

July 2024

**Sport New Zealand Group**

# **Charities Amendment Act**

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Sector advisory update

## Background

The Charities Act 2005 (The Act) provides a registration, reporting and monitoring system for approximately 28,000 registered entities that carry out charitable purposes.<sup>1</sup> A charity must be “wholly and exclusively” charitable and meet all the requirements under the Act to qualify for registration and the charitable tax exemption.<sup>2</sup>

The Charities Amendment Act was passed on 5 July 2023. Some of the changes are already in force, having been introduced in July and October 2023. The final changes apply from 5 July 2024. The objective of the amendments is to “make practical changes to support charities to continue their vital contribution to community well-being, while ensuring that contribution is sufficiently transparent to interested parties and the public.”<sup>3</sup>

### What are the key changes that you need to know?

**Definition of Officers** – This is extended to capture all persons with significant influence over the management or administration of the charitable entity, including any person who has powers conferred on them to make decisions that would otherwise fall on the governing body. This means that people occupying roles such as director or chief executive may be considered officers under the Act. As such, charities will need to make clear distinctions between those in governance and management roles.

**Qualifications of Officers** - At least one officer must be 18 years or older and the remaining officers must be at least 16 years old. The disqualifying factors to becoming an officer are extended to include persons who have been convicted of an offence relating to the financing of terrorism.

**Governance procedures** – Charitable entities will be under a duty to review their governance procedures (whether those are set out in its rules, trust deed, constitution or elsewhere) every three years. You must consider whether your governance procedures are fit for purpose, whether they support you to achieve your entity’s charitable purpose and whether they support your entity to comply with the requirements of the Act.

**Financial reporting requirements for small charities** – Very small charities may be exempted by the Charities Regulator from the External Reporting Board’s reporting standards. A charitable entity that is exempt will still have to provide an annual return with certain basic financial information. For entities to qualify for this exemption, their total assets and operating expenditure must be below the tier 4 threshold of \$140,000.

**Regulatory decision making** – Te Rātā Atawhai (the independent Charities Registration Board) (the Board) and the Chief Executive of Te Tari Taiwhenua Department of Internal Affairs are the two regulators under the Act. Charitable entities will have more ability to object to decisions. Regulators must also follow new processes when they exercise powers under the Act, including:

- The Board will be required to publish all declined/deregistration decisions;
- An appeals process has been created which gives charitable entities the ability to object to or appeal decisions which are made by the Charities Registration Board and Charities Services if the decision substantially affects an entity; and
- Timeframe for lodging objections and submitting information on certain matters will be extended from 20 working days to two months.

**Appeals Framework** - The Taxation Review Authority (Authority) is the first level of appeal body under the Act, instead of the High Court. It is hoped that this change will promote accessibility for charitable entities, as it allows them to self-represent, reducing costs. Decisions may still be appealed to the High Court or referred to the High Court on questions of law, or where the Authority decides

<sup>1</sup> Charities Amendment Bill, Explanatory note

<sup>2</sup> Charities Services | The Charities Act 2005

<sup>3</sup> Charities Amendment Bill, Explanatory note, General policy statement

that the High Court should hear the appeal.

**Compliance and enforcement powers** – Obligations on charities to remain qualified for registration (by maintaining their rules, charitable purposes and having officers that are qualified under the Act), are now expressly stated. The Board can disqualify an officer for serious wrongdoing (defined as an offence punishable by two or more years of imprisonment) or for a significant or persistent breach of obligations, without deregistering the charity. Disqualified officers cannot be officers of any other charitable entity during this period of disqualification.

**Regulatory Decision-Making and Accountability-** The Chief Executive of the Department of Internal Affairs (DIA) must consult with people that the Chief Executive considers reasonable to consult with before issuing significant guidelines or recommendations on best practice to be observed by charitable entities.

**Accumulation of funds** – There are now forms available for charities to use when applying for registration, updating details, and completing annual returns. For larger charitable entities, they will be required to declare and explain any accumulated funds they hold when completing their annual returns. These new forms and reporting standards are mandatory for all charitable entities from 1<sup>st</sup> April 2024.

For more information go to: [Charities Services | New Forms Hub](#)

**Resources:**

[Charities Services](#)

[Charities Services | Sport and recreation](#)

[Charities Act 2005](#)

[Charities Amendment Act 2023](#)