Reprint
as at 1 July 2012

Charities Amendment Act 2012

Public Act	2012 No 4
Date of assent	24 February 2012
Commencement	see section 2

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Note
Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

This Act is administered by the Department of Internal Affairs.

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Charities Amendment Act 2012.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

3 Principal Act amended

This Act amends the Charities Act 2005.

4 Interpretation

(1) This section amends section 4(1).

(2) Paragraph (b)(i) of the definition of **officer** is amended by omitting "; or" and substituting "; and".

(3) Paragraph (b)(ii) of the definition of **officer** is amended by omitting "in any other case,".

5 Meaning of charitable purpose and effect of ancillary non-charitable purpose

Section 5 is amended by inserting the following subsection after subsection (2):

"(2A) The promotion of amateur sport may be a charitable purpose if it is the means by which a charitable purpose referred to in subsection (1) is pursued."

6 Application for registration

(1) Section 17(1) is amended by repealing paragraph (a) and substituting the following paragraph:

"(a) be in the form prescribed by the Commission; and".

(2) Section 17(1)(b) is amended by omitting "prescribed form" and substituting "form prescribed by the Commission".

(3) Section 17(1)(d) is amended by omitting "prescribed fee" and substituting "fee prescribed by regulations".

(4) Section 17(1)(e) is amended by omitting "prescribed information or documentation" and substituting "information or documentation prescribed by the Commission".

7 Contents of register

Section 24(2) is amended by omitting "prescribed information or documents" and substituting "information or documents prescribed by regulations".

8 Search of register

Section 27(2)(d) is amended by omitting "prescribed criteria" and substituting "criteria prescribed by regulations".

9 Duty to notify changes to Commission

(1) Section 40(1) is amended by inserting the following paragraph after paragraph (c):

"(ca) a change that disqualifies an officer of the charitable entity from being an officer of the entity:".

(2) Section 40(2)(a) is amended by omitting "prescribed form" and substituting "form prescribed by the Commission".

(3) Section 40(2)(b) is amended by omitting "prescribed information or documentation" and substituting "information or documentation prescribed by the Commission".

10 Duty to prepare annual return

Section 41(2) is amended by inserting "by the Commission" after "prescribed".

11 Regulations concerning content of annual returns

(1) The heading to section 42 is amended by omitting "**Regulations concerning**" and substituting "**Commission must prescribe**".

(2) Section 42(1) is amended by omitting "The Governor-General may, on the recommendation of the Minister, by Order in Council," and substituting "The Commission must".

(3) Section 42(2) is amended by omitting "The order made under subsection (1)" and substituting "The Commission".

(4) Section 42 is amended by adding the following subsection:

"(3) Section 72A(2) and (5) to (7) apply to a form or requirement to be prescribed under this section."

12 Commission may treat entity and affiliated or closely related entities as single entity

Section 44(3) is amended by omitting "prescribed form" and substituting "form prescribed by the Commission".

13 Parent entity may request means of compliance with duties

Section 45(2) is amended by omitting "prescribed form" and substituting "form prescribed by the Commission".

14 New section 72A inserted

The following section is inserted before section 73:

"**72A Forms and requirements prescribed by Commission**

"(1) The Commission may do 1 or more of the following things:

"(a) prescribe forms for the purposes of this Act:

"(b) prescribe requirements for—

"(i) specified information or documents to be included in or attached to forms:

"(ii) forms to be signed by specified persons:

"(c) prescribe requirements with which documents sent or delivered for registration must comply.

"(2) The Commission may prescribe a form or requirement only for the purpose of collecting information or documentation required for the Commission to perform its functions and duties under this Act.

"(3) However, a form prescribed under this section may require information or documents to be included in or attached to the form for the purpose of assisting any person—

"(a) in the exercise of the person's powers in connection with subpart LD of the Income Tax Act 2007; or

"(b) in the performance of the person's functions in connection with that subpart.

"(4) Subsection (3) applies regardless of whether the information or documentation is collected for the purposes of this Act.

"(5) In order to prescribe a form or requirement, the Commission—

"(a) must publish it on its Internet site; and

"(b) may publish it in any other way.

"(6) In developing a form or requirement to be prescribed, the Commission must consult persons or organisations that the Commission considers to be representative of the interests of charitable entities.

"(7) A failure to comply with subsection (6) does not affect the validity of the prescribed form or requirement."

15 Regulations

(1) Section 73(1)(a) and (b) are repealed.

(2) Section 73(2) is repealed.

(3) Section 73(3) is amended by omitting "prescribed fee" and substituting "fee prescribed by regulations".

(4) Section 73(4) is amended by inserting "by regulations" after "prescribed".

16 Transitional provision for officers

(1) This section applies if a person becomes an officer of a charitable entity because of the amendments made to the definition of officer by section 4.

(2) The charitable entity must ensure that it sends or delivers notice of the change to the Commission or the chief executive.

(3) The notice must—

(a) be in the form prescribed by the Commission or the chief executive (if any); and

(b) be accompanied by a document in the form prescribed by the Commission or the chief executive that is signed

by, or on behalf of, the person who became an officer and that contains a certification that the person is not disqualified under section 16 of the principal Act from being an officer of the entity; and

(c) contain, or be accompanied by, any other information or documentation prescribed by the Commission or the chief executive; and

(d) specify the date of commencement of this Act as the effective date of the change; and

(e) be sent or delivered to the Commission or the chief executive together with, or as part of, the first annual return to be provided by the charitable entity under section 41 of the principal Act after the commencement of this Act.

(4) This section overrides section 40(1)(c) of the principal Act and, until the notice is sent or delivered, section 24(1)(d) of that Act.

(5) A term or expression that is used in this section and is defined in the principal Act has the meaning given by that Act.

Section 16(2): amended, on 1 July 2012, by section 16(2) of the Charities Amendment Act (No 2) 2012 (2012 No 43).

Section 16(3)(a): amended, on 1 July 2012, by section 16(2) of the Charities Amendment Act (No 2) 2012 (2012 No 43).

Section 16(3)(b): amended, on 1 July 2012, by section 16(2) of the Charities Amendment Act (No 2) 2012 (2012 No 43).

Section 16(3)(c): amended, on 1 July 2012, by section 16(2) of the Charities Amendment Act (No 2) 2012 (2012 No 43).

Section 16(3)(e): amended, on 1 July 2012, by section 16(2) of the Charities Amendment Act (No 2) 2012 (2012 No 43).

17 Transitional provision for information or documentation received

(1) This section applies if, before the commencement of this Act, the Commission received any information or documentation that complied with the principal Act's requirements when it was received.

(2) The Commission or the chief executive, as the case may be, must deal with the information or documentation as if the principal Act had not been amended by this Act.

Section 17(2): amended, on 1 July 2012, by section 16(2) of the Charities Amendment Act (No 2) 2012 (2012 No 43).

18 Transitional provision for Commission prescribing form or requirement

The Commission or the chief executive, as the case may be, may satisfy the requirement for consultation under section 42(3) or 72A(6) of the principal Act even if the consultation occurs before the commencement of this Act.

Section 18: amended, on 1 July 2012, by section 16(2) of the Charities Amendment Act (No 2) 2012 (2012 No 43).

19 Consequential amendments to Charities (Fees, Forms, and Other Matters) Regulations 2006

(1) This section amends the Charities (Fees, Forms, and Other Matters) Regulations 2006.

(2) After the commencement of this section,—

(a) the Charities (Fees, Forms, and Other Matters) Regulations 2006 are called the Charities (Fees and Other Matters) Regulations 2006; and

(b) a reference in another enactment or in a document to the Charities (Fees, Forms, and Other Matters) Regulations 2006 must be read as a reference to the Charities (Fees and Other Matters) Regulations 2006, unless the context requires otherwise.

(3) Regulation 1 is amended by omitting "Fees, Forms," and substituting "Fees".

(4) The heading above section 5 is revoked.

(5) Regulations 5 to 7 are revoked.

(6) The Schedule is revoked.

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Notes

1 General

This is a reprint of the Charities Amendment Act 2012. The reprint incorporates all the amendments to the Act as at 1 July 2012, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, *see* http://www.pco.parliament.govt.nz/reprints/.

2 Status of reprints

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

3 How reprints are prepared

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and

provisions that are repealed or revoked are omitted. For a detailed list of the editorial conventions, *see* http://www.pco.parliament.govt.nz/editorial-conventions/ or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

4 Changes made under section 17C of the Acts and Regulations Publication Act 1989

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted.

A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as "of this section" and "of this Act")
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
  - indentation
  - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as "the 1st day of January 1999" is now expressed as "1 January 1999")

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
  - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
  - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

5 List of amendments incorporated in this reprint (most recent first)

Charities Amendment Act (No 2) 2012 (2012 No 43): section 16(2)

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