
First published in the Government *Gazette*, Electronic Edition, on 28 February 2019 at 5 pm.

No. S 122

**CHARITIES ACT
(CHAPTER 37)**

**CHARITIES
(INSTITUTIONS OF A PUBLIC CHARACTER)
(AMENDMENT) REGULATIONS 2019**

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

Citation and commencement

1. These Regulations are the Charities (Institutions of a Public Character) (Amendment) Regulations 2019 and come into operation on 1 March 2019.

Amendment of regulation 2

2. Regulation 2 of the Charities (Institutions of a Public Character) Regulations (Rg 5) (called in these Regulations the principal Regulations) is amended by inserting, immediately before the definition of “applicant”, the following definition:

““applicable condition”, in relation to an institution or a fund (including an institution of a public character), means a condition for approval under regulation 3, but excludes any condition that is waived under regulation 5A in relation to that institution or fund;”.

Amendment of regulation 3

3. Regulation 3 of the principal Regulations is amended —

(a) by deleting sub-paragraph (a) of paragraph (1) and substituting the following sub-paragraph:

“(a) it is a registered charity or an exempt charity in Singapore;”;

(b) by deleting sub-paragraph (e) of paragraph (1) and substituting the following sub-paragraphs:

“(e) its governing board satisfies the independence requirement in paragraph (4);

(ea) at least half of its governing board members are Singapore citizens;”;

(c) by deleting sub-paragraphs (g) and (h) of paragraph (1) and substituting the following sub-paragraphs:

“(g) the appointment of its auditor is approved by the Sector Administrator;

(h) the approval of the institution or fund as an institution of a public character is not contrary to the public interest.”;

(d) by deleting paragraphs (2) to (5) and substituting the following paragraphs:

“(4) For the purposes of paragraph (1)(e), the independence requirement is that at least half of the governing board members of the applicant must not be —

(a) an employee of the applicant;

(b) related to any individual or entity (except the Government) that established the applicant, or be such an individual or entity;

(c) related to any individual who is involved in the general control and management of the administration of any entity (except the Government) that established the applicant; or

(d) one of a number of governing board members of the applicant who are related (directly or indirectly) to each other and who collectively constitute at least half of

the total number of governing board members of the applicant.

(5) For the purposes of paragraph (4), an individual (called in this paragraph the first individual) is related to another individual if the other individual is the first individual's —

- (a) child or grandchild;
 - (b) sibling;
 - (c) parent or grandparent;
 - (d) spouse; or
 - (e) spouse's parent or sibling.”;
- (e) by deleting the words “an institution” in paragraph (6) and substituting the words “an entity that established the applicant”;
- (f) by deleting the words “the institution” wherever they appear in paragraph (6)(a) to (d) and substituting in each case the words “the entity”;
- (g) by deleting the words “paragraph (1)(e)(ii)” in paragraph (7) and substituting the words “paragraph (1)(ea)”;
- (h) by inserting, immediately after paragraph (7), the following illustration:

“Illustration

The governing board of an applicant consists of *A*, *B*, *C* and *D* and 3 other members. *A* is *B*'s spouse. *C* is *D*'s spouse. *A* and *C* are siblings. *B* and *D* are regarded to be indirectly related through *A* and *C*. It follows that the independence requirement in regulation 3(4) is not satisfied because more than half of the total number of governing board members of the applicant are individuals to whom regulation 3(4)(d) applies.”.

Amendment of regulation 4

4. Regulation 4 of the principal Regulations is amended by deleting paragraphs (2) and (3) and substituting the following paragraphs:

“(2) Despite the applicant satisfying all of the applicable conditions in regulation 3, the Sector Administrator may refuse to approve an application under this regulation, taking into account any other consideration the Sector Administrator thinks fit, which may include the following:

- (a) the applicant has at any time failed to comply with the Act or any regulations made under the Act (whether or not as a registered charity or an exempt charity);
- (b) there is or has been any mismanagement, misconduct, incompetence or negligence in the administration of the applicant;
- (c) an audit report on the applicant has been qualified in any way, and whether appropriate action has been taken to address the concerns raised;
- (d) whether the persons who are to perform the functions of governing board members of the applicant are likely to act independently and exercise proper control and management of the applicant as an institution of a public character;
- (e) whether the governing instruments and policies and plans of the applicant are likely to ensure proper control and management of the administration of the applicant as an institution of a public character;
- (f) whether the activities planned by the applicant are likely to further the charitable purposes of the applicant as an institution of a public character.

(3) An approval if granted by the Sector Administrator is valid for such period, not exceeding 2 years, as may be specified in the approval.”.

Amendment of regulation 5

5. Regulation 5 of the principal Regulations is amended —

- (a) by deleting the words “institution or fund may apply for” in paragraph (1) and substituting the words “institution of a public character may apply for its”; and

(b) by deleting paragraphs (3) and (4) and substituting the following paragraphs:

“(3) In deciding whether to approve an application under this regulation, the Sector Administrator may take into account any consideration the Sector Administrator thinks fit, which may include any of the following:

- (a) whether the institution of a public character meets the applicable conditions;
- (b) whether the institution of a public character has at any time failed to comply with the Act or any regulations made under the Act (whether or not as an institution of a public character, a registered charity or an exempt charity);
- (c) any of the considerations mentioned in regulation 4(2)(b) to (f);
- (d) the amount of tax deductible donations received during the current period of approval;
- (e) the activity level of the institution of a public character during the current period of approval.

(4) An approval under this regulation is valid for such period, not exceeding 5 years, as may be specified in the approval.”.

New regulation 5A

6. The principal Regulations are amended by inserting, immediately after regulation 5, the following regulation:

“Continued compliance with, and waiver of, conditions

5A.—(1) An institution of a public character must satisfy the conditions in regulation 3 throughout its period of approval.