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Notification No. B 22 — The Charities (Amendment) Bill is hereby published for general information. It was introduced in Parliament on the 8th day of November 2006.

Charities (Amendment) Bill

Bill No. 22/2006.

Read the first time on 8th November 2006.

A BILL

i n t i t u l e d

An Act to amend the Charities Act (Chapter 37 of the 1995 Revised Edition) and to make consequential amendments to certain other written laws.

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 may be cited as the Charities (Amendment) Act 2006 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

5 Repeal and re-enactment of long title

2. The long title to the Charities Act is repealed and the following long title substituted therefor:

10 “An Act to make provision for the registration of charities, the administration of charities and their affairs, the regulation of charities and institutions of a public character, the regulation of fund-raising activities carried on in connection with charities and other institutions and the conduct of fund-raising appeals, and for purposes connected therewith.”.

Amendment of section 2

15 3. Section 2(1) of the Charities Act is amended by inserting, immediately after the definition of “company”, the following definition:

““Council” means the Charity Council established under section 4A;”.

Amendment of section 3

20 4. Section 3 of the Charities Act is amended —

(a) by deleting the words “sections 24, 25 and 30” in subsection (2) and substituting the words “sections 24, 25, 25A, 26A, 26B and 30”; and

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

30 “(3) An Assistant Commissioner of Charities shall have and may exercise all the powers, duties and functions of the Commissioner as may be delegated to him by the Commissioner in writing, except those which are exercisable under sections 24, 25, 25A, 26A, 26B and 30.”.

Repeal and re-enactment of section 4

5. Section 4 of the Charities Act is repealed and the following section substituted therefor:

“Objectives and general functions of Commissioner

- 5 **4.—**(1) The objectives of the Commissioner shall be —
- (a) to maintain public trust and confidence in charities;
 - (b) to promote compliance by charity trustees with their legal obligations in exercising control and management of the administration of their charities;
 - 10 (c) to promote the effective use of charitable resources; and
 - (d) to enhance the accountability of charities to donors, beneficiaries and the general public.
- (2) The general functions of the Commissioner shall be —
- (a) to determine whether institutions are or are not charities;
 - 15 (b) to encourage and facilitate the better administration of charities;
 - (c) to identify and investigate apparent misconduct or mismanagement in the administration of charities;
 - (d) to take remedial or protective action in connection with misconduct or mismanagement in the administration of charities;
 - 20 (e) to obtain, evaluate and disseminate information in connection with the performance of any of the Commissioner’s functions or meeting any of the Commissioner’s objectives;
 - 25 (f) to give information or advice, or make proposals, to the Minister on matters relating to any of the Commissioner’s functions or meeting any of the Commissioner’s objectives; and
 - 30 (g) to perform such other functions as the Minister may determine.
- (3) The Commissioner shall, as soon as possible after the end of every year, submit to the Minister a report on his operations during

that year, and the Minister shall present a copy of the report to Parliament.”.

New Part IIA

5 **6.** The Charities Act is amended by inserting, immediately after section 4, the following Part:

“PART IIA

CHARITY COUNCIL

Charity Council

10 **4A.**—(1) There shall be established a Charity Council consisting of a Chairman and such other members as the Minister may appoint.

(2) The Chairman and other members of the Council shall be appointed for such duration and on such terms and conditions as the Minister may determine.

Functions of Council

15 **4B.**—(1) The functions of the Council shall be —

(a) to advise the Commissioner on any question which he may refer to it in connection with the administration of this Act, and the objectives and functions of the Commissioner under this Act;

20 (b) to make such recommendations to the Commissioner as it may think fit in relation to the regulation of charities; and

(c) to promote self-regulation and good governance standards in the charity sector.

25 (2) The Council may perform such other functions as the Minister may determine.

(3) The Council may regulate its own procedure.”.

Amendment of section 5

7. Section 5 of the Charities Act is amended by inserting, immediately after subsection (3), the following subsections:

“(3A) The Commissioner shall refuse to register an institution as a charity —

(a) if it appears to the Commissioner that the registration of the institution will be contrary to the public interest; or

5 (b) on such other ground as the Minister may prescribe.

(3B) The Commissioner shall remove an institution from the register of charities —

10 (a) if it appears to the Commissioner that the continued registration of the institution as a charity is contrary to the public interest; or

(b) on such other ground as the Minister may prescribe.”.

Amendment of section 15

15 **8.** Section 15(2) of the Charities Act is amended by inserting, immediately after “\$5,000”, the words “and, in the case of a continuing offence, to a further fine not exceeding \$50 for every day or part thereof during which the offence continues after conviction”.

Amendment of section 18

20 **9.** Section 18 of the Charities Act is amended by inserting, immediately after “\$5,000”, the words “and, in the case of a continuing offence, to a further fine not exceeding \$50 for every day or part thereof during which the offence continues after conviction”.

New section 25A

10. The Charities Act is amended by inserting, immediately after section 25, the following section:

25 **“Power to suspend or remove trustees, etc., from membership of charity**

30 **25A.—**(1) This section shall apply where the Commissioner makes an order under section 25 removing or suspending any trustee, charity trustee, officer, agent or employee of a charity from his office or employment, as the case may be, and the person in question is a member of the charity.

(2) If the order suspends the person in question from his office or employment, the Commissioner may also make an order suspending his membership of the charity for the period for which he is suspended from his office or employment.

(3) If the order removes the person in question from his office or employment, the Commissioner may also make an order —

(a) terminating his membership of the charity; and

(b) prohibiting him from resuming his membership of the charity for not less than 2 years or such time as the Commissioner may specify.

(4) Any person who continues in his membership of a charity in contravention of an order under subsection (2) or (3) 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 thereof during which the offence continues after conviction.

(5) This section shall not apply to an exempt charity.”.

New sections 26A and 26B

11. The Charities Act is amended by inserting, immediately after section 26, the following sections:

“Power to direct application of charity property

26A.—(1) This section shall apply where the Commissioner is satisfied —

(a) that a person or persons in possession or control of any property held by or on trust for a charity is or are unwilling to apply it properly for the purposes of the charity; and

(b) that it is necessary or desirable to make an order under this section for the purpose of securing a proper application of that property for the purposes of the charity.

(2) The Commissioner may by order direct the person or persons concerned to apply the property in such manner as is specified in the order.

(3) An order under this section —

(a) may require action to be taken whether or not it would otherwise be within the powers exercisable by the person or persons concerned in relation to the property; but

5 (b) may not require any action to be taken which is prohibited by any written law or expressly prohibited by the trusts of the charity.

10 (4) Anything done by a person under the authority of an order under this section shall be deemed to be properly done in the exercise of the powers mentioned in subsection (3)(a).

(5) Subsection (4) shall not affect any contractual or other rights arising in connection with anything which has been done under the authority of such an order.

15 (6) Any person who contravenes an order under subsection (2) 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 thereof during which the offence continues after conviction.

20 **Power to direct application of charity property after charity ceases to exist**

26B.—(1) This section shall apply in respect of any institution that was a charity (whether or not registered under section 5) —

25 (a) from the time the institution ceases to be a charity, or ceases to exist or operate, whichever occurs earlier; and

(b) where the Commissioner is satisfied —

30 (i) that a person or persons in possession or control of any property held by or on trust for the institution is or are unwilling to apply it properly for the purposes of the trust; and

(ii) that it is necessary or desirable to make an order under this section for the purpose of securing a proper application of that property for the purposes of the trust.

(2) The Commissioner may by order direct the person or persons concerned to apply the property in such manner as is specified in the order.

(3) An order under this section —

- 5 (a) may require action to be taken whether or not it would otherwise be within the powers exercisable by the person or persons concerned in relation to the property; but
- (b) may not require any action to be taken which is prohibited by any written law or expressly prohibited by the trusts of
- 10 the institution.

(4) Anything done by a person under the authority of an order under this section shall be deemed to be properly done in the exercise of the powers mentioned in subsection (3)(a).

15 (5) Subsection (4) shall not affect any contractual or other rights arising in connection with anything which has been done under the authority of such an order.

20 (6) Any person who contravenes an order under subsection (2) 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 thereof during which the offence continues after conviction.”.

Amendment of section 28

25 **12.** Section 28(1) of the Charities Act is amended by inserting, immediately after the words “one year or to both”, the words “and, in the case of a continuing offence, to a further fine not exceeding \$50 for every day or part thereof during which the offence continues after conviction”.

Amendment of section 35

30 **13.** Section 35(6) of the Charities Act is amended by inserting, immediately after the words “3 years or to both”, the words “and, in the case of a continuing offence, to a further fine not exceeding \$100 for every day or part thereof during which the offence continues after conviction”.

Amendment of section 38

14. Section 38 of the Charities Act is amended by inserting, immediately after the words “3 years or to both”, the words “and, in the case of a continuing offence, to a further fine not exceeding \$100 for every day or part thereof during which the offence continues after conviction”.

Repeal and re-enactment of section 39 and new sections 39A and 39B

15. Section 39 of the Charities Act is repealed and the following sections substituted therefor:

“Interpretation of this Part

39.—(1) In this Part and any regulations made for the purpose of this Part, unless the context otherwise requires —

“fund-raising appeal” means —

- (a) an appeal, whether made expressly or impliedly, to any member of the public to give money or other property (whether for consideration or otherwise) which is made in association with a representation that the whole or any part of its proceeds is to be applied for charitable, benevolent or philanthropic purposes; or
- (b) a receipt from any member of the public of any money or other property (whether for consideration or otherwise) which is given in whole or in part for any charitable, benevolent or philanthropic purposes;

“proceeds”, in relation to a fund-raising appeal, means all money or other property given (whether for consideration or otherwise) in response to the fund-raising appeal in question.

(2) In this Part and any regulations made for the purpose of this Part, unless the context otherwise requires, any reference to charitable purposes, where occurring in the context of a reference to charitable, benevolent or philanthropic purposes, is a reference to charitable purposes whether or not the purposes are charitable within the meaning of any rule of law.

Prohibition on conducting fund-raising appeal without permit

39A.—(1) No person shall conduct or participate in any fund-raising appeal unless he is —

(a) exempt from the provision of this section; or

(b) a person to whom a permit has been granted by the Commissioner in accordance with regulations made for the purpose of this section.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$100 for every day or part thereof during which the offence continues after conviction.

(3) The Minister, or such person as he may appoint, may exempt any person or class of persons from the provision of this section.

Power of Commissioner to prohibit or restrict fund-raising appeal

39B.—(1) Notwithstanding any exemption or permit granted under section 39A, the Commissioner may, at any time, by order published in the *Gazette* —

(a) prohibit or stop the conduct of any fund-raising appeal by any charity or person; or

(b) restrict the conduct of any fund-raising appeal by any charity or person by imposing conditions,

if he is satisfied —

(i) that any fund-raising appeal conducted by the charity or person has not been conducted in good faith for charitable, benevolent or philanthropic purposes;

(ii) that any of the persons who have conducted a fund-raising appeal, or any persons associated with any such appeal, are not fit and proper persons to administer, or to be associated with, a fund-raising appeal for charitable, benevolent or philanthropic purposes;

(iii) that any fund-raising appeal has been improperly administered;

(iv) that, in connection with any fund-raising appeal conducted, the provisions of this Act or the regulations or the conditions imposed by the Commissioner were not complied with by any person conducting or participating in the appeal; or

(v) that, in the public interest, the fund-raising appeal should not be conducted.

(2) Any person who conducts any fund-raising appeal in contravention of any order made by the Commissioner under subsection (1) 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 thereof during which the offence continues after conviction.”.

Amendment of section 40

16. Section 40 of the Charities Act is amended by deleting the words “section 39” wherever they appear in subsections (1) and (2) and substituting in each case the words “section 39A”.

New Part VIIIA

17. The Charities Act is amended by inserting, immediately after section 40, the following Part:

“PART VIIIA

INSTITUTIONS OF A PUBLIC CHARACTER AND SECTOR ADMINISTRATORS

Interpretation of this Part

40A. In this Part, unless the context otherwise requires —

“institution of a public character” means an institution or fund in Singapore which is —

(a) a hospital not operated or conducted for profit;

(b) a public or benevolent institution not operated or conducted for profit;

(c) 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;

(d) a university or a public fund for the establishment, maintenance, enlargement or improvement of a university;

(e) 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;

(f) 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;

(g) a public fund established and maintained for the relief of distress among members of the public;

(h) an institution which is established for charitable, benevolent or philanthropic purposes only; or

(i) an organisation not operated or conducted for profit which is engaged in or connected with the promotion of culture or the arts or with the promotion of sports,

which is approved as an institution of a public character by the Minister, Commissioner or any Sector Administrator on the application of the institution, or which is deemed as an institution of a public character under any written law;

“sector”, in relation to a Sector Administrator, means the class or classes of charities or institutions of a public character that the Minister has by notice published in the *Gazette* designated as under the supervision of that Sector Administrator;

“Sector Administrator” means any person or organisation appointed to be a Sector Administrator under section 40B.

Appointment of Sector Administrators

40B. The Minister may appoint any person or organisation to be a Sector Administrator for one or more of the following purposes:

- (a) regulating the administration of charities within the sector;
- 5 (b) approving institutions as institutions of a public character from among such class or classes of institutions as the Minister or Commissioner may determine;
- (c) regulating the administration of donations made to institutions of a public character within the sector;
- 10 (d) exercising such other functions and powers as the Minister may determine.

Regulations relating to institutions of a public character and Sector Administrators

40C.—(1) The Minister may make regulations to provide for —

- 15 (a) the manner and criteria to be adopted —
 - (i) for the approval of institutions of a public character; and
 - (ii) for the extension and revocation of the approval granted to institutions of a public character;
- 20 (b) the regulation of any amendment of the constitution or any other governing instrument of any institution of a public character;
- (c) the use of donations, issue of tax deduction receipts and maintenance of donation records and accounts by institutions of a public character;
- 25 (d) the regulation of institutions of a public character, including the application of provisions in the Act to institutions of a public character, whether or not such institutions are charities;
- 30 (e) the delegation by the Commissioner to any Sector Administrator of any of his functions or powers, except those which are exercisable under sections 24, 25, 25A, 26A, 26B and 30;

- (f) the procedures for appeal against decisions made by Sector Administrators; and
- (g) generally giving effect to or for carrying out the purposes of this Part.

5 (2) Where any institution of a public character contravenes any regulations made under subsection (1) —

- (a) the institution of a public character shall be liable to pay to the Commissioner a financial penalty of the higher of \$100 or the amount ascertained by the formula

10 $0.4 \times$ 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; and

- 15 (b) the Minister, Commissioner or the appropriate Sector Administrator may revoke the approval granted to the institution of a public character.

20 (3) Any financial penalty payable by any institution of a public character under subsection (2)(a) shall be recoverable as a debt due to the Government.

 (4) The Commissioner may remit or refund the whole or any part of the financial penalty payable by any institution of a public character under subsection (2)(a).

25 (5) Any financial penalty paid under subsection (2)(a) shall, after deducting any remission or refund under subsection (4), be paid into the Consolidated Fund.

 (6) Any financial penalty imposed under subsection (2)(a) shall be deemed to be interest on tax for the purposes of section 33(2) of the Limitation Act (Cap. 163).

30 (7) Where any Sector Administrator contravenes any regulations made under subsection (1), the Minister may revoke the appointment of the Sector Administrator.”.

New section 46A

18. The Charities Act is amended by inserting, immediately after section 46, the following section:

“Protection from liability

5 **46A.** No action, suit or other legal proceedings shall lie against the Commissioner, the Deputy Commissioner, any Assistant Commissioner, any officer appointed or authorised by the Commissioner or any Sector Administrator appointed under section 40B, for anything done (including any statement made) or omitted to
10 be done in good faith in the course of or in connection with —

- (a) the exercise or purported exercise of any power under this Act or any other written law;
- (b) the performance or purported performance of any function or the discharge or purported discharge of any duty under
15 this Act or any other written law; or
- (c) the compliance or purported compliance with this Act or any other written law.”.

Amendment of section 47

20 **19.** Section 47(1) of the Charities Act is amended by deleting “\$500” and substituting the words “one half of the amount of the maximum fine that is prescribed for the offence”.

New section 47A

20. The Charities Act is amended by inserting, immediately after section 47, the following section:

“Prosecution of offences

25 **47A.** Proceedings in respect of any offence under this Act or any regulations made thereunder may be conducted by any public officer who is authorised to conduct such proceedings by the Commissioner with the consent of the Attorney-General.”.

Amendment of section 48

30 **21.** Section 48(2) of the Charities Act is amended —

(a) by inserting, immediately before paragraph (a), the following paragraph:

“(a) prescribe the procedures and conditions for the registration of charities or any class of charities;”;

5 (b) by relettering the existing paragraph (a) as paragraph (aa);

(c) by deleting the words “public charitable collections” in the 5th line of paragraph (e) and substituting the words “fund-raising appeals”;

(d) by deleting the word “and” at the end of paragraph (f);

10 (e) by deleting the full-stop at the end of paragraph (g) and substituting the words “and, in the case of a continuing offence, to a further fine not exceeding \$100 for every day or part thereof during which the offence continues after conviction; and”;

15 (f) by inserting, immediately after paragraph (g), the following paragraph:

“(h) prescribe any other matter or thing required or permitted to be prescribed or necessary to be prescribed to give effect to this Act.”.

Consequential amendments to other written laws

20 **22.** The provisions of the Acts specified in the first column of the Schedule are amended in the manner set out in the second column thereof.

Transitional provisions

25 **23.**—(1) Where an institution or fund was, before the appointed day, an institution of a public character to which approval had been granted under section 37(3) of the Income Tax Act (Cap. 134), the institution or fund shall, from the appointed day, be deemed to be an institution of a public character approved under the Charities Act, and the approval shall expire on the day the approval under the Income Tax Act would have expired if this Act had not been enacted.

30 (2) Subsection (1) shall be without prejudice to the powers of the Minister, Commissioner or appropriate Sector Administrator, from the appointed day, to approve or revoke the approval of any institution or fund as an institution of a public character.

(3) Any application for the approval of an institution of a public character under section 37(3) of the Income Tax Act made before the appointed day, which was not approved before that day, shall be deemed to be an application for approval as an institution of a public character made under the Charities Act.

(4) Where any contravention of any regulations made under section 107 of the Income Tax Act has occurred before the appointed day, the Commissioner may exercise the powers conferred on the Comptroller of Income Tax in respect of such contravention before the appointed day, as if this Act had not been enacted.

(5) In this section, “appointed day” means the date of commencement of section 17 of this Act.

THE SCHEDULE

Section 22

CONSEQUENTIAL AMENDMENTS TO OTHER WRITTEN LAWS

<i>First column</i>	<i>Second column</i>
(1) Estate Duty Act (Chapter 96, 2005 Ed.)	
(a) Section 7(1)	Delete the words “section 2(1) of the Income Tax Act (Cap. 134)” in the 4th and 5th lines of paragraph (c)(ii) and substitute the words “the Charities Act (Cap. 37)”.
(b) Section 12(1)	Delete the words “section 2(1) of the Income Tax Act” and substitute the words “the Charities Act (Cap. 37)”.
(c) Section 12A(1)	Delete the words “section 2(1) of the Income Tax Act (Cap. 134)” and substitute the words “the Charities Act (Cap. 37)”.
(2) Income Tax Act (Chapter 134, 2004 Ed.)	
(a) Section 2(1)	<p>(i) Delete the definition of “Central Fund Administration”.</p> <p>(ii) Delete the definition of “institution of a public character” and substitute the following definition:</p>

“ “institution of a public character” has the same meaning as in the Charities Act (Cap. 37);”.

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|---|--|
| (b) Section 37(3) | <ul style="list-style-type: none"> (i) Delete the words “approved by the Minister, Comptroller or any Central Fund Administrator on application by that institution” in paragraphs (c) and (d)(i). (ii) Delete the words “approved by the Minister, Comptroller or any Central Fund Administrator on the application by that institution” in paragraphs (e) and (f). |
| (c) Section 100(2) | Delete the words “, 91(4) or 107(3)” and substitute the words “or 91(4)”. |
| (d) Section 107 | Repeal. |
| (3) Inland Revenue Authority of Singapore Act
(Chapter 138A, 1993 Ed.) | |
| Section 6(1) | <ul style="list-style-type: none"> (i) Delete paragraph (d). (ii) Delete the marginal reference “Cap. 37”. |
| (4) Legal Profession Act
(Chapter 161, 2001 Ed.) | |
| Section 137 | Delete the words “approved by the Minister for the purposes of section 37(2)(c) of the Income Tax Act” in paragraph (b) and substitute the words “approved under the Charities Act (Cap. 37)”. |
| (5) National Heritage Board Act
(Chapter 196A, 1994 Ed.) | |
| Section 34 | <ul style="list-style-type: none"> (i) Delete the words “approved by the Minister for Finance for the purposes of section 37(2)(c) of the Income Tax Act” in paragraph (b) and substitute the words “approved under the Charities Act (Cap. 37)”. (ii) Delete the marginal reference “Cap. 134”. |
| (6) Singapore Academy of Law Act (Chapter 294A, 1997 Ed.) | |
| Section 23 | Delete the words “approved by the Minister for the purposes of section 37(2)(c) of the Income Tax Act” in paragraph (b) and substitute the words “approved under the Charities Act (Cap. 37)”. |

EXPLANATORY STATEMENT

This Bill seeks to amend the Charities Act (Cap. 37) —

- (a) to provide for additional functions, duties and powers of the Commissioner and Deputy Commissioner of Charities, and the delegation of functions, duties and powers to the Assistant Commissioners of Charities;
- (b) to provide for the establishment of a Charity Council and its functions;
- (c) to provide for the regulation of institutions of a public character;
- (d) to provide for the appointment of Sector Administrators and their functions and powers;
- (e) to make certain other amendments; and
- (f) to make consequential amendments to certain other written laws.

Clause 1 relates to the short title and commencement.

Clause 2 repeals and re-enacts the long title of the Act. This is to reflect the enlarged scope of the Act with the amendments proposed under the Bill.

Clause 3 amends section 2(1) to insert the definition of “Council”, which is a reference to the Charity Council.

Clause 4 amends section 3 in relation to the powers, duties and functions of the Deputy Commissioner; and also provides expressly for the delegation of powers, duties and functions by the Commissioner to the Assistant Commissioners, subject to certain restrictions.

Clause 5 repeals and re-enacts section 4 to elaborate the objectives and functions of the Commissioner.

Clause 6 inserts a new Part IIA comprising new sections 4A and 4B to provide for the establishment and functions of the Charity Council.

Clause 7 amends section 5 to provide for the grounds on which the Commissioner shall refuse to register an institution as a charity, or shall remove an institution from the register of charities.

Clause 8 amends section 15(2) to provide for the punishment for a continuing offence.

Clause 9 amends section 18 to provide for the punishment for a continuing offence.

Clause 10 inserts a new section 25A. This provision empowers the Commissioner by order to suspend or remove any trustee, charity trustee, officer, agent or employee of a charity from being a member of the charity. This power can be exercised where the Commissioner makes an order under section 25 suspending or removing that person from his office or employment, as the case may be. The order under the new section 25A may be made concurrent with or subsequent to the order under section 25. Like section 25, section 25A shall not apply to an exempt charity.

Clause 11 inserts new sections 26A and 26B to empower the Commissioner to make orders directing the application of charity property.

The new section 26A empowers the Commissioner to direct any person in possession or control of any property held by or on trust for a charity, and who is unwilling to apply it properly for the purposes of the charity, to apply the property in such manner as the Commissioner may specify by order. This power may be exercised by the Commissioner where it is necessary or desirable to make such an order for the purpose of securing a proper application of the property for the purposes of the charity.

The new section 26B gives the Commissioner similar powers as in section 26A in relation to property held by or on trust for institutions that have ceased to be charities, or have ceased to exist or operate.

Clause 12 amends section 28(1) to provide for the punishment for a continuing offence.

Clause 13 amends section 35(6) to provide for the punishment for a continuing offence.

Clause 14 amends section 38 to provide for the punishment for a continuing offence.

Clause 15 repeals and re-enacts section 39, and inserts new sections 39A and 39B, within Part VIII of the Act.

The new section 39 relates to the interpretation of Part VIII. The expression “fund-raising appeal” is broadly defined. It is intended to include appeals in any form. It is also intended to include appeals made expressly or impliedly, whether or not words such as “appeal”, “fund-raising” and the like are actually used.

The new section 39A re-enacts the existing section 39, with modification. Subsection (2) now provides for the punishment for a continuing offence.

The new section 39B empowers the Commissioner, at any time by order published in the *Gazette*, to prohibit, stop or restrict (by imposing conditions) the conduct of any fund-raising appeal by any charity or person. This power may be exercised under any of the circumstances specified in the section.

Clause 16 makes consequential amendments to section 40 in view of the amendments made under clause 15.

Clause 17 inserts a new Part VIIIA comprising new sections 40A, 40B and 40C. These provisions relate to institutions of a public character and Sector Administrators. The new section 40A relates to the interpretation of Part VIIIA. The expressions “institution of a public character” and “Sector Administrator” are defined. The new section 40B provides for the appointment of Sector Administrators and their functions and powers. The new section 40C provides for the making of regulations relating to institutions of a public character and Sector Administrators.

Clause 18 inserts a new section 46A to protect the Commissioner and other officers from liability for anything done or omitted to be done by them in good faith in the course of exercising any power, performing any function, or discharging any duty under the law.

Clause 19 amends section 47(1) to increase the maximum composition amount for offences under the Act and the regulations made thereunder.

Clause 20 inserts a new section 47A to provide for the prosecution of offences by public officers appointed by the Commissioner with the consent of the Attorney-General.

Clause 21 amends section 48(2) to provide for additional regulations that may be made by the Minister, including regulations to prescribe the procedures and conditions for the registration of charities, and to provide for punishments for continuing offences.

Clause 22 provides for consequential amendments to other written laws. In particular, with the responsibility for approving and regulating institutions of a public character coming within the purview of the Commissioner of Charities under the Charities Act, corresponding provisions under the Income Tax Act (Cap. 134) will be deleted or repealed. Likewise, references to “Central Fund Administrators” in the Income Tax Act will be deleted in view of the introduction of “Sector Administrators” under the Charities Act.

Clause 23 is a transitional provision. It deems any approval granted to an institution of a public character under section 37(3) of the Income Tax Act (Cap. 134) as an approval under the Charities Act after the amendments come into force. This serves to preserve the tax benefits applicable to the institution of a public character for the remainder of the duration for which the approval was earlier granted.

EXPENDITURE OF PUBLIC MONEY

This Bill will involve the Government in extra financial expenditure, the exact amount of which cannot at present be ascertained.

TABLE OF DERIVATIONS OF AMENDMENTS

<i>Charities (Amendment) Bill 2006</i>		<i>Source</i>			
<i>Provision in Charities Act (Cap. 37) amended or inserted by this Bill</i>	<i>Section Heading</i>	<i>Draft UK Charities Bill dated 13 July 2006</i>	<i>Income Tax Act (Cap. 134)</i>	<i>Charities Act (Cap. 37)</i>	<i>Others</i>
<i>Section</i>		<i>Clause</i>	<i>Section</i>	<i>Section</i>	
Long title		—	—	—	—
2	Interpretation	—	—	—	—
3	Appointment of Commissioner of Charities and other officers	—	—	—	—
4	Objectives and general functions of Commissioner	7 (modified)	—	—	—
4A	Charity Council	—	—	—	—
4B	Functions of Council	—	—	—	—
5	Registration of charities	—	—	—	—
15	Supplementary provisions relating to audits, etc.	—	—	—	—
18	Offences	—	—	—	—
25A	Power to suspend or remove trustees, etc., from membership of charity	19 (modified)	—	—	—
26A	Power to direct application of charity property	21 (modified)	—	—	—
26B	Power to direct application of charity property after charity ceases to exist	21 (modified)	—	—	—

<i>Charities (Amendment) Bill 2006</i>		<i>Source</i>			
<i>Provision in Charities Act (Cap. 37) amended or inserted by this Bill</i>	<i>Section Heading</i>	<i>Draft UK Charities Bill dated 13 July 2006</i>	<i>Income Tax Act (Cap. 134)</i>	<i>Charities Act (Cap. 37)</i>	<i>Others</i>
<i>Section</i>		<i>Clause</i>	<i>Section</i>	<i>Section</i>	
28	Persons acting as charity trustee while disqualified	—	—	—	—
35	Professional fund-raisers, etc., required to indicate institutions benefiting and arrangements for remuneration	—	—	—	—
38	False statements relating to institutions which are not registered charities	—	—	—	—
39	Interpretation of this Part [VIII]	—	—	39(4) and (5) (modified)	—
39A	Prohibition on conducting fund-raising appeal without permit	—	—	39(1) to (3) (modified)	—
39B	Power of Commissioner to prohibit or restrict fund-raising appeal	—	—	—	New South Wales Charitable Fundraising Act 1991, section 31 (modified)
40	Exclusion of judicial review	—	—	—	—
40A	Interpretation of this Part [VIII A]	—	2 (modified)	—	—
40B	Appointment of Sector Administrators	—	107(1) (modified)	—	—

<i>Charities (Amendment) Bill 2006</i>		<i>Source</i>			
<i>Provision in Charities Act (Cap. 37) amended or inserted by this Bill</i>	<i>Section Heading</i>	<i>Draft UK Charities Bill dated 13 July 2006</i>	<i>Income Tax Act (Cap. 134)</i>	<i>Charities Act (Cap. 37)</i>	<i>Others</i>
<i>Section</i>		<i>Clause</i>	<i>Section</i>	<i>Section</i>	
40C	Regulations relating to institutions of a public character and Sector Administrators	—	100(2) and 107(2) to (4) (modified)	—	—
46A	Protection from liability	—	—	—	Casino Control Act (No. 10 of 2006), section 192 (modified)
47	Power to compound	—	—	—	—
47A	Prosecution of offences	—	—	—	Inland Revenue Authority of Singapore Act (Cap. 138A), section 26(1) (modified)
48	Regulations	—	—	—	—