

Charities (Amendment) Bill

Bill No. /2017.

Read the first time on .

A BILL

i n t i t u l e d

An Act to amend the Charities Act (Chapter 37 of the 2007 Revised Edition).

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1. This Act is the Charities (Amendment) Act 2017 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

5 Amendment of section 2

2. Section 2(1) of the Charities Act is amended —

(a) by inserting, immediately above the definition of “charitable company”, the following definition:

10 ““authorised user”, in relation to any person, means any individual who is authorised by the person in the manner required by the Commissioner, to access and use the electronic transactions service for the person;”;

15 (b) by inserting, immediately after the definition of “document”, the following definitions:

““electronic record” has the same meaning as in the Electronic Transactions Act (Cap. 88);

““electronic transactions service” means the electronic transactions service provided under section 18A;”;

20 and

(c) by deleting the definition of “key officer” and substituting the following definition:

““key officer”, in relation to —

(a) a charity;

25 (b) a person that is a member of the governing board of a charity; or

(c) a person that is a member of a charity,

30 means an individual who, whether or not an employee of the charity or person (as the case may be) and by whatever name called, and whether acting alone or together with any other person —

- 5
- (i) has general control and management of the administration or any aspect (including the financial aspect) of the administration, of the charity or person, or any department or division, of the charity or person; or
- (ii) provides advice to the charity or person on the proper control and management mentioned in paragraph (i), other than as a professional engaged or retained pursuant to a contract for service to provide such advice in that professional capacity;”.
- 10

Amendment of section 12

3. Section 12 of the Charities Act is amended —

- 15
- (a) by deleting the word “The” in subsection (3) and substituting the words “Subject to subsection (4), the”; and
- (b) by deleting subsection (4) and substituting the following subsection:

20

“(4) Where a charity ceases to exist before the end of the minimum period mentioned in subsection (3) for the preserving of any accounting records, then, unless the Commissioner allows those records to be earlier destroyed or otherwise disposed of —

- (a) the last governing board members of the charity; or
- 25
- (b) any one or more of those members, as may be agreed by all of such members,

must preserve those records to the end of that period.”.

Amendment of section 16

4. Section 16 of the Charities Act is amended —

- 30
- (a) by inserting, immediately after the word “charity” in subsection (2), the words “that is a registered charity or an exempt charity,”;

- (b) by deleting the words “such annual report” in subsection (3) and substituting the words “annual report of a registered charity or an exempt charity”; and
- (c) by inserting, immediately after subsection (5), the following subsections:

5

“(6) Subject to subsection (7), the governing board members of a charity must preserve every annual report prepared under this section in respect of the charity for at least 5 years from the end of the financial year of the charity to which the report relates.

10

(7) Where a charity ceases to exist before the end of the minimum period mentioned in subsection (6) for the preserving of annual reports, then, unless the Commissioner allows those annual reports to be earlier destroyed or otherwise disposed of —

15

(a) the last governing board members of the charity;
or

(b) any one or more of those members, as may be agreed by all of such members,

20

must preserve those annual reports to the end of that period.”.

Amendment of section 18

5. Section 18 of the Charities Act is amended by deleting the words “is persistently in default in relation to any requirement imposed by section 16(2) or 17(2)” and substituting the words “is in default in relation to any requirement imposed by section 12(3) or (4) (including where it is modified by section 13(3)), 13(2), 16(2), (6) or (7) or 17(2)”.

25

New Part IVA

6. The Charities Act is amended by inserting, immediately after section 18, the following Part:

30

“PART IVA

ELECTRONIC TRANSACTIONS SERVICE

Electronic transactions service

5 **18A.**—(1) The Commissioner may provide an electronic transactions service as is necessary to enable —

(a) any person to submit to or serve on the Commissioner electronically, any application or document, or any information, required or allowed under this Act to be submitted or served electronically;

10 (b) the Commissioner to serve any notice or other document under this Act; and

(c) the Commissioner to publish or supply to any person, to the extent that the publication or supply is not restricted by any written law or rule of law relating to confidentiality —

15 (i) any application, document or information (including information extracted from any application or document), or part of it, submitted to the Commissioner under this Act (whether or not the application, document or information was submitted through the electronic transactions service); and

20 (ii) any summary, compilation or analysis of the contents of any such applications, documents or information.

(2) The Commissioner may determine the conditions under which a person may access and use the electronic transactions service provided under subsection (1), including restricting the access and use only to any authorised user of the person.

30 (3) Where any application, document or information is submitted or served by any authorised user of a person under subsection (1) —

- (a) it is deemed to have been submitted or served with the authority of that person; and
- (b) that person is deemed to be cognizant of all matters therein,

5 unless that person has, before the submission or service, informed the Commissioner, in the form and manner required by the Commissioner, that the person has revoked the authority of the authorised user for the matter in question.

10 **Refusal to accept applications, documents or information submitted through electronic transactions service**

18B. If the Commissioner is of the opinion that any application, document or information submitted or served through the electronic transactions service —

- (a) contains any matter contrary to law;
- 15 (b) is incomplete because of any omission or misdescription;
- (c) does not comply with the requirements of this Act; or
- (d) contains any error, alteration or erasure,

20 the Commissioner may refuse to accept the application, document or information, and request that it be appropriately amended or completed and resubmitted, or that a fresh application, document or information be submitted in its place.

Rectification of errors and omissions arising from malfunction of electronic transactions service, etc.

25 **18C.**—(1) The Commissioner may correct any error or omission in any application, document or information that has occurred or arisen as a result of any malfunction of the electronic transactions service.

30 (2) The Commissioner must maintain a record of every correction made under subsection (1).

(3) When any error or omission is corrected under subsection (1), the error or omission is deemed not to have occurred.

Rectification by Commissioner on application

5 **18D.**—(1) Any authorised user of a person may notify the Commissioner, in the form and manner required by the Commissioner of any error contained in any application, document or information submitted for the person through the electronic transactions service.

10 (2) Upon receipt of the notification, the Commissioner may rectify the error if the Commissioner is satisfied that —

- (a) the error is typographical or clerical in nature; or
- (b) the error was unintended, and not calculated to mislead.

15 (3) In rectifying the error, the Commissioner must not expunge any application, document or information from the electronic transactions service.

(4) The decision made by the Commissioner on whether to rectify the error is final.

Evidence of submission or service through electronic transactions service

20 **18E.**—(1) Despite any other written law, in any proceedings under this Act —

25 (a) an electronic record of any application, document or information that was submitted or served through the electronic transactions service; or

(b) any copy or print-out of that electronic record,

is admissible as evidence of the facts stated or contained in the electronic record, copy or print-out, if that electronic record, copy or print-out —

30 (i) is certified by the Commissioner to contain all or any information submitted or served through the electronic transactions service in accordance with this section; and

(ii) is duly authenticated in the manner specified in subsection (3) or is otherwise authenticated in the manner provided in the Evidence Act (Cap. 97) for the authentication of computer output.

5 (2) To avoid doubt, the electronic record, copy or print-out mentioned in subsection (1) is not inadmissible in evidence merely because the application, document or information was submitted or served without the delivery of any equivalent in paper form.

10 (3) For the purposes of this section, a certificate —

(a) giving the particulars of —

(i) any person who submitted or served the application, document or information; and

15 (ii) any person or device involved in the production or transmission of the electronic record of the application, document or information, or the copy or print-out of the same;

(b) identifying the nature of the electronic record or copy or print-out of the same; and

20 (c) purporting to be signed by the Commissioner or by a person occupying a responsible position in relation to the operation of the electronic transactions service at the relevant time,

25 is sufficient evidence that the electronic record, copy or print-out has been duly authenticated, unless the court, in its discretion, calls for further evidence on this issue.

30 (4) Where the electronic record of any application, document or information, or a copy or print-out of that electronic record, is admissible under subsection (1), it is presumed, until the contrary is proved, that the electronic record, copy or print-out accurately reproduces the contents of that application, document or that information.”.

Amendment of section 25

7. Section 25 of the Charities Act is amended —

- 5 (a) by inserting, immediately after the words “a governing board member or key officer” in subsection (4), the words “of a charity”;
- (b) by deleting paragraphs (a) and (b) of subsection (4) and substituting the following paragraphs:
- 10 “(a) despite being disqualified under section 27(1) or (4), acts as a governing board member or key officer of the charity;
- (b) has been convicted, whether in Singapore or in any other country or territory, of an offence involving moral turpitude (other than one mentioned in section 27(1)(a));”;
- 15 (c) by inserting, immediately after subsection (4), the following subsections:
- “(4A) Subsection (4)(b) does not apply if —
- (a) in the case of a conviction of an offence under Singapore law, the conviction is a spent conviction under the Registration of Criminals Act (Cap. 268) or the person is granted a pardon for the offence; and
- 20 (b) in the case of a conviction of an offence under the law of any other country or territory, the effect of the law on the conviction is the same as that mentioned in sub-paragraph (b);
- 25 (4B) Where —
- (a) after the Commissioner has instituted an inquiry under section 8 with respect to any charity, and before the Commissioner can make an order removing a person as a trustee, a governing board member, an officer (including a key officer), an agent or an employee of the charity under
- 30

subsection (1) (with the consent of the Attorney-General); or

(b) after the Commissioner has given notice under section 29(3) that the Commissioner intends to remove a person as a governing board member or key officer of a charity under subsection (4), and before the Commissioner can make the order,

the person ceases to be such trustee, governing board member, officer, agent or employee (as the case may be), the Commissioner may nevertheless order the removal of the person in accordance with the subsection in question and the removal has effect as if the person remained a trustee, a governing board member, an officer, an agent or an employee of a charity (as the case may be) at the time of the making of the order.”; and

(d) by deleting subsection (9) and substituting the following subsections:

“(9) An order of suspension under subsection (2)(i) must be for a fixed period, but the Commissioner may make one or more further orders of extension, each for a fixed period.

(9A) The suspension under the order or orders mentioned in subsection (9) must be continuous, and must not exceed 24 months in total.

(9B) Without affecting section 42, any order mentioned in subsection (9) may make provision for any matter arising out of the suspension; and if there is any inconsistency amongst the provisions made by any of the initial and further orders, the latest in time prevails.

(9C) For the purposes of subsection (9B), provision may be made in particular —

(a) for enabling any person to execute any instrument in the name of the person suspended or to otherwise act for the person suspended; and

- (b) in the case of a governing board member, for adjusting any rules governing the proceedings of the governing board members to take account of the reduction in the number capable of acting.”.

5 **Repeal and re-enactment of sections 27 and 28**

8. Sections 27 and 28 of the Charities Act are repealed and the following sections substituted therefor:

“Disqualifications and effects of removal

10 **27.**—(1) Subject to the provisions of this section, a person is disqualified from acting in any specified capacity when —

- (a) the person is convicted, whether in Singapore or in any other country or territory, of any offence involving —
- 15 (i) dishonesty (including fraud, corruption, bribery and deception); or
- (ii) terrorism, terrorism financing or money laundering;
- (b) the person is an undischarged bankrupt;
- (c) the person makes a composition or arrangement with, or grants a trust deed for, the person’s creditors and has
- 20 not been discharged in respect of it; or
- (d) the person is subject to any disqualification under section 149, 149A or 154 of the Companies Act (Cap. 50).

25 (2) Subject to subsection (3), nothing in subsection (1) disqualifies a person from acting in a specified capacity —

- (a) for a disqualification under subsection (1)(a), if —
- 30 (i) in the case of a conviction of an offence under Singapore law, the conviction is a spent conviction under the Registration of Criminals Act (Cap. 268) or the person is granted a pardon for the offence; and

(ii) in the case of a conviction of an offence under the law of any other country or territory, the effect of the law on the conviction is the same as that mentioned in sub-paragraph (i);

- 5 (b) for a disqualification under subsection (1)(b), upon the person being discharged from bankruptcy;
- (c) for a disqualification under subsection (1)(c), upon the person being discharged from the composition, arrangement or trust deed; and
- 10 (d) for a disqualification under subsection (1)(d), upon the period of disqualification expiring.

(3) Despite a person being disqualified under subsection (1)(b) or (d) from acting in a specified capacity in relation to a charity or person (as the case may be) which is a company, the first-mentioned person is not so disqualified if leave is granted under section 148, 149 or 154 of the Companies Act for the first-mentioned person to act as director of that company.

15

(4) A person who is removed as a governing board member or officer, or as an agent or employee, of a charity or trustee for a charity by an order made by the Commissioner under section 25(1)(i) or by the High Court on the ground of any misconduct or mismanagement in the administration of the charity for which the person was responsible or to which the person was privy, or which the conduct of the person contributed to or facilitated —

20

25

- (a) is disqualified from acting —
- (i) in the capacity of any governing board member of that charity, if the person was removed as a governing board member of the charity;
- 30 (ii) in the capacity of any officer of that charity, if the person was removed as an officer of the charity;
- (iii) in the capacity of any agent of that charity, if the person was removed as an agent of the charity;

(iv) in the capacity of any employee of that charity, if the person was removed as an employee of the charity; or

(v) in the capacity of any trustee for that charity, if the person was removed as a trustee for the charity; and

(b) is further disqualified from acting in any specified capacity.

(5) A person who is removed as a governing board member or key officer of a charity by an order made by the Commissioner under section 25(4) is disqualified from acting in the capacity of any governing board member or key officer of that charity.

(6) In this section, “specified capacity” means any of the following:

(a) a governing board member or key officer of —

(i) any charity;

(ii) any person that is a governing board member of any charity;

(iii) any person that is a member of any charity;

(b) a trustee for any charity.

Persons acting in capacity from which disqualified

28.—(1) Any person who acts in a capacity from which the person is disqualified under section 27, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding \$50 for every day or part of a day during which the offence continues after conviction.

(2) Any thing done by the person acting in a capacity when disqualified from acting in that capacity under section 27 is not invalid by reason only of the person’s disqualification.

(3) Where the Commissioner is satisfied that any person disqualified under section 27 —

(a) has, after the disqualification, acted in any capacity from which the person is disqualified under that section; and

(b) during the disqualification, has received any sum by way of remuneration or expenses, or any benefit in kind, for purportedly acting in that capacity,

then, the Commissioner may by order direct the person to repay the whole or any part of the sum, or benefit (at the monetary value determined by the Commissioner), received whilst so disqualified.”.

Amendment of section 39

9. Section 39(1) of the Charities Act is amended by deleting the definition of “fund-raising appeal” and substituting the following definition:

““fund-raising appeal” means —

(a) any appeal by any person, whether made expressly or impliedly, for money or other property (whether as consideration or otherwise) that is made in association with a representation that the whole or any part of the money or property, or proceeds or returns from the money or property, will be applied for charitable, benevolent or philanthropic purposes; or

(b) a receipt by any person of any money or other property (whether as consideration or otherwise) that is given in whole or in part for any charitable, benevolent or philanthropic purposes;”.

Amendment of section 39B

10. Section 39B of the Charities Act is amended —

(a) by inserting, immediately after subsection (1), the following subsections:

5 “(1A) Without affecting subsection (1) and despite any exemption or permit granted under section 39A, the Commissioner may by order published in the *Gazette* suspend the conduct of any fund-raising appeal in relation to which the Commissioner has reason to suspect any of paragraphs (i) to (v) of subsection (1) may apply.

10 (1B) An order of suspension under subsection (1A) must be for a fixed period, but the Commissioner may make one or more further orders of extension, each for a fixed period.

(1C) The suspension under the order or orders mentioned subsection (1B) must be continuous, and must not exceed 24 months in total.”;

15 (b) by inserting, immediately after the words “subsection (1)” in subsection (2), the words “or (1A)”; and

(c) by inserting, immediately after the word “restrict” in the section heading, the words “, or suspend,”.

Amendment of section 40A

20 **11.** Section 40A of the Charities Act is amended by deleting the definition of “institution of a public character” and substituting the following definition:

25 ““institution of a public character” means a registered charity or an exempt charity in Singapore that is approved as an institution of a public character by the Minister, Commissioner or any Sector Administrator on the application of the charity, or which is deemed as an institution of a public character under any written law;”.

Amendment of section 40C

30 **12.** Section 40C of the Charities Act is amended by deleting subsection (2) and substituting the following subsection:

“(2) Regulations made under subsection (1) may provide for the consequences of a contravention by any person of any regulation made under that subsection, as follows:

- (a) where the person is a registered charity or an exempt charity, the Minister, Commissioner or the appropriate Sector Administrator may revoke his or its approval of the person as an institution of a public character;
- 5 (b) that the person shall be guilty of an offence and shall be liable on conviction to —
- (i) a fine not exceeding \$10,000 or imprisonment for a term not exceeding 3 years or both; and
- 10 (ii) in the case of a continuing offence, a further fine not exceeding \$100 for every day or part of a day during which the offence continues after conviction;
- (c) for a regulation relating to the issue of tax deduction receipts, that the person shall be liable to pay to the Commissioner a financial penalty of the higher of the following amounts:
- 15 (i) \$100;
- (ii) the amount ascertained by the formula $0.4 \times$ the total value of the donations (as determined under section 37(3) of the Income Tax Act (Cap. 134)) which ought not to be allowed a deduction under section 37(3) of the Income Tax Act by reason of the contravention, if any,
- 20 but not if the contravention is an offence pursuant to paragraph (b).”.
- 25

Amendment of section 41A

13. Section 41A of the Charities Act is amended —

- (a) by deleting subsection (1) and substituting the following subsections:
- 30 “(1) Subject to subsection (2), for the purpose of discharging the Commissioner’s functions under this Act, the Commissioner may order any person to furnish to the Commissioner —

(a) in respect of any information relating to any charity or fund-raising appeal, the information; and

(b) in respect of any document relating to any charity or fund-raising appeal —

(i) a copy of or an extract from the document; or

(ii) unless the document forms part of the records or other documents of a court or public authority, the document itself.

(1A) An order under subsection (1) may —

(a) be in respect of —

(i) any such information within the knowledge of the person or such document that is in the custody or under the control of the person; and

(ii) any such information that comes to the knowledge of the person, or such document that comes into the custody or under the control of the person, within the period, not exceeding 2 years after the order is made, that is specified in the order; and

(b) specify the time within which the person is to furnish the information or document to the Commissioner.”;

(b) by deleting the word “transmitted” in subsection (2) and substituting the word “furnished”; and

(c) by inserting, immediately after the word “fails” in subsection (7), the words “, without reasonable excuse,”.

Repeal and re-enactment of section 43

14. Section 43 of the Charities Act is repealed and the following section substituted therefor:

“Service of documents

43.—(1) A document that is permitted or required by this Act to be served on a person may be served as described in this section.

5 (2) A document permitted or required by this Act to be served on an individual may be served —

- (a) by giving it to the individual personally;
- (b) by sending it by prepaid registered post to the address specified by the individual for the service of documents or, if no address is so specified, the individual’s residential address or business address;
- 10 (c) by leaving it at the individual’s residential address with an adult apparently resident there, or at the individual’s business address with an adult apparently employed there;
- 15 (d) by affixing a copy of the document in a conspicuous place at the individual’s residential address or business address;
- (e) by sending it by fax to the fax number last known to the person giving or serving the document as the fax number for the service of documents on the individual;
- 20 (f) by sending it by email to the individual’s last email address; or
- (g) by transmitting an electronic record of it to an account which the individual has with the electronic transactions service.
- 25

(3) A document permitted or required by this Act to be served on a partnership (other than a limited liability partnership) may be served —

- 30 (a) by giving it to any partner or other like officer of the partnership;
- (b) by leaving it at, or by sending it by prepaid registered post to, the partnership’s business address;

- (c) by sending it by fax to the fax number used at the partnership's business address;
 - (d) by sending it by email to the partnership's last email address; or
 - 5 (e) by transmitting an electronic record of it to an account which the partnership has with the electronic transactions service.
- (4) A document permitted or required by this Act to be served on a body corporate (including a limited liability partnership) or
- 10 an unincorporated association may be served —
- (a) by giving it to the secretary or other like officer of the body corporate or unincorporated association or the limited liability partnership's manager;
 - (b) by leaving it at, or by sending it by prepaid registered post to, the body corporate's or unincorporated association's registered office or principal office in Singapore;
 - 15 (c) by sending it by fax to the fax number used at the body corporate's or unincorporated association's registered office or principal office in Singapore;
 - 20 (d) by sending it by email to the body corporate's or unincorporated association's last email address; or
 - (e) by transmitting an electronic record of it to an account which the body corporate or unincorporated association has with the electronic transactions service.
 - 25
- (5) Service of a document under this section takes effect —
- (a) if the document is sent by fax and a notification of successful transmission is received, on the day of transmission;
 - 30 (b) if the document is sent by email, at the time that the email becomes capable of being retrieved by the person;

(c) if the document is sent by prepaid registered post, 2 days after the day the document was posted (even if it is returned undelivered); and

5 (d) if the document is sent through the electronic transactions service, at the time when the electronic record of the document enters the person's account with the electronic transactions service.

(6) A document may be served on a person under this Act by email only with that person's prior written consent.

10 (7) A document may be served on a person under this Act through the electronic transactions service only if the document is a prescribed document.

(8) This section does not apply to documents to be served in proceedings in court.

15 (9) In this section —

“business address” means —

(a) in the case of an individual, the individual's usual or last known place of business in Singapore; or

20 (b) in the case of a partnership (other than a limited liability partnership), the partnership's principal or last known place of business in Singapore;

“document” includes a direction, order or notice permitted or required by this Act to be served;

“last email address” means —

25 (a) the last email address given by the addressee concerned to the person giving or serving the document as the email address for the service of documents under this Act; or

30 (b) the last email address of the addressee concerned known to the person giving or serving the document;

“residential address” means an individual's usual or last known place of residence in Singapore.”.

Repeal and re-enactment of section 44 and new section 44A

15. Section 44 of the Charities Act is repealed and the following sections substituted therefor:

“Offences by corporations

5 **44.**—(1) Where, in a proceeding for an offence under this Act, it is necessary to prove the state of mind of a corporation in relation to a particular conduct, evidence that —

10 (a) an officer, employee or agent of the corporation engaged in that conduct within the scope of his actual or apparent authority; and

 (b) the officer, employee or agent had that state of mind, is evidence that the corporation had that state of mind.

(2) Where a corporation commits an offence under this Act, a person —

15 (a) who is —

 (i) an officer of the corporation, or a member of a corporation whose affairs are managed by its members; or

20 (ii) an individual who is involved in the management of the corporation and is in a position to influence the conduct of the corporation in relation to the commission of the offence; and

 (b) who —

25 (i) consented or connived, or conspired with others, to effect the commission of the offence;

 (ii) is in any other way, whether by act or omission, knowingly concerned in, or is party to, the commission of the offence by the corporation; or

30 (iii) knew or ought reasonably to have known that the offence by the corporation (or an offence of the same type) would be or is being committed, and

failed to take all reasonable steps to prevent or stop
the commission of that offence,

shall be guilty of the same offence as is the corporation, and shall
be liable on conviction to be punished accordingly.

5 (3) A person mentioned in subsection (2) may rely on a
defence that would be available to the corporation if it were
charged with the offence with which the person is charged and,
in doing so, the person bears the same burden of proof that the
corporation would bear.

10 (4) To avoid doubt, this section does not affect the application
of —

- (a) Chapters V and VA of the Penal Code (Cap. 224); or
- (b) the Evidence Act (Cap. 97) or any other law or practice
regarding the admissibility of evidence.

15 (5) To avoid doubt, subsection (2) also does not affect the
liability of the corporation for an offence under this Act, and
applies whether or not the corporation is convicted of the
offence.

(6) In this section —

20 “corporation” includes a limited liability partnership within
the meaning of section 2(1) of the Limited Liability
Partnerships Act (Cap. 163A);

25 “officer”, in relation to a corporation, means any director,
partner, chief executive, manager, secretary or other
similar officer of the corporation, and includes —

- (a) any person purporting to act in any such capacity;
and
- (b) for a corporation whose affairs are managed by its
members, any of those members as if the member
30 was a director of the corporation;

“state of mind” of a person includes —

- (a) the knowledge, intention, opinion, belief or
purpose of the person; and

- (b) the person's reasons for the intention, opinion, belief or purpose.

Offences by unincorporated associations or partnerships

5 **44A.**—(1) Where, in a proceeding for an offence under this Act, it is necessary to prove the state of mind of an unincorporated association or a partnership in relation to a particular conduct, evidence that —

- 10 (a) an employee or agent of the unincorporated association or the partnership engaged in that conduct within the scope of the actual or apparent authority of the employee or agent; and

(b) the employee or agent had that state of mind,
is evidence that the unincorporated association or partnership had that state of mind.

15 (2) Where an unincorporated association or a partnership commits an offence under this Act, a person —

- (a) who is —
- (i) an officer of the unincorporated association or a member of its governing body;
 - 20 (ii) a partner in the partnership; or
 - (iii) an individual who is involved in the management of the unincorporated association or partnership and who is in a position to influence the conduct of the unincorporated association or partnership (as the case may be) in relation to the commission of the offence; and

- (b) who —
- (i) consented or connived, or conspired with others, to effect the commission of the offence;
 - 30 (ii) is in any other way, whether by act or omission, knowingly concerned in, or is party to, the

commission of the offence by the unincorporated association or partnership; or

(iii) knew or ought reasonably to have known that the offence by the unincorporated association or partnership (or an offence of the same type) would be or is being committed, and failed to take all reasonable steps to prevent or stop the commission of that offence,

shall be guilty of the same offence as is the unincorporated association or partnership (as the case may be), and shall be liable on conviction to be punished accordingly.

(3) A person mentioned in subsection (2) may rely on a defence that would be available to the unincorporated association or partnership if it were charged with the offence with which the person is charged and, in doing so, the person bears the same burden of proof that the unincorporated association or partnership would bear.

(4) To avoid doubt, this section does not affect the application of —

- (a) Chapters V and VA of the Penal Code (Cap. 224); or
- (b) the Evidence Act (Cap. 97) or any other law or practice regarding the admissibility of evidence.

(5) To avoid doubt, subsection (2) also does not affect the liability of an unincorporated association or a partnership for an offence under this Act, and applies whether or not the unincorporated association or partnership is convicted of the offence.

(6) In this section —

“officer”, in relation to an unincorporated association (other than a partnership), means the president, the secretary, or any member of the committee of the unincorporated association, and includes —

(a) any person holding a position analogous to that of president, secretary or member of a committee of the unincorporated association; and

(b) any person purporting to act in any such capacity;

5 “partner” includes a person purporting to act as a partner;

“state of mind” of a person includes —

(a) the knowledge, intention, opinion, belief or purpose of the person; and

10 (b) the person’s reasons for the intention, opinion, belief or purpose.”.

Amendment of section 46A

16. Section 46A of the Charities Act is amended by renumbering the section as subsection (1) of that section, and by inserting immediately after subsection (1), the following subsection:

15 “(2) Without affecting subsection (1), the Commissioner, Deputy Commissioner, Assistant Commissioners and other officers appointed under section 3, and the Government, shall not be liable for any loss or damage, suffered by any person by reason of any error or omission —

20 (a) that occurred or arose as a result of any malfunction in the electronic transactions service, which malfunction had occurred despite the Commissioner, Deputy Commissioner, Assistant Commissioners, officers and Government having acted in good faith and with reasonable care to prevent such a malfunction from occurring; or

25 (b) that was the result of any fault or failure on the part of the person submitting to or serving on the Commissioner any application, document or information through the electronic transactions service.”.

30

Amendment of section 48

17. Section 48 of the Charities Act is amended —

(a) by inserting immediately after paragraph (a) of subsection (2), the following paragraphs:

5 “(aa) provide that any prescribed application, document, or prescribed information, must be submitted to or served on the Commissioner only through the electronic transactions service;

10 (ab) provide that any prescribed application, document, or prescribed information, submitted to a prescribed public authority in the prescribed manner, may be treated as having been submitted through the electronic transactions service to the Commissioner;”;

15 (b) by inserting, immediately after subsection (2), the following subsection:

 “(3) For the purpose of subsection (2), “public authority” means —

20 (a) an Organ of State or a public officer of the Organ of State;

 (b) a ministry or department of the Government or a public officer of the ministry or department;

25 (c) a public authority established by or under any public Act for a public purpose or a member or an employee thereof.”.

Miscellaneous amendments

18. The Charities Act is amended —

30 (a) by deleting the words “statements of accounts” wherever they appear in the following provisions and substituting the words “financial statements”:

 Sections 12(1)(b) and 13 (section heading);

(b) by deleting the words “a statement of accounts” in section 13(1)(a) and substituting the words “financial statements”;

5 (c) by deleting the words “statement of accounts” in the following provisions and substituting the words “financial statements”:

Sections 13(2), 16(3) and 17(3)(a); and

(d) by deleting the words “statement relates” in section 13(2) and substituting the words “statements relate”.

10 **Saving and transitional provisions**

19.—(1) Subsection (4) of section (12) of the Charities Act, as deleted and substituted by section 3 of this Act, applies in relation to a charity that ceases to exist on or after the date on which section 3 of this Act comes into operation.

15 (2) Subsection (7) of section (16) of the Charities Act, as inserted by section 4(c) of this Act, applies in relation to a charity that ceases to exist on or after the date on which section 4(c) of this Act comes into operation.

20 (3) Paragraph (a) of section 25(4) of the Charities Act, as deleted and substituted by section 7(b) of this Act, applies whether the disqualification in question arose before, or arises on or after, the date on which section 7(b) of this Act comes into operation.

25 (4) Paragraph (b) of section 25(4) of the Charities Act, as deleted and substituted by section 7(b) of this Act, applies whether the person was convicted of the offence in question before, or is convicted of the offence in question on or after, the date on which section 7(b) of this Act comes into operation.

30 (5) Subsection (4A) of section 25 of the Charities Act, as inserted by section 7(c) of this Act, applies where the conviction becomes spent or the person is pardoned on or after the date on which section 7(c) of this Act comes into operation.

(6) Subsection (4B) of section 25 of the Charities Act, as inserted by section 7(c) of this Act, applies whether the inquiry mentioned in

that provision was instituted before, or instituted on or after, the date on which section 7(c) of this Act comes into operation.

(7) Subsections (9) and (9A) of section 25 of the Charities Act, as inserted by section 7(d) of this Act, apply in relation to any inquiry under section 8 of the Charities Act —

(a) where —

(i) the inquiry was commenced before the date on which section 7(d) of this Act comes into operation;

(ii) an order of suspension was made under section 25(2)(i) of the Charities Act in connection with that inquiry; and

(iii) the order of suspension remained in force immediately before the date on which section 7(d) of this Act comes into operation; or

(b) where the inquiry is commenced on or after the date on which section 7(d) of this Act comes into operation.

(8) Section 27 of the Charities Act, as deleted and substituted by section 8 of this Act —

(a) applies in relation to any ground of disqualification, whether it arose before, or arises on or after, the date on which section 8 of this Act comes into operation; but

(b) where the ground of disqualification arose before that date, the disqualification has effect only as from that date, for the purposes of section 27 of the Charities Act as deleted and substituted by section 8 of this Act.

(9) Subsections (1A), (1B) and (1C) of section 39B of the Charities Act, as inserted by section 10(a) of this Act, apply whether the fund-raising appeal, or any part of the appeal, was conducted before, or is conducted on or after, the date on which section 10(a) of this Act comes into operation.

(10) For a period of 2 years after the date of commencement of any provision of this Act, the Minister may, by regulations, prescribe such additional provisions of a saving or transitional nature consequent on

the enactment of that section as the Minister may consider necessary or expedient.
