de-registered, it must provide the Commissioner with evidence that remaining funds have been distributed in accordance with its governing instrument.

7. REGULATIONS RELATING TO INCOME

Tax exemptions:

Charities can enjoy income tax exemptions if they spend at least 80% of their total income from the preceding year on charitable objects in Singapore. Charities which are IPCs can also issue tax-exempt receipts for direct donations that are either in cash or in-kind. Charities that are registered as Companies Ltd can invest in accordance with their constitutions.

Trading:

Although there are currently no special restrictions on trading by charities, they may have their own constitutional clauses on the distribution of their profit/ surplus.

All charities with an IPC status have to apply their tax-deductible donations for purposes in line with the objectives which they have applied for. Hence, the distribution of the IPCs' profit/ surplus from trading will generally not be allowed.

Charities generally fund-raise via the following ways:

- Street collections (i.e. flag days)
- House to House collections
- Charity events (i.e. golf tournaments, runs, walkathon, dinners, sale of merchandise etc.)
- TV charity shows and telepolls (i.e. President's Star Charity)

Fundraising:

The basic regulations on public fund-raising that apply to charities are as follow:

- a) Ensure that the total expenses incurred on public fund-raising appeals in a financial year should not be more than 30% of total donations collected through the public appeals in that year.
- b) Have an independent examiner or auditor to certify whether the charities have met the 30/70 rule as part of their annual audits¹.
- c) Submit an examiner or auditor's report on the use of donation monies raised through public appeals and whether such use is in accordance with the charity's objectives to COC no more than 6 months from the close of their financial year.
- d) Ensure that information provided to donors, potential donors and the general public in their public appeals does not contain any misrepresentation or material omission that would lead to a conclusion of misrepresentation.
- e) Disclose the name of their organisation, intended use of funds and use of commercial third-party fund-raisers during their public appeals.
- f) Disclose the total funds raised, fund-raising expenses incurred and planned use of funds raised for each public fund-raising event that raises \$1 million or more. The disclosure should be done online at the end of each financial year (need not be audited or examined separately).
- g) Maintain separate financial accounts for public fund-raising events that raise \$1 million or more. The accounts need not be audited or examined separately.
- h) Ensure adequate control measures for all collection instruments used in public appeals, e.g. serialise collection tins or pledge cards.
- i) Ensure that funds and donations raised through public appeals are used in accordance with donors' intentions and the specific purpose as communicated when soliciting for donations.
- j) Respect donors' confidentiality e.g. not to transfer donor lists or records without the donors' prior approval, respecting wishes to remain anonymous and to be excluded from contact lists etc.
- k) In a commercial third party fund-raisers' arrangement, all donations shall be made directly to the charity. Fees to the fund-raisers shall be separately paid.

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.

What assistance, advice or guidance is provided to NGOs to assist them in meeting regulations relating to income?

The Commissioner's office provides assistance to charities in meeting regulations relating to income by providing information and guidance via hotlines, websites and brochures. Field visits will also be conducted to convey regulatory expectations and help charities improve governance.

¹ For this computation the charity shall include sponsorships both as expenses and donations when receipts have been issued.