

Version
as at 28 October 2021



Charities Amendment Act (No 2) 2012

Public Act 2012 No 43
Date of assent 6 June 2012
Commencement see section 2

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Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

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 (No 2) 2012.

2 Commencement

This Act comes into force on 1 July 2012.

3 Principal Act amended

This Act amends the Charities Act 2005.

Amendments to principal Act

4 Heading to Part 1 amended

The heading to Part 1 is amended by omitting “**Charities Commission**” and substituting “**Preliminary matters and functions relating to charities**”.

5 New section 3 substituted

Section 3 is repealed and the following section substituted:

3 Purpose

The purpose of this Act is—

- (a) to promote public trust and confidence in the charitable sector:
- (b) to encourage and promote the effective use of charitable resources:

- (c) to provide for the registration of societies, institutions, and trustees of trusts as charitable entities:
- (d) to require charitable entities and certain other persons to comply with certain obligations:
- (e) to provide for the Board to make decisions about the registration and deregistration of charitable entities and to meet requirements imposed in relation to those functions:
- (f) to provide for the chief executive to carry out functions under this Act and to meet requirements imposed in relation to those functions.

6 Interpretation

- (1) The definition of **Commission** in section 4(1) is repealed.
- (2) Section 4(1) is amended by inserting the following definitions in their appropriate alphabetical order:

Board means the board established by section 8

chief executive means the chief executive of the department

department means the department that, with the authority of the Prime Minister, is for the time being responsible for the administration of this Act

7 New heading and sections 8 to 12 substituted

Sections 8 to 12 and the headings above those sections are repealed and the following heading and sections substituted:

Board and chief executive

8 Establishment, functions, duties, and powers of Board

- (1) A Board comprising 3 members appointed by the Minister is established.
- (2) The Minister must notify in the *Gazette*—
 - (a) the names of the members of the Board; and
 - (b) the name of the chairperson of the Board.
- (3) The Board has the functions, duties, and powers relating to the registration and deregistration of charitable entities that are conferred or imposed on it by this Act.
- (4) In performing or exercising his or her functions, duties, or powers, each member of the Board—
 - (a) must act independently in exercising his or her professional judgement; and
 - (b) is not subject to direction from the Minister.
- (5) The Board must, subject to subsection (6), consider whether it could most efficiently and effectively perform or exercise any functions, duties, or powers

itself or by delegating the functions, duties, or powers to the chief executive or some other person under section 9.

- (6) The chief executive must supply all secretarial and administrative services required to enable the Board to perform or exercise its functions, duties, and powers.
- (7) The Schedule applies to the Board and to the members and chairperson of the Board.

9 Board may delegate

- (1) The Board may, either generally or particularly and by resolution, delegate any of its functions, duties, or powers under this Act to—
 - (a) the chief executive; or
 - (b) any member of the Board.
- (2) If functions, duties, or powers are delegated to the chief executive under subsection (1),—
 - (a) the chief executive is not responsible to the Minister for the performance or exercise of those functions, duties, or powers but must act independently in exercising his or her professional judgement; and
 - (b) the chief executive may delegate those functions or powers to employees or holders of specified offices in the department under section 41 of the State Sector Act 1988.
- (3) No delegation under subsection (1) or (2)(b) affects the responsibility of the Board for the actions of any person acting under the delegation.
- (4) The Board must not make a delegation under this section unless satisfied that the delegation is consistent with section 8(5).
- (5) A person to whom any functions, duties, or powers are delegated may perform and exercise them in the same manner and with the same effect as if they had been conferred directly by this Act and not by delegation.

10 Functions of chief executive

The functions of the chief executive are—

- (a) to educate and assist charities in relation to matters of good governance and management, for example,—
 - (i) by issuing guidelines or recommendations on the best practice to be observed by charities and by persons concerned with the management or administration of charities;
 - (ii) by issuing model rules;
 - (iii) by providing information to charities about their rights, duties, and obligations under this Act and other enactments; and

- (b) to make appropriate information available to assist persons to make applications for registration under this Act; and
- (c) to receive and process applications for registration as charitable entities; and
- (d) to refer to the Board for its decision all applications for registration as charitable entities and proposals for deregistration as charitable entities; and
- (e) to ensure that the register of charitable entities is compiled and maintained; and
- (f) to receive, consider, and process annual returns submitted by charitable entities; and
- (g) to supply information and documents in appropriate circumstances for the purposes of the Inland Revenue Acts; and
- (h) to monitor charitable entities and their activities to ensure that entities that are registered as charitable entities continue to be qualified for registration as charitable entities; and
- (i) to inquire into charitable entities and into persons who have engaged in, or are engaging in, conduct that constitutes, or may constitute, a breach of this Act or serious wrongdoing in connection with a charitable entity; and
- (j) to monitor and promote compliance with this Act, including by taking prosecutions for offences against this Act in appropriate circumstances; and
- (k) to stimulate and promote research into any matter relating to charities, for example,—
 - (i) by collecting and disseminating information or research about charities;
 - (ii) by advising on areas where further research or information about charities should be undertaken or collected;
 - (iii) by entering into contracts or arrangements for research or information about charities to be undertaken or collected.

11 Status of entity does not affect performance of functions

- (1) The Board and the chief executive may perform functions to which this section applies in relation to any charity regardless of whether the charity is registered as a charitable entity.
- (2) This section applies to the functions of the Board and the chief executive that relate to—
 - (a) the promotion of public trust and confidence in the charitable sector; or

- (b) the encouragement and promotion of the effective use of charitable resources; or
- (c) the provision of education and assistance to charities in relation to matters of good governance and management; or
- (d) the stimulation and promotion of research into any matter relating to charities.

12 Annual meeting with representatives of charitable entities

- (1) The chief executive must hold at least 1 meeting in each year with representatives of charitable entities.
- (2) At each meeting, the representatives of charitable entities who attend the meeting must be given a reasonable opportunity to—
 - (a) ask questions concerning the operation of this Act; and
 - (b) make submissions on the operation of this Act to the chief executive.

8 New Schedule added

The Schedule set out in Schedule 1 of this Act is added.

Provisions relating to disestablishment of Charities Commission

9 Disestablishment of Charities Commission

The Charities Commission is disestablished.

10 Compensation

No member of the Charities Commission is entitled to compensation for loss of office resulting from the disestablishment of the Commission.

11 Transfer of property and liabilities of Commission

On the commencement of this section,—

- (a) all real and personal property of the Charities Commission and all rights and liabilities of the Commission vest in the Crown; and
- (b) all proceedings pending by or against the Commission may be continued, completed, or enforced by or against the Crown; and
- (c) the Commission's work in progress may be carried on and completed by the chief executive or the Board.

12 Restriction of compensation for technical redundancy

- (1) An employee is not entitled to receive any payment or other benefit on the ground that his or her position in the Charities Commission has ceased to exist if—
 - (a) the position ceases to exist as a result of a transfer of functions from the Commission to the chief executive; and

- (b) in connection with that transfer of functions,—
 - (i) the employee is offered equivalent employment in the department (whether or not the employee accepts the offer); or
 - (ii) the employee is offered, and accepts, other employment in the department.
- (2) In this section, **equivalent employment** to the employee's employment in the Charities Commission is employment in the department—
 - (a) in substantially the same position; and
 - (b) in the same general locality; and
 - (c) on terms and conditions of employment that are no less favourable than those that apply to the employee immediately before the offer of equivalent employment (including any service-related, redundancy, and superannuation conditions); and
 - (d) on terms that treat the period of service with the Commission (and any other period of service recognised by the Commission as continuous service) as if it were continuous service with the department.
- (3) This section overrides Part 6A of the Employment Relations Act 2000.

13 Application of collective agreements to employees

- (1) This section limits which employees may be bound by a collective agreement that binds the chief executive of the Charities Commission before a transfer of functions from the Commission to the chief executive of the department and that, as a consequence of section 11, binds the chief executive of the department after that transfer of functions.
- (2) After that transfer of functions, the only employees of the department who are entitled to be bound by or enforce the collective agreement are those employees who are appointed to a position in the department that has been established (whether or not previously existing in the Commission) to enable the chief executive to perform the transferred functions.
- (3) Subsection (2) does not bind an employee to a collective agreement, or entitle an employee to be bound by or enforce a collective agreement, if the employee would not otherwise be bound by, or be entitled to be bound by or enforce, that agreement.
- (4) This section limits which employees may be bound by collective agreements (including collective employment contracts), and the coverage of those agreements, under sections 56(1), 57, 62(3), 63(3), and 243 of the Employment Relations Act 2000.
- (5) This section does not apply to a collective agreement to the extent that the parties agree otherwise.

14 Superannuation

- (1) Any employee of the Charities Commission who, immediately before becoming an employee of the department, is a contributor to the Government Superannuation Fund under Part 2 or 2A of the Government Superannuation Fund Act 1956 is deemed, for the purpose of that Act, to be employed in the Government service so long as he or she continues to be an employee of the department.
- (2) Subsection (1) does not entitle a person to become a contributor to the Government Superannuation Fund if the person has ceased to be a contributor.
- (3) For the purpose of applying the Government Superannuation Fund Act 1956, the chief executive of the department is the controlling authority.

15 Other savings and transitional matters

- (1) The Governor-General may, by Order in Council, provide for savings and transitional matters connected with the disestablishment of the Charities Commission, including the transfer of functions formerly carried out by the Commission.
- (2) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 15(2): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

16 Consequential amendments

- (1) The principal Act is amended in the manner indicated in Schedule 2.
- (2) The Acts specified in Part 1 of Schedule 3 are amended in the manner indicated in that schedule.
- (3) The Charities (Fees and Other Matters) Regulations 2006 are amended in the manner indicated in Part 2 of Schedule 3.

Schedule 1 New Schedule added

s 8

Schedule Provisions relating to Board, chairperson, and members

s 8

Appointments in general

1 Method of appointment

- (1) The Minister appoints or reappoints a member of the Board, and a chairperson of the Board, by giving written notice to the member concerned.
- (2) A notice under subclause (1) must—
 - (a) state the date on which the appointment takes effect, which must not be earlier than the date on which the notice is received; and
 - (b) in the case of the appointment of a member, state the term of the appointment.

2 Membership of Board and criteria for appointment

- (1) The Board comprises 3 members (*see* section 8(1)).
- (2) The Minister may only appoint as a member a person who, in the Minister's opinion, has the appropriate knowledge, skills, and experience to assist the Board to perform its functions.

3 Validity of members' acts

The acts of a person as a member or chairperson of the Board are valid even though—

- (a) a defect existed in the appointment of the person; or
- (b) the occasion for the person's acting, or for his or her appointment, had not arisen or had ended.

4 Validity of appointments

- (1) The appointment of a person as a member or chairperson of the Board is not invalid only because a defect existed in the appointment of the person.
- (2) This clause does not apply to a defect in the qualifications for appointment of a member.

5 Term of office

- (1) A member of the Board holds office for 3 years or any shorter period stated in the notice of appointment.

- (2) A member may be reappointed.
- (3) A member continues in office despite the expiry of his or her term of office until—
 - (a) the member is reappointed; or
 - (b) the member's successor is appointed; or
 - (c) the Minister informs the member by written notice (with a copy to the Board) that the member is not to be reappointed and no successor is to be appointed at that time.
- (4) This clause is subject to clauses 6 and 7.

6 Removal of members

- (1) The Minister may at any time, after consultation with the person concerned, remove a member of the Board from office.
- (2) The removal must be made by written notice to the member (with a copy to the Board).
- (3) The notice must state the date on which the removal takes effect, which must not be earlier than the date on which the notice is received.
- (4) The Minister must notify the removal in the *Gazette* as soon as practicable after giving the notice.
- (5) To avoid doubt, the Minister may not remove a member unless the Minister has properly considered the matter and complied with the principles of natural justice.

7 Resignation of member

- (1) A member of the Board may resign from office by written notice to the Minister (with a copy to the Board) signed by the member.
- (2) The resignation is effective on receipt by the Minister of the notice or at any later time specified in the notice.
- (3) The Minister must notify the resignation in the *Gazette* as soon as practicable after receiving the notice.

Chairperson of Board

8 Term of appointment of chairperson

The chairperson of the Board holds that office until—

- (a) he or she resigns that office; or
- (b) he or she is removed from it by the Minister; or
- (c) he or she ceases to hold office as a member; or
- (d) the term of office that may have been specified on appointment expires, unless the member is reappointed for a further term.

9 Resignation of chairperson

- (1) The chairperson of the Board may, without resigning as a member, resign that office by written notice to the Minister (with a copy to the Board).
- (2) The notice of resignation must state the date on which the resignation takes effect.
- (3) The Minister must notify the resignation in the *Gazette* as soon as practicable after receiving the notice.

10 Removal of chairperson

- (1) The Minister may, after consultation with the person concerned, remove a chairperson of the Board from that office with or without also removing that person as a member by written notice to the person (with a copy to the Board).
- (2) The notice of removal must state the date on which the removal takes effect.
- (3) The Minister must notify the removal in the *Gazette* as soon as practicable after giving the notice.

No compensation for loss of office

11 No compensation for loss of office

A member or chairperson of the Board is not entitled to any compensation or other payment or benefit relating to his or her ceasing, for any reason, to hold office as a member or chairperson, as the case may be.

Procedure of Board

12 Procedure of Board

- (1) The Board may regulate its own procedure.
- (2) This clause is subject to clauses 13 to 15.

13 Meetings

- (1) The Board or its chairperson must appoint the times and places of meetings of the Board, and give notice of those meetings to each member not present when the appointment is made.
- (2) The chairperson must preside at a meeting if the chairperson is present and not interested (as defined in clause 21(5)) in the matter.
- (3) If the chairperson is not present, or is interested in the matter, the Board must appoint one of its members to preside.
- (4) No business may be transacted at a meeting of the Board if a quorum is not present.
- (5) For the purposes of subclause (4) and clause 14, **quorum** means a majority of the members.

- (6) Each member has 1 vote and, in addition to his or her general vote, the chairperson has a casting vote in the case of an equality of votes.
- (7) A resolution of the Board is passed if it is agreed to by all members present without dissent or if a majority of the votes cast on it are in favour of it.

14 Methods of holding meetings

A meeting of the Board may be held—

- (a) by a quorum of the members, being assembled together at the time and place appointed for the meeting; or
- (b) by means of audio, audio and visual, or electronic communication provided that—
- (i) all of the members who wish to participate in the meeting have access to the technology needed to participate in the meeting; and
- (ii) a quorum of members can simultaneously communicate with each other throughout the meeting.

15 Unanimous written resolutions

- (1) A resolution signed or assented to in writing (whether sent by post, delivery, or electronic communication) by all members is as valid and effectual as if it had been passed at a meeting of the Board duly called and constituted.
- (2) The resolution may consist of several documents containing the same resolution, each signed or assented to in writing by 1 or more members.

Individual duties of members

16 Duty to comply with this Act

A member must not contravene, or cause the contravention of, or agree to the Board's contravening, this Act.

17 Duty to act with honesty and integrity

A member must, when acting as a member, act with honesty and integrity.

18 Duty to act in good faith

A member must, when acting as a member, act in good faith.

19 Duty to act with reasonable care, diligence, and skill

A member must, when acting as a member, exercise the care, diligence, and skill that a reasonable person would exercise in the same circumstances, taking into account (without limitation)—

- (a) the nature of the Board; and
- (b) the nature of the action; and

- (c) the position of the member and the nature of the responsibilities undertaken by him or her.

20 Duty not to disclose information

- (1) A member who has information in his or her capacity as a member that would not otherwise be available to him or her must not disclose that information to any person, or make use of, or act on, that information, except—
 - (a) in the performance of the Board's functions; or
 - (b) as required or permitted by law; or
 - (c) in accordance with subclause (2); or
 - (d) in complying with the requirement for members to disclose interests.
- (2) A member may disclose, make use of, or act on the information if—
 - (a) the member is first authorised to do so by the Board or by the Minister; and
 - (b) the disclosure, use, or act in question will not, or will be unlikely to, prejudice the Board.

21 Duty to disclose conflict of interest

- (1) A member who is interested in a matter relating to the Board must disclose details of the nature and extent of the interest (including any monetary value of the interest)—
 - (a) to the chairperson of the Board; and
 - (b) in an interests register kept by the Board.
- (2) Disclosure under subclause (1) must be made as soon as practicable after the member becomes aware that he or she is interested.
- (3) A member who is interested in a matter relating to the Board must not vote or take part in any discussion or decision of the Board relating to the matter.
- (4) In this clause, **matter** means the Board's performance of its functions under this Act.
- (5) For the purposes of this clause, a person is **interested** in a matter if he or she—
 - (a) may derive a financial benefit from the matter; or
 - (b) is the spouse, civil union partner, de facto partner, child, or parent of a person who may derive a financial benefit from the matter; or
 - (c) may have a financial interest in a person to whom the matter relates; or
 - (d) is a partner, director, officer, Board member, or trustee of a person who may have a financial interest in a person to whom the matter relates; or
 - (e) is otherwise directly or indirectly interested in the matter.
- (6) However, a person is not interested in a matter—

- (a) because he or she receives insurance cover, remuneration, or other benefits authorised under this Act; or
- (b) if his or her interest is so remote or insignificant that it cannot reasonably be regarded as likely to influence him or her in carrying out his or her responsibilities under this Act.

22 Accountability for individual duties

- (1) A member is not liable for a breach of an individual duty under this Act.
- (2) However, this clause does not affect—
 - (a) anything in clause 6 or 10 (removal of member or chairperson); or
 - (b) anything else for which the member may be liable under any other Act or rule of law arising from the act or omission that constitutes the breach.

Immunities and insurance

23 Immunity from civil liability

- (1) A member is not liable, in respect of an excluded act or omission,—
 - (a) to the Minister, unless it is also a breach of an individual duty under any of clauses 16 to 21:
 - (b) to any other person.
- (2) Nothing in this section affects—
 - (a) the liability of any person that is not a civil liability:
 - (b) the right of any person to apply, in accordance with the law, for judicial review.

24 Insurance for liability of member, office holder, or employee

The chief executive may effect insurance cover for a member in relation to his or her acts or omissions, except an act done or omission made that is—

- (a) in bad faith:
- (b) not in the performance or intended performance of the Board's functions.

25 Breach of insurance limits

- (1) A member who is insured by the chief executive in breach of this Act must repay to the chief executive the cost of providing or effecting that insurance cover, to the extent that the insurance cover exceeds that which could have been provided or effected under this Act.
- (2) The chief executive may recover the amount as a debt due in a court of competent jurisdiction.

26 Definitions for protections from liability

In clauses 23 to 25,—

effect insurance includes pay, whether directly or indirectly, the costs of the insurance

excluded act or omission means an act or omission by the member in good faith and in performance or intended performance of the Board's functions

member includes a person who was a member at any time after the commencement of this Schedule but who is no longer a member.

Fees and allowances

27 Fees and allowances

- (1) The members of the Board are entitled to be paid, in accordance with the fees framework,—
 - (a) fees as determined by the Minister; and
 - (b) reimbursing allowances or actual and reasonable expenses incurred in undertaking the functions and duties of the Board.
- (2) In subclause (1), **fees framework** means the framework determined by the Government from time to time for the classification and remuneration of statutory and other bodies in which the Crown has an interest.

Schedule 2

Consequential amendments to Charities Act 2005

s 16(1)

Heading to section 14

Omit “**Commission**” and substitute “**Board**”.

Section 14

Omit “**Commission**” in each place where it appears and substitute in each case “**Board**”.

Section 15(e)

Omit “**Commission**” and substitute “**Board**”.

Section 16(4) to (8)

Repeal and substitute:

- (4) The Board may waive the application of any of the disqualifying factors set out in subsection (2)(a) to (g) in relation to an officer of that entity.
- (5) If the Board waives the application of a disqualifying factor set out in subsection (2)(a) to (g), the officer to whom the waiver relates must not be treated as being disqualified from being an officer of a charitable entity in relation to the entity by reason of the application of that disqualifying factor.
- (6) The waiver may be granted on any terms or conditions that the Board thinks fit.
- (7) The Board may vary a waiver in the same way as a waiver may be granted under this section.
- (8) The Board may revoke a waiver granted under this section.
- (9) If the Board decides to exercise a power under subsection (4), (7), or (8), it must direct the chief executive to give the entity written notice of the decision.

Section 17(1)

Omit “**Commission**” in each place where it appears and substitute in each case “**chief executive**”.

Heading to section 18

Omit “**Commission**” and substitute “**Chief executive**”.

Section 18

Omit “**Commission**” in each place where it appears and substitute in each case “**chief executive**”.

Section 19

Repeal and substitute:

Section 19—*continued*

19 Board to decide application for registration

- (1) After considering an application, the chief executive must recommend to the Board that it either grant or decline the application.
- (2) If the Board is satisfied that the entity qualifies for registration as a charitable entity, the Board must grant the application and direct the chief executive to—
 - (a) register the entity as a charitable entity; and
 - (b) allocate a registration number to the entity; and
 - (c) notify the entity of its registration and of its registration number.
- (3) The Board is not required to follow a formal process when it acts under subsection (2).
- (4) If, after considering an application, the Board is not satisfied that an entity is qualified to be registered as a charitable entity, the Board must give the chief executive the reasons for its decision and direct the chief executive to notify the entity of the Board’s decision and the reasons for it.
- (5) Before acting under subsection (4) in any case, the Board must be satisfied that the chief executive has complied with section 18(3) in that case.

Heading to section 20

Omit “**Commission**” and substitute “**Board**”.

Section 20(1)

Omit “The Commission may, if it thinks fit,” and substitute “The Board may, if it thinks fit, direct the chief executive to”.

Section 20(2)(b)

Omit “Commission” and substitute “chief executive”.

Section 20(3)

Omit “Commission” in each place where it appears and substitute in each case “Board”.

Section 20(4)

Omit “Commission” and substitute “Board”.

Section 21

Omit “Commission” in each place where it appears and substitute in each case “chief executive”.

Heading to section 23

Omit “**Commission**” and substitute “**Chief executive**”.

Section 23

Omit “Commission” in each place where it appears and substitute in each case “chief executive”.

Section 24(1)(g)

Omit “Commission” and substitute “chief executive”.

Heading to section 25

Omit “**Commission**” and substitute “**Chief executive**”.

Section 25

Omit “Commission” in each place where it appears and substitute in each case “chief executive”.

Section 26

Omit “Commission” in each place where it appears and substitute in each case “chief executive”.

Heading to section 30

Omit “**Commission**” and substitute “**Chief executive**”.

Section 30(1)

Omit “Commission” in each place where it appears and substitute in each case “chief executive”.

Example in section 30(2)

Omit “Commission” and substitute “chief executive”.

Section 31(2)

Omit “Commission registers a notice” and substitute “Board directs that a notice be registered”.

Section 31(4)

Omit “Commission” and substitute “Board”.

Section 32(1)

Omit “Commission may remove an entity” and substitute “Board may direct that an entity be removed”.

Section 32(1)(f)

Omit “Commission” and substitute “chief executive”.

Section 33(1)

Omit “Commission” and substitute “chief executive”.

Section 33(2)(d)

Omit “Commission” and substitute “chief executive”.

Section 34

Omit “Commission” and substitute “chief executive”.

Heading to section 35

Omit “**Commission**” and substitute “**Board and chief executive**”.

Section 35(1)

Omit “Commission” in the first place where it appears and substitute “chief executive”.

Omit “Commission” in the other places where it appears and substitute in each case “Board”.

Section 35(2)

Repeal and substitute:

- (2) If an objection to the removal of an entity from the register under section 34 is received by the chief executive on or before the date referred to in section 33(2)(d) and the Board decides to proceed with the removal of the entity from the register,—
- (a) the chief executive must give to the charitable entity notice of—
 - (i) the Board’s decision to proceed with the removal of the entity from the register; and
 - (ii) the reasons for the Board’s decision; and
 - (iii) the entity’s right to appeal against the decision under section 59; and
 - (b) the chief executive must not proceed to remove the entity from the register earlier than 20 working days after the date on which the notice referred to in paragraph (a) is given to the charitable entity.

Heading to section 36

Omit “**Commission**” and substitute “**Board**”.

Section 36(1)

Omit “Commission” in each place where it appears and substitute in each case “Board”.

Section 36(2)

Omit “Commission” in each place where it appears and substitute in each case “Board”.

Heading to section 40

Omit “**Commission**” and substitute “**chief executive**”.

Section 40(1)

Omit “Commission” and substitute “chief executive”.

Section 40(2)(a)

Omit “Commission” and substitute “chief executive”.

Section 40(2)(b)

Omit “Commission” and substitute “chief executive”.

Section 40(2)(d)

Omit “Commission” and substitute “chief executive”.

Section 41(1)(c)

Omit “Commission” and substitute “chief executive”.

Section 41(2)

Omit “Commission” and substitute “chief executive”.

Section 41(5)

Omit “Commission” in each place where it appears and substitute in each case “chief executive”.

Section 41(6)

Omit “Commission” and substitute “chief executive”.

Heading to section 42

Omit “**Commission**” and substitute “**Chief executive**”.

Section 42(1)

Omit “Commission” and substitute “chief executive”.

Section 42(2)

Omit “Commission” and substitute “chief executive”.

Heading to section 43

Omit “**Commission**” and substitute “**Chief executive**”.

Section 43

Omit “Commission” in each place where it appears and substitute in each case “chief executive”.

Heading above section 44

Omit “*Commission*” and substitute “*Board or chief executive*”.

Heading to section 44

Omit “**Commission**” and substitute “**Board or chief executive**”.

Section 44

Omit “Commission” in each place where it appears and substitute in each case “Board or the chief executive”.

Section 44(3)

Omit “Commission” and substitute “chief executive”.

Section 45(2)

Omit “Commission” and substitute “chief executive”.

Section 45(3)

Omit “Commission” and substitute “Board or the chief executive”.

Heading to section 46

Omit “**Commission**” and substitute “**Board or chief executive**”.

Section 46

Omit “Commission” in each place where it appears and substitute in each case “Board or the chief executive”.

Heading to section 48

Omit “**Commission**” and substitute “**Board**”.

Section 48

Omit “Commission” in each place where it appears and substitute in each case “Board”.

Heading to section 49

Omit “**Commission**” and substitute “**Board**”.

Section 49

Omit “Commission” in each place where it appears and substitute in each case “Board”.

Section 50(1)

Omit “Commission” and substitute “chief executive”.

Section 50(2)

Omit “Commission’s”.

Section 51(1)

Omit “Commission” in each place where it appears and substitute in each case “chief executive”.

Section 51(2)

Omit “Commission” and substitute “chief executive”.

Heading to section 53

Omit “**Commission**” and substitute “**Chief executive**”.

Section 53(1)

Omit “Commission” in each place where it appears and substitute in each case “chief executive”.

Section 53(2)

Omit “Commission” and substitute “chief executive”.

Heading to section 54

Omit “**Commission**” and substitute “**Chief executive**”.

Section 54

Omit “Commission” in each place where it appears and substitute in each case “chief executive”.

Section 54(3)(e)

Omit “Commission’s” and substitute “chief executive’s”.

Heading to section 55

Omit “**Commission**” and substitute “**Board**”.

Section 55(1)

Repeal and substitute:

- (1) This section applies if the Board considers that the entity or person to whom a notice is given under section 54 has failed to remedy, by the date referred to in section 54(3)(d), 1 or more of the matters that caused the chief executive to give the notice under section 54.

Section 55(2) and (3)

Omit “Commission” in each place where it appears and substitute in each case “Board”.

Section 55(2) and (3)—*continued*

Omit “Commission’s” in each place where it appears and substitute in each case “Board’s”.

Section 56

Repeal and substitute:

56 Notices

- (1) Any notice given under this Act by the chief executive is sufficiently given if—
 - (a) it is in writing; and
 - (b) it is signed by the chief executive or a person authorised by him or her for the purpose; and
 - (c) it is served or given in accordance with section 57 on or to the person or persons primarily concerned or on or to any person considered by the chief executive or authorised person to represent the person or persons primarily concerned.
- (2) In all courts and in all proceedings under this Act, notices given under this Act that purport to be signed by, or on behalf of, the chief executive must be treated as having been signed with due authority in accordance with subsection (1)(b) unless the contrary is proved.

Section 57(1)

Omit “Any notice that is authorised to be served on, or given to, any person for the purposes of any of sections 33, 35, 51, 54, or 55” and substitute “If this Act authorises the chief executive to serve a notice on, or give a notice to, any person, the notice”.

Omit “Commission” and substitute “chief executive”.

Section 57(3)(b)

Omit “Commission” and substitute “chief executive”.

Heading to section 58

Omit “**Commission**” and substitute “**Chief executive**”.

Section 58

Omit “Commission” in each place where it appears and substitute in each case “chief executive”.

Heading above section 59

Omit “*Commission*” and substitute “*Board*”.

Section 59

Omit “Commission” in each place where it appears and substitute in each case “Board”.

Section 60(3)

Omit “Commission” and substitute “chief executive”.

Section 60(6)

Omit “Commission” and substitute “chief executive”.

Section 60(7)

Omit “Commission” in each place where it appears and substitute in each case “chief executive”.

Section 61(1)

Omit “Commission” in each place where it appears and substitute in each case “Board or the chief executive”.

Subpart 1 of Part 3 (sections 62 and 63):

Repeal.

Section 72A

Omit “Commission” in each place where it appears and substitute in each case “chief executive”.

Section 73

Omit “Commission” in each place where it appears and substitute in each case “Board or the chief executive”.

Section 74

Omit “Commission” in each place where it appears and substitute in each case “chief executive”.

Heading to section 75

Omit “**Commission**” and substitute “**Board or chief executive**”.

Section 75

Omit “Commission” and substitute “Board or the chief executive”.

Schedule 3

Amendments to other enactments relating to Charities Commission

s 16(2), (3)

Part 1

Amendments to Acts

Charities Amendment Act 2012 (2012 No 4)

In section 16(2) and (3)(a), (b), (c), and (e), after “Commission”, insert “or the chief executive” in each place where it appears.

In section 17(2), after “Commission”, insert “or the chief executive, as the case may be,”.

In section 18, after “Commission”, insert “or the chief executive, as the case may be,”.

Crown Entities Act 2004 (2004 No 115)

Item relating to the Charities Commission in Part 2 of Schedule 1: omit.

Major Events Management Act 2007 (2007 No 35)

Paragraph (a) of the definition of **registering authority** in section 4: omit “Charities Commission” and substitute “chief executive”.

Ombudsmen Act 1975 (1975 No 9)

Part 2 of Schedule 1: insert in its appropriate alphabetical order “Board established by section 8 of the Charities Act 2005.”

Item relating to the Charities Commission in Part 2 of Schedule 1: omit.

Tax Administration Act 1994 (1994 No 166)

Definition of **Charities Commission** in section 3(1): repeal.

Section 81(4)(fb): repeal and substitute:

- (fb) communicating to any person, being a member, an employee, or an agent of the Board established by section 8 of the Charities Act 2005 or the chief executive defined in section 4(1) of that Act, any information, being information—
 - (i) that the person is authorised by that Board or chief executive to receive; and
 - (ii) that the Commissioner considers is not undesirable to disclose and is reasonably necessary to enable that person to carry out any duty lawfully conferred on that person relating to the exercise of the powers of that Board or chief executive or the performance of their functions and duties under that Act:

Part 2
Amendments to Charities (Fees and Other Matters) Regulations
2006

Regulation 4(2)

Omit “Charities Commission” and substitute “chief executive”.

Regulation 9

Omit “Charities Commission” in each place where it appears and substitute in each case “chief executive”.

Notes

1 *General*

This is a consolidation of the Charities Amendment Act (No 2) 2012 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 *Amendments incorporated in this consolidation*

Secondary Legislation Act 2021 (2021 No 7): section 3