

Charities (Institutions of a Public Character) Regulations 2007

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No. S 89

**CHARITIES ACT
(CHAPTER 37)**

CHARITIES (INSTITUTIONS OF A PUBLIC CHARACTER) REGULATIONS 2007

In exercise of the powers conferred by section 40C of the Charities Act, the Minister for Community Development, Youth and Sports hereby makes the following Regulations:

PART I

PRELIMINARY

Citation and commencement

1. These Regulations may be cited as the Charities (Institutions of a Public Character) Regulations 2007 and shall come into operation on 1 March 2007.

Definitions

2. In these Regulations, unless the context otherwise requires —

“applicant” means an institution or fund in respect of which an application for approval as an institution of a public character has been made;

“commercial fund-raiser” means any person who for reward solicits or otherwise procures money or other property for, or purportedly for, the benefit of an institution of a public character;

“Comptroller of Income Tax” means the Comptroller of Income Tax appointed under section 3(1) of the Income Tax Act (Cap. 134);

“governing instruments”, in relation to an institution of a public character, shall include the memorandum and articles of association, constitution, trust instruments or any rules or regulations governing the objects and administration of the institution of a public character;

“Sector Administrator” —

- (a) in relation to an applicant in a sector where a Sector Administrator has been designated, means that Sector Administrator;
- (b) in relation to any other applicant, means the Commissioner;
- (c) in relation to an institution of a public character approved by a Sector Administrator, means that Sector Administrator;
- (d) in relation to an institution of a public character approved by the Commissioner, means the Commissioner;
- (e) in relation to an institution of a public character that, before the coming into operation of these Regulations, had been granted approval as an approved institution of a public character under the Income Tax (Central Fund Administrators) Regulations 2004 (G.N. No. S 40/2004), means —
 - (i) where a Sector Administrator has been appointed to supervise the sector that the institution of a public character is in, that Sector Administrator; or

(ii) in any other case, the Commissioner;

“tax deductible donation” means a donation that qualifies for tax deduction under section 37 of the Income Tax Act (Cap. 134);

“trustees” means the persons having the general control and management of the administration of an institution of a public character, and shall include the following persons:

- (a) the directors, where the institution of a public character is a company or corporation within the meaning of the Companies Act (Cap. 50);
- (b) the officers, where the institution of a public character is a society registered under the Societies Act (Cap. 311);
- (c) the trustees appointed under the trust instruments, where the institution of a public character is a trust.

PART II

APPROVAL OF INSTITUTIONS OF A PUBLIC CHARACTER

Conditions for approval of institution of a public character

3.—(1) An institution or fund may be approved as an institution of a public character if it satisfies the following conditions:

- (a) it is —
 - (i) a charity registered under section 5 of the Act;
 - (ii) an exempt charity or other charity that is not required to be registered by virtue of section 5(4) of the Act; or
 - (iii) an institution or fund that is described within paragraphs (a) to (i) of the definition of “institution of a public character” under section 40A of the Act;
- (b) its governing instruments are approved by the Sector Administrator;
- (c) its activities are exclusively beneficial to the community in Singapore as a whole and are not confined to sectional interests or groups of persons based on race, belief or religion;

- (d) its activities meet its objectives under its governing instruments and the objectives of the Sector Administrator;
- (e) it is administered by trustees —
 - (i) at least half of whom are independent; and
 - (ii) at least half of whom are citizens of Singapore;
- (f) its trustees are accountable for the management of donations received;
- (g) its auditor is approved by the Sector Administrator; and
- (h) it meets such other conditions that the Sector Administrator may impose.

(2) The conditions set out in paragraph (1)(c) or (1)(e)(ii) may be waived in respect of an applicant if such waiver is approved by the Minister.

(3) The condition set out in paragraph (1)(e)(i) may be waived in respect of an applicant if such waiver is approved by the Commissioner.

(4) For the purposes of paragraph (1)(e)(i), a trustee shall be deemed to be not independent if —

- (a) the trustee is related to any individual or institution that established the applicant;
- (b) the trustee is related to any individual who is involved in the general control and management of the administration of any institution that established the applicant; or
- (c) the trustee is one of a number of trustees of the applicant who are related to each other and who collectively constitute at least half of the total number of trustees of the applicant.

(5) For the purposes of paragraph (4), a trustee is related to an individual or another trustee if the trustee is a family member of that individual or other trustee and, for this purpose, a “family member” means a child, sibling, parent, spouse, spouse’s parent, spouse’s sibling, grandparent or grandchild.

(6) For the purposes of paragraph (4), a trustee is related to an institution if the trustee is —

- (a) a director (other than an independent director) or senior executive of —
 - (i) the institution; or