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CHARITIES ACT (CHAPTER 37)

CHARITIES (FUND-RAISING APPEALS FOR LOCAL AND FOREIGN CHARITABLE PURPOSES) (AMENDMENT) REGULATIONS 2021

In exercise of the powers conferred by sections 39C and 48 of the Charities Act, the Minister for Culture, Community and Youth makes the following Regulations:

Citation and commencement

1. These Regulations are the Charities (Fund-raising Appeals for Local and Foreign Charitable Purposes) (Amendment) Regulations 2021 and come into operation on 8 January 2021.

Amendment of regulation 2

2. Regulation 2(1) of the Charities (Fund-raising Appeals for Local and Foreign Charitable Purposes) Regulations 2012 (G.N. No. S 530/2012) (called in these Regulations the principal Regulations) is amended —

- (a) by deleting the definition of “charity”;
- (b) by deleting the definitions of “commercial fund-raiser” and “commercial participator” and substituting the following definitions:
 - ““collector”, “commercial fund-raiser” and “commercial participator” have the meanings given by section 39(1) of the Act;”;
- (c) by deleting the semi-colon at the end of the definition of “permit holder” and substituting a full-stop; and
- (d) by deleting the definition of “person”.

Deletion of regulation 3 and new regulations 3 and 3A

3. Regulation 3 of the principal Regulations is deleted and the following regulations substituted therefor:

“Meaning of private fund-raising appeal for local charitable purpose, etc., for this Part

3.—(1) In this Part, a person (called in this Part a private fund-raiser) conducts a private fund-raising appeal for any local charitable purpose if —

- (a) the private fund-raiser conducts a fund-raising appeal for any charitable, benevolent or philanthropic purpose that is not a foreign charitable purpose;
- (b) the private fund-raiser does not publish, or cause to be published, any advertisement that —
 - (i) gives publicity to; or
 - (ii) otherwise promotes or is intended to promote, the fund-raising appeal; and
- (c) the private fund-raiser receives, as a result of the fund-raising appeal, any money or other property, only from any of the following persons:
 - (i) where the private fund-raiser is an individual, other individuals whom the private fund-raiser knows personally;
 - (ii) where the private fund-raiser is an organisation, the employees, officers or voting members of that organisation.

(2) In paragraph (1), the private fund-raiser must be a person other than —

- (a) a registered charity or an exempt charity;
- (b) a commercial fund-raiser; or
- (c) a commercial participator.

(3) In this regulation —

“officer” —

- (a) in relation to an organisation that is a body corporate, means any director, partner, member of the board of management, chief executive, manager, secretary or other similar officer of the body corporate and includes any person purporting to act in any such capacity; or
- (b) in relation to an organisation that is a body unincorporate, means the president, the secretary, or any member of the committee of management, or any person holding a position analogous to that of president, secretary or member of such a committee and includes any person purporting to act in any such capacity;

“publish” means to disseminate, distribute, exhibit, provide or communicate by oral, visual, written, electronic or other means to the public at large;

“voting member”, in relation to an organisation, means a person (not being a shareholder) who is entitled, by exercise of a voting power, to do either or both of the following:

- (a) to exercise control over, or to influence, the management or operations of the organisation;
- (b) to elect or appoint any person as an officer of the organisation.

Application of this Part, etc.

3A.—(1) Unless stated otherwise in this regulation, this Part applies in relation to every fund-raising appeal, including a fund-raising appeal for any foreign charitable purpose.

(2) Regulations 4 to 11 do not apply to any of the following persons who conducts a fund-raising appeal:

- (a) an exempt charity;

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- (b) an institution of a public character;
 - (c) any commercial fund-raiser who does so on behalf of, or purportedly on behalf of, an exempt charity.

(3) Regulation 6 does not apply to a private fund-raiser who conducts a private fund-raising appeal for any local charitable purpose.”.

Amendment of regulation 4

4. Regulation 4 of the principal Regulations is amended —

- (a) by inserting, immediately before the words “the following” in paragraph (1)(b), the words “in relation to a fund-raising appeal within the meaning of paragraph (a) of the definition of “fund-raising appeal” in section 39(1) of the Act,”;
- (b) by deleting the word “and” at the end of paragraph (1)(b)(ii);
- (c) by inserting, immediately after sub-paragraph (iii) of paragraph (1)(b), the following sub-paragraph:
 - “(iv) in the case of the commercial fund-raiser, commercial participator or person conducting the fund-raising appeal, the percentage of the total gross receipts from the fund-raising appeal expected to be used to pay for the expenses incurred for the conduct of that appeal;”;
- (d) by deleting sub-paragraph (c) of paragraph (1) and substituting the following sub-paragraph:
 - “(c) all information relating to every donor is kept confidential, and is not disclosed to any other person except as authorised by or under any law or with the consent of the donor; and”;

(e) by deleting the words “any arrangement by it to solicit donations has adequate control measures and safeguards to ensure proper accountability” in paragraph (1)(d) and substituting the words “there are adequate control measures and safeguards to ensure proper accountability in relation to any arrangement to solicit or receive donations,”; and

(f) by deleting paragraph (2) and substituting the following paragraphs:

“(2) Where a commercial fund-raiser is engaged by a charity or person to solicit donations —

(a) the commercial fund-raiser must pay directly to the charity or person (as the case may be) the whole amount of donations collected for the charity or person, without any deduction or set-off; and

(b) the charity or person (as the case may be) must not allow the commercial fund-raiser to deduct from any donations collected for the charity or person, any payment due to the commercial fund-raiser from the charity or person.

(3) A charity, commercial fund-raiser, commercial participator or person mentioned in paragraph (1) commits an offence if the charity, commercial fund-raiser, commercial participator or person (as the case may be) fails to comply with any requirement of paragraph (1).

(4) A commercial fund-raiser mentioned in paragraph (2)(a) commits an offence if the commercial fund-raiser fails to comply with paragraph (2)(a).

(5) A charity or person mentioned in paragraph (2)(b) commits an offence if the charity or person (as the case may be) fails to comply with paragraph (2)(b).

(6) A charity, commercial fund-raiser, commercial participator or person who is guilty of an offence under paragraph (3), (4) or (5) shall be liable on conviction —

(a) to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years or to both; and

(b) in the case of a continuing offence, to a further fine not exceeding \$100 for every day or part of a day during which the offence continues after conviction.

(7) Paragraphs (3), (4) and (5) do not apply to a private fund-raiser who conducts a private fund-raising appeal for any local charitable purpose.”.

Amendment of regulation 5

5. Regulation 5 of the principal Regulations is amended —

(a) by deleting the words “Where a donation, or any part of it, cannot be used by a charity under paragraphs (2) to (5), or by a person under paragraph (2) or (3)” in paragraph (6) and substituting the words “Subject to paragraph (7), where a donation, or any part of it, cannot be used or invested by a charity under paragraphs (2) to (5), or used by a person under paragraph (2) or (3)”;

(b) by inserting, immediately after paragraph (6), the following paragraphs:

“(7) Where —

(a) the total amount of donations received by a private fund-raiser as a result of the conduct of a private fund-raising appeal

for any local charitable purpose is \$10,000 or less; and

- (b) the whole or any part of the donations cannot be used or invested by the private fund-raiser under paragraph (2), (3), (4) or (5) (called the unused amount),

the private fund-raiser must —

- (c) refund the unused amount of each donation to the donor;

- (d) obtain the donor's consent to use the amount for any other charitable, benevolent or philanthropic purpose, and use such amount for the charitable, benevolent or philanthropic purpose that the donor has expressly or impliedly consented to; or

- (e) if the refund mentioned in sub-paragraph (c) cannot be made, or the express or implied consent mentioned in sub-paragraph (d) cannot be obtained, use the unused amount for such other purpose as may be approved by the Sector Administrator.

(8) A charity or person receiving a donation commits an offence if the charity or person (as the case may be) uses or invests a donation other than in accordance with paragraph (2), (3), (4) or (5).

(9) A charity or person mentioned in paragraph (6) commits an offence if the charity or person fails to comply with that paragraph.

(10) A charity or person who is guilty of an offence under paragraph (8) or (9) shall be liable on conviction —

(a) to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years or to both; and

(b) in the case of a continuing offence, to a further fine not exceeding \$100 for every day or part of a day during which the offence continues after conviction.

(11) Paragraphs (8) and (9) do not apply to a private fund-raiser who conducts a private fund-raising appeal for any local charitable purpose.”.

Amendment of regulation 6

6. Regulation 6 of the principal Regulations is amended by inserting, immediately after paragraph (2), the following paragraphs:

“(3) A charity, commercial fund-raiser, commercial participator or person mentioned in paragraph (1) commits an offence if the charity, commercial fund-raiser, commercial participator or person (as the case may be) fails to comply with any requirement of paragraph (1) or (2).

(4) A charity, commercial fund-raiser, commercial participator or person who is guilty of an offence under paragraph (3) shall be liable on conviction —

(a) to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years or to both; and

(b) in the case of a continuing offence, to a further fine not exceeding \$100 for every day or part of a day during which the offence continues after conviction.”.

Amendment of regulation 7

7. Regulation 7 of the principal Regulations is amended by inserting, immediately after paragraph (2), the following paragraphs:

“(3) A charity commits an offence if the charity fails to comply with any requirement of paragraph (1).

(4) A charity who is guilty of an offence under paragraph (3) 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.”.

Deletion of regulation 9

8. Regulation 9 of the principal Regulations is deleted.

Amendment of regulation 11

9. Regulation 11 of the principal Regulations is amended by deleting paragraph (3) and substituting the following paragraphs:

“(3) A charity or person conducting a fund-raising appeal commits an offence if the charity or person (as the case may be) fails to comply with any direction issued to the charity or person under paragraph (1).

(4) A charity or person who is guilty of an offence under paragraph (3) shall be liable on conviction —

- (a) to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years or to both; and
- (b) in the case of a continuing offence, to a further fine not exceeding \$100 for every day or part of a day during which the offence continues after conviction.”.

Amendment of regulation 12

10. Regulation 12 of the principal Regulations is amended —

- (a) by deleting the definitions of “charitable appeal”, “charitable contributions”, “charitable institution”, “commercial participator” and “credit card” in paragraph (1) and substituting the following definitions:

““charitable appeal” means an appeal mentioned in paragraph (a) of the definition of “fund-raising appeal” in section 39(1) of the Act;

“charitable contributions”, “charitable institution” and “commercial participator” have the meanings given by section 39(1) of the Act;

“credit card” has the meaning given by section 56 of the Banking Act (Cap. 19);”;

- (b) by deleting the definitions of “fund-raising business” and “promotional venture” in paragraph (1) and substituting the following definitions:

““fund-raising business” and “promotional venture” have the meanings given by section 39(1) of the Act;”;

- (c) by deleting the definitions of “represent” and “solicit” in paragraph (1) and substituting the following definitions:

““represent” and “solicit” have the meanings given by section 39(1) of the Act;”;

- (d) by deleting paragraph (5) and substituting the following paragraph:

“(5) In relation to a charitable appeal mentioned in regulation 13(2)(c) —

(a) a promoter is a person who (whether alone or with others and whether for remuneration or otherwise) organises or controls the conduct of the charitable appeal concerned; and

(b) where no person acts in the manner mentioned in sub-paragraph (a), a person who acts as a collector in respect of the charitable appeal in question is to be treated as a promoter of that charitable appeal.”.

Amendment of regulation 13

11. Regulation 13 of the principal Regulations is amended —

- (a) by deleting the words “In this Part, “commercial fund-raiser” means —” in paragraph (1) and substituting the words “This Part applies to a commercial fund-raiser only if the commercial fund-raiser is any of the following persons:”;

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- (b) by deleting the word “or” at the end of paragraph (1)(a);
 - (c) by deleting the words “Paragraph (b) of the definition of “commercial fund-raiser” in paragraph (1) shall not apply to any of” in paragraph (2) and substituting the words “In paragraph (1)(b), a reference to any other person excludes”; and
 - (d) by deleting the regulation heading and substituting the following regulation heading:

“Application of this Part to commercial fund-raisers”.

Amendment of regulation 14

12. Regulation 14 of the principal Regulations is amended —

- (a) by inserting, immediately after the words “all the following requirements” in paragraph (1), the words “, and the requirement in paragraph (1A)”;
- (b) by deleting sub-paragraph (b) of paragraph (1) and substituting the following sub-paragraph:
 - “(b) in the case of a commercial participator or other person — the proportion of the total proceeds that will be given to the charitable institution;”;
- (c) by inserting, immediately after paragraph (1), the following paragraph:
 - “(1A) For the purposes of paragraph (1), the requirement is that in the case of a written agreement between a commercial fund-raiser and the charitable institution, donations collected by the commercial fund-raiser must be paid in gross directly to the charitable institution without deducting or setting off any remuneration due to the commercial fund-raiser.”;

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- (d) by inserting, immediately after the words “paragraph (1)” in paragraphs (3) and (6)(a), the words “, and (if applicable) the requirement in paragraph (1A)”;
- (e) by inserting, immediately after paragraph (6), the following paragraphs:

“(7) A commercial fund-raiser, commercial participator or person mentioned in paragraph (1) or (3) commits an offence if the commercial fund-raiser, commercial participator or person (as the case may be) fails to comply with any requirement referred to in paragraph (1) or (3).

(8) A commercial fund-raiser, commercial participator or person who is guilty of an offence under paragraph (7) shall be liable on conviction —

- (a) to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years or to both; and
- (b) in the case of a continuing offence, to a further fine not exceeding \$100 for every day or part of a day during which the offence continues after conviction.”

Amendment of regulation 15

13. Regulation 15 of the principal Regulations is amended by inserting, immediately after paragraph (2), the following paragraphs:

“(3) A commercial fund-raiser, commercial participator or person mentioned in paragraph (1) commits an offence if the commercial fund-raiser, commercial participator or person (as the case may be) fails to comply with any requirement of paragraph (1) or (2).

(4) A commercial fund-raiser, commercial participator or person who is guilty of an offence under paragraph (3) shall be liable on conviction —

- (a) to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years or to both; and

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- (b) in the case of a continuing offence, to a further fine not exceeding \$100 for every day or part of a day during which the offence continues after conviction.”.

Amendment of regulation 16

14. Regulation 16 of the principal Regulations is amended —

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

“(e) in the case of a commercial fund-raiser — that all donations collected by the commercial fund-raiser will be paid in gross to the charitable institution or institutions concerned without deducting or setting off any remuneration due to the commercial fund-raiser;

(ea) in the case of a commercial participator — the proportion of the total proceeds that will be given to the charitable institution or institutions concerned; and”;

- (b) by deleting sub-paragraphs (e) and (f) of paragraph (2) and substituting the following sub-paragraphs:

“(e) in the case of a commercial fund-raiser — that all donations collected by the commercial fund-raiser will be applied for those purposes without deducting or setting off any remuneration due to the commercial fund-raiser;

(ea) in the case of a commercial participator — the proportion of the total proceeds that will be applied for those purposes;

(f) the method by which the total proceeds of the appeal may be distributed to one or more charitable institutions established for any of those purposes; and”;

(c) by deleting sub-paragraph (e) of paragraph (3) and substituting the following sub-paragraphs:

“(e) in the case of a commercial fund-raiser — that all donations collected by the commercial fund-raiser will be paid in gross to the charitable institution or institutions concerned without deducting or setting off any remuneration due to the commercial fund-raiser;

(ea) in the case of a commercial participator — the proportion of the total proceeds that will be given to the charitable institution or institutions concerned; and”.

Amendment of regulation 17

15. Regulation 17 of the principal Regulations is amended —

(a) by deleting the word “immediately” in paragraphs (1) and (3) and substituting in each case the words “without delay”;

(b) by deleting paragraph (2) and substituting the following paragraphs:

“(2) Paragraph (2A) applies where a person (called in this paragraph and paragraph (2A) a donor), in response to any solicitation or representation mentioned in regulation 16(1), (2) or (3), enters into an agreement with a commercial fund-raiser under which —

(a) the donor is or may be liable to make one payment or a series of payments to the commercial fund-raiser; and

(b) the amount or aggregate amount which the donor is, or may be, liable to pay to the commercial fund-raiser under the agreement exceeds \$200.

(2A) If the donor serves on the commercial fund-raiser a written notice to cancel the agreement mentioned in paragraph (2) within a period of 7 days starting on the date of the solicitation or representation, the notice has the following effect:

- (a) on the date of the notice, the agreement and any liability of any person (other than the donor) in connection with the payment or series of payments under that agreement are cancelled;
- (b) subject to paragraph (4), the donor is entitled to have the following refunded to the donor without delay by the commercial fund-raiser:
 - (i) where the agreement concerns one payment — that payment;
 - (ii) where the agreement concerns a series of payments — all or any of the payments made under that agreement as the donor may request.”;
- (c) by deleting “(2)” wherever it appears in paragraph (4) and substituting in each case “(2A)”;
- (d) by inserting, immediately after “(2)” in paragraph (5), “, (2A)”;
- (e) by deleting the words “; and regulation 16(5) shall have effect for determining when a payment is made for the purposes of this regulation as it has effect for determining when a payment is made for the purposes of regulation 16(1), (2) or (3)” in paragraph (6); and
- (f) by inserting, immediately after paragraph (6), the following paragraphs:

“(7) A commercial fund-raiser commits an offence if the commercial fund-raiser, without reasonable excuse, fails to refund to the donor without delay an amount that the donor is entitled to under paragraph (1), (2A) or (3).

(8) A commercial fund-raiser who is guilty of an offence under paragraph (7) shall be liable on conviction —

(a) to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years or to both; and

(b) in the case of a continuing offence, to a further fine not exceeding \$100 for every day or part of a day during which the offence continues after conviction.”.

Deletion and substitution of regulations 19 and 20

16. Regulations 19 and 20 of the principal Regulations are deleted and the following regulations substituted therefor:

“False representation as to “charity”, “charitable body”, etc.

19.—(1) A person commits an offence if —

(a) the person solicits money or other property in relation to any fund-raising appeal for the person or on behalf of another person (called the beneficiary);

(b) the person represents that the person or beneficiary is a “charity”, “charitable body”, “charitable enterprise” or “charitable organisation”; and

(c) the person knows or ought reasonably to know that, or is reckless as to whether, the representation mentioned in sub-paragraph (b) is false or misleading.

(2) In paragraph (1)(b), a reference to the term “charity”, “charitable body”, “charitable enterprise” or “charitable organisation” includes a reference to any derivative of that term.

(3) A person who is guilty of an offence under paragraph (1) shall be liable on conviction —

- (a) to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years or to both; and
- (b) in the case of a continuing offence, to a further fine not exceeding \$100 for every day or part of a day during which the offence continues after conviction.

False representation as to registered charity

20.—(1) A person commits an offence if —

- (a) the person solicits money or other property for the benefit of an institution;
- (b) the person represents that the institution is a registered charity even though the institution is not; and
- (c) the person knows or ought reasonably to know that, or is reckless as to whether, the representation mentioned in sub-paragraph (b) is false or misleading.

(2) A person who is guilty of an offence under paragraph (1) shall be liable on conviction —

- (a) to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years or to both; and
- (b) in the case of a continuing offence, to a further fine not exceeding \$100 for every day or part of a day during which the offence continues after conviction.”.

Amendment of regulation 22

17. Regulation 22 of the principal Regulations is amended —

- (a) by inserting, immediately after paragraph (1), the following paragraph:

“(1A) The Commissioner may, in any particular case, extend the period mentioned in paragraph (1)(a) after the grant of the permit.”; and

(b) by deleting sub-paragraph (b) of paragraph (3) and substituting the following sub-paragraph:

“(b) the applicant is not a fit and proper person to conduct the fund-raising appeal by reason that the applicant or, in the case of an organisation, any officer or member of the organisation, has been convicted (whether before, on or after 8 January 2021, and whether in Singapore or in any other country or territory) of —

- (i) any offence involving dishonesty (including fraud, corruption, bribery and deception);
- (ii) any offence involving terrorism, terrorism financing or money laundering; or
- (iii) any offence of a kind the commission of which would likely be facilitated by the grant of a permit;”.

Amendment of regulation 23

18. Regulation 23 of the principal Regulations is amended by deleting paragraph (2) and substituting the following paragraphs:

“(2) A permit holder commits an offence if the permit holder conducts or participates in a fund-raising appeal otherwise than in accordance with the particulars in the application made under regulation 21 to which the permit relates.

(3) A permit holder who is guilty of an offence under paragraph (2) shall be liable on conviction —

- (a) to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years or to both; and
- (b) in the case of a continuing offence, to a further fine not exceeding \$100 for every day or part of a day during which the offence continues after conviction.”.

Deletion of regulation 24

19. Regulation 24 of the principal Regulations is deleted.

Amendment of regulation 25

20. Regulation 25 of the principal Regulations is amended by inserting, immediately after paragraph (3), the following paragraph:

“(4) A person who is guilty of an offence under paragraph (3) shall be liable on conviction —

- (a) to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years or to both; and
- (b) in the case of a continuing offence, to a further fine not exceeding \$100 for every day or part of a day during which the offence continues after conviction.”.

Amendment of regulation 26

21. Regulation 26 of the principal Regulations is amended —

- (a) by deleting the word “Every” in paragraph (5) and substituting the words “Subject to paragraph (5A), a”;
- (b) by inserting, immediately after paragraph (5), the following paragraph:

“(5A) A permit holder, being a registered charity or an exempt charity that is required to transmit to the Commissioner an annual report under section 16(2) of the Act, must do either of the following:

- (a) with the Commissioner’s written approval, furnish to the Commissioner the statements of accounts relating to the fund-raising appeal, within the financial statements audited by a public accountant set out in the annual report for the financial year in which the fund-raising appeal was conducted;

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- (b) furnish to the Commissioner the statements of accounts relating to the fund-raising appeal under paragraph (5).”;
- (c) by deleting sub-paragraph (c) of paragraph (6) and substituting the following sub-paragraph:
- “(c) furnish the statements of accounts as required by paragraph (5) or (5A), as the case may be,”; and
- (d) by inserting, immediately after paragraph (6), the following paragraph:
- “(7) A permit holder who is guilty of an offence under paragraph (6) shall be liable on conviction —
- (a) to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years or to both; and
- (b) in the case of a continuing offence, to a further fine not exceeding \$100 for every day or part of a day during which the offence continues after conviction.”.

Amendment of regulation 27

22. The principal Regulations are amended by renumbering regulation 27 as paragraph (1) of that regulation, and by inserting immediately thereafter the following paragraph:

- “(2) A person who is guilty of an offence under paragraph (1) shall be liable on conviction —
- (a) to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years or to both; and
- (b) in the case of a continuing offence, to a further fine not exceeding \$100 for every day or part of a day during which the offence continues after conviction.”.

Deletion of regulation 28

23. Regulation 28 of the principal Regulations is deleted.

Amendment of regulation 30

24. Regulation 30 of the principal Regulations is amended by deleting paragraphs (1), (2), (3), (5) and (6).

[G.N. No. S 1031/2020]

Made on 4 January 2021.

TAN GEE KEOW
*Permanent Secretary,
Ministry of Culture,
Community and Youth,
Singapore.*

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(To be presented to Parliament under section 48(4) of the Charities Act).