

Table of Proposed Amendments in the Draft Charities (Amendment) Bill

Clause	Current Provision in the Charities Act	Proposed Amendments	Remarks
A. Enhancing the Regulatory Framework to Increase Accountability of Charities and Fund-Raisers			
New Part IVA on electronic transactions service and related amendments			
6	No existing provision.	<p>Introduce a new Part IVA to deal with matters relating to the electronic transactions service by which —</p> <ul style="list-style-type: none"> • applications, documents and information may be submitted to the Commissioner of Charities (“Commissioner”); • documents may be served by the Commissioner; and • information on charities may be made available by the Commissioner. <p>This amendment includes introducing, amongst others, provisions to allow the Commissioner to:</p> <ul style="list-style-type: none"> • refuse to accept any application, document or information submitted through the electronic transactions service where for example the submission is incomplete or contains any error, and request that it be amended or completed and resubmitted; • correct any error or omission in any application, document or information arising from any malfunction of the electronic transactions service; 	To set out the functions of the electronic transactions service, the transactions that can be carried out, and other related matters.

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		<ul style="list-style-type: none"> • on application by the authorised user and under specified circumstances, rectify any error contained in any application, document or information submitted through the electronic transactions service; and • certify electronic records as containing all or any information submitted through the electronic transactions service, and their admissibility as evidence in any proceedings under the Act. 	
16	No existing provision.	<p>Amend section 46A to provide immunity to the Government and its employees should errors arise:</p> <ul style="list-style-type: none"> • from any malfunction in the electronic transactions service, so long as they have acted in good faith and with reasonable care to prevent such errors; or • as a result of any fault or failure on the part of the person submitting any application, document or information through the electronic transactions service. 	-
17	No existing provision.	<p>Amend section 48 to provide for regulations to be made to:</p> <ul style="list-style-type: none"> • mandate the filing of charities' annual submissions via electronic means; and • allow regulatory submissions by charities to other relevant authorities to be treated as submissions to the Commissioner. 	The proposal to mandate the electronic filing of charities' annual submissions is in line with efforts to promote transparency and accountability of charities as the electronic filing will enable the publishing of charities' financial statements and annual report submissions on the Charity Portal to

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			<p>facilitate informed giving. At present, most charities are already filing their annual submissions electronically via the Charity Portal.</p> <p>The second proposed amendment will enable future implementation of streamlined reporting processes for charities, if required.</p>
New grounds for disqualification and related matters			
8	<p>Section 27(1) sets out the circumstances under which a person would be disqualified from being the key personnel¹ of a charity. Currently, the grounds for disqualification include the following:</p> <ul style="list-style-type: none"> • conviction of an offence involving dishonesty or deception; and • removal from the office of governing board member or key officer of a charity or trustee for a charity by an order of the Commissioner under section 25(1)(i) of 	<p>Repeal and re-enact section 27 with the following amendments relating to grounds for disqualification:</p> <ul style="list-style-type: none"> • include 2 new grounds for disqualification to the current regime: <ul style="list-style-type: none"> - conviction of an offence involving terrorism, terrorism financing or money laundering; and - removal from the office of officer, or agent or employee, of a charity by order of the Commissioner under section 25(1)(i) or by the High Court; and • clarify that conviction for an offence involving dishonesty would include offences involving fraud, corruption, bribery and deception. 	<p>The amendments serve to preserve the intent of the disqualification regime which is to prevent unfit individuals from assuming key positions in charities.</p> <p>Charities could be abused to provide a front for unlawful activities such as the financing of terrorism or money laundering, especially in cases where charity funds are channelled overseas. The proposed amendment seeks to ensure that individuals with records of having been convicted for such unlawful activities cannot assume key functions in the charity sector.</p> <p>Persons holding key positions in a charity are stewards of the donations received from the public, and are therefore expected to be</p>

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.

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	the Act or by the High Court.		persons of high integrity. Hence, unethical behaviours such as corruption and bribery cannot be tolerated.
Expanded list of capacities in which disqualified persons cannot act			
8	Section 27(1) currently provides that disqualified persons are barred from acting as a governing board member or key officer of a charity or trustee for a charity.	Repeal section 27(1) and introduce the new section 27(6) that extends the capacities in which disqualified persons are barred from assuming. It will now include capacities as a governing board member or key officer of any entity (e.g. a company or society) that is appointed as a governing board member or member of any charity.	The proposed amendment serves to prevent disqualified persons from participating in key decision-making fora of a charity through an entity.
Definition of “fund-raising appeal”			
9	Section 39(1) sets out the definition of “fund-raising appeal”.	Amend the definition of “fund-raising appeal” to clarify that a “fund-raising appeal” is not restricted to appeals to or receipts from only members of the public.	The proposed amendment allows for a broader interpretation of the definition of “fund-raising appeal” (e.g. to include appeals targeted at a confined group of persons) such that the duties and obligations of a fund-raiser prescribed under the Charities (Fund-raising Appeals for Local and Foreign Charitable Purposes) Regulations will apply.
Penalties for contravention of regulations concerning institutions of a public character (“IPC”)			
12	Section 40C(2) provides that IPCs will be liable to pay a financial penalty to the Commissioner for any	Amend section 40C(2) to: <ul style="list-style-type: none"> clarify the type of penalties that may be imposed for contraventions of regulations made concerning IPCs, including 	The proposed amendment will enable the alignment of penalties for both IPCs and non-IPC charities for similar contraventions of the regulations.

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	contravention of regulations made under the Act concerning IPCs.	convictions for offences or imposition of a financial penalty; and <ul style="list-style-type: none"> • provide for these penalties to be specified in the regulations. 	The penalty provisions for contraventions of the Charities (Institutions of A Public Character) Regulations will be prescribed in the said Regulations. The existing financial penalty prescribed for wrongful issuance of tax deduction receipts will be retained.
B. Enhancing Regulatory Powers			
New ground for removal (power to remove a disqualified person) and related matters			
7	Section 25(4) sets out the grounds under which the Commissioner can exercise his discretionary powers to remove a governing board member or key officer of a charity.	Amend section 25(4) to: <ul style="list-style-type: none"> • introduce a new ground for removal where a person who, despite being disqualified under section 27(1) or (4), acts as a governing board member or key officer of the charity, may be removed by the Commissioner; and • rationalise the grounds for removal under section 25(4) and disqualification under section 27. 	To allow the Commissioner to remove a disqualified person when the person refuses to resign from his position in a charity. The remaining amendment is a technical amendment.
Power to remove a person despite the person having resigned from the charity			
7	No existing provision. However, the proposed power is related to sections 25(1) and 25(4) that set out circumstances under which the Commissioner can remove unfit individuals	Introduce a new section 25(4B) to provide that the Commissioner can still make a removal order under sections 25(1) or (4) of the Act even though the person in question has resigned from the charity.	To prevent persons from avoiding removal orders being made against them by resigning from the position or role in question before the order can be made. An example of the effect of the proposed amendment for a removal under section 25(1) of the Act is illustrated in the following scenario. Currently, the Commissioner must

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	from their positions in charities.		give at least one month's prior notice of his intention to remove a person from his position in a charity. The concerned person could resign during the notice period and hence frustrate the removal proceeding. Consequentially, as that person has not technically been removed, the relevant disqualification clauses under section 27 of the Act will not apply to him. The proposed amendment will thus prevent the concerned person from avoiding disqualification by resigning during the notice period, and assuming or maintaining key positions in one or more other charities.
Power to extend the suspension period of a charity's related persons²			
7	Section 25(2), read with section 25(9), provides that after an inquiry against a charity has been instituted under section 8 of the Act, the Commissioner may, with the consent of the Attorney-General, and in certain circumstances, suspend the charity's related persons from the exercise of their office or	Amend section 25(9) to provide for the extension of any suspension orders, with the consent of the Attorney-General, issued against a charity's related persons. The entire period of suspension is now proposed to be capped at 2 years.	<p>The current cap of 12 months for the period of suspension is restrictive as inquiries and follow-up regulatory actions may take more than a year to complete, especially for complex cases.</p> <p>The proposed amendment strengthens the Commissioner's powers to act for the protection of charities and their assets.</p>

² Related person of a charity refers to a trustee, governing board member, officer, agent or employee of a charity.

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	employment with the charity for a maximum of 12 months.		
Power to suspend improper fund-raising appeals pending completion of investigations			
10	Section 39B sets out the Commissioner's powers to issue an order to prohibit or restrict a fund-raising appeal in certain circumstances, such as when the appeal is found to be improperly administered.	Amend section 39B to empower the Commissioner to order the suspension of any fund-raising appeal if he has reason to suspect, for example, that the appeal is not being properly conducted. The entire period of suspension in respect of such orders is proposed to be capped at 2 years.	<p>The threshold for the issuance of prohibition or restriction orders against fund-raising appeals, as currently provided for under the Act, tends to be high as an investigation into the appeals must be conducted first which may take some time.</p> <p>The proposed amendment will allow the Commissioner to be more responsive to improper fund-raising activities by suspending an appeal, pending the completion of investigations, if the Commissioner has reason to suspect, for example, that the appeal is not being properly conducted.</p>
Enhance the power to call for documents and information			
13	Section 41A allows the Commissioner to, by order, require any person to furnish the Commissioner with any information or document in his possession or control	<p>Amend section 41A to clarify that the Commissioner can order a person to provide information and documents that:</p> <ul style="list-style-type: none"> • are already within the knowledge, or in the custody or under the control, of the person; and • come to the knowledge, or into the custody or under the control, of the person at a 	In the exercise of his duties, the Commissioner may require information or documents (e.g. monthly bank statements) to be provided on an on-going basis. The proposed amendment will allow the Commissioner to request such new information or documents that come to a person's knowledge, or into a person's

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	which relates to any charity or fund-raising appeal.	future point in time (within a specified period not exceeding 2 years after the order is made).	custody or control, at a future point in time (within a specified period), without the need for the Commissioner to make a new order each time.
C. Administrative and Other Consequential Amendments			
Definition of “key officer”			
2	Section 2(1) sets out the definition of “key officer”.	Amend the definition of “key officer” to: <ul style="list-style-type: none"> • apply in relation to (a) charities; (b) persons that are members of the governing boards of charities; and (c) persons that are members of charities; and • include individuals who have general control and management over any one aspect (such as financial) of the administration of the charity or person, or over any department or division of the charity or person. The definition will also include advisors to the charity or person on the proper control and management to be adopted, other than professionals engaged or retained pursuant to a contract for service. 	To clarify the individuals who are intended to be deemed as “key officers” under the Act.
Requirement to preserve accounting records			
3	Section 12(4) sets out the obligations to preserve accounting records where a charity ceases to exist.	Amend section 12(4) to clarify the governing board members’ duties to preserve accounting records when the charity ceases to exist.	For clarity.

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Requirement to submit and preserve annual reports			
4	Section 16 sets out the requirements in relation to annual reports.	Amend section 16 to: <ul style="list-style-type: none"> • clarify that the obligations in relation to the filing of annual reports (including financial statements) with the Commissioner apply only to registered charities and exempt charities; and • introduce new subsections (6) and (7) to require all charities to preserve their annual reports for at least 5 years and specify the governing board members' duties to preserve the annual reports when the charity ceases to exist. 	To clarify the obligations of charities in relation to the submission and preservation of annual reports.
Offences relating to accounts, reports and submissions			
5	Section 18 sets out the applicable offences where persons are in persistent default in relation to the requirement to file annual reports or to allow for public inspection of annual reports.	Amend section 18 to: <ul style="list-style-type: none"> • introduce offences for persons if they fail to preserve accounting records, financial statements and annual reports for at least 5 years; and • clarify that there does not have to be persistent default before an offence is committed. 	To enable the Commissioner to take enforcement action where persons, without reasonable excuse, fail to meet the relevant requirements under the Act.
Clarifications as to effect of removals and disqualifications under the Act			
7 & 8	No existing provision. However, the proposed clarification is related to the removal and	Introduce new provisions in sections 25 and 27 to clarify that: <ul style="list-style-type: none"> • a removal under section 25(1)(i) pursuant to an inquiry instituted against a charity or by the High Court will effect a permanent 	For clarity. The clarification in relation to spent convictions is in recognition of the spirit of the Yellow Ribbon Project that encourages

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	disqualification regimes found in sections 25 and 27.	<p>disbarment from the specific capacity, in that same charity, to which the removal relates. The person will also be disqualified from acting in any specified capacity;</p> <ul style="list-style-type: none"> • a removal under section 25(4) is from the capacity as governing board member or key officer of the charity, and effects a permanent disbarment from the capacity of any governing board member or key officer of that same charity; • the disqualification under the new section 27(1) is only for so long as the ground for disqualification exists. Once the ground for disqualification ceases to exist, the person can act in any of the capacities in question; and • the criminal conviction ground for removal or disqualification will not apply to spent convictions³ or if the person is granted a pardon for the offence. 	the community to give ex-offenders a second chance in life.
Offences for persons acting whilst disqualified and other related matters			
8	Section 28 sets out the applicable offences where a person continues to act as a governing board	<p>Amend section 28 to:</p> <ul style="list-style-type: none"> • provide that a person is guilty of an offence if the person acts in any of the capacities in question whilst disqualified, under section 	To enable the Commissioner to take enforcement action where persons fail to comply with provisions under the Act.

³ 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.

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	member or key officer of a charity or trustee for a charity whilst disqualified. It also provides for other related matters where a person acts whilst disqualified.	27, from that capacity. This includes acting in any of the expanded capacities in which disqualified persons are barred from assuming; and <ul style="list-style-type: none"> provide for other related matters where a person acts whilst disqualified. 	
Definition of “IPC”			
11	Section 40A sets out the definition of “IPC”.	Amend the definition of “IPC” to streamline the definition and remove the prescribed list of IPCs under section 40A of the Act.	For clarity.
Service of documents			
14	Section 43 sets out the provisions concerning the service of documents under the Act.	Repeal section 43 and introduce a new section 43 to update the provisions on service of documents. The new section 43 sets out the specific procedures for service of documents on individuals and the different types of entities.	Technical amendment.
Offences by corporations, unincorporated associations or partnerships			
15	Section 44 concerns offences committed by bodies corporate.	Amend section 44 to: <ul style="list-style-type: none"> make clear how the state of mind of a corporation may be evidenced when the offence in question has a mental element; and 	Technical amendment.

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		<ul style="list-style-type: none"> clarify when the criminal liability of a corporation may be attributed to an officer or a member of a corporation, or to certain other individuals. 	
15	No existing provision.	Introduce a new section 44A which is similar to section 44 and concerns offences committed by unincorporated associations and partnerships.	Technical amendment.
Miscellaneous amendments			
18	Sections 12, 13, 16 and 17.	Update references in various provisions from “statement of accounts” and “statements of accounts” to “financial statements”.	Technical amendment.
Saving and transitional provisions			
19	No existing provision.	Specify saving and transitional provisions, and enable regulations of a saving or transitional nature to be made for any amendment of the Act in the 2 years after the date of commencement of that amendment.	Technical amendment.