

# THE CHARITY ESSENTIALS IN SINGAPORE

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**Category:** [CNPupdates](#)

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## Why talk about Charity?

Due to the increase in economic influence and the growing wealth in Singapore, corporate and personal philanthropy has expanded and gained prominence in recent years. For example, Singapore's largest donation portal SG Gives reported a 37% increase to S\$8.5 million in total donations via the portal in 2012 as compared to 2011 and the number of transactions also shot up by 32% from 25,000 to 33,000. According to the Commissioner of Charities Annual Report for the year ending 31 December 2011 (the latest available at time of writing), the total income of the charity sector as a whole in 2010 amounted to S\$10.7 billion including fees, donations and government grants.

With such a growing prominence and interest in philanthropy in Singapore, many may be interested in topics pertaining to charities in Singapore. In this article, we will be looking into the following topics with regard to charities in Singapore:

1. the legal definition of a charity;
2. the legal and regulatory framework; and
3. the processes pertaining to the setting up a charity in Singapore.

## What is a Charity?

In Singapore, according to the Charities Act (Cap. 37) (the "**Charities Act**"), a charity is defined as any institution which is established for "charitable purposes" and is subject to the control of the High Court in the exercise of the Court's jurisdiction with respect to charities.

Although not defined in the Charities Act, the Courts have classified "charitable purposes" into 4 broad categories, namely:

1. the relief of poverty;
2. the advancement of education;
3. the advancement of religion; and
4. other charitable purposes which help and benefit the community not falling under any of the preceding heads.

The fourth category, i.e., (4) above, has developed to embrace the following purposes:

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1. the advancement of health;
2. the advancement of citizenship or community development;
3. the advancement of arts, heritage or science;
4. the advancement of environmental protection or improvement;
5. the relief of those in need by reason of youth, age, ill-health, disability, financial hardship or other disadvantages;
6. the advancement of animal welfare; and
7. the advancement of sports, where the sport advances health through physical skill and exertion.

## Setting up of a Charity

An institution which intends to register as a charity should clearly set out in its governing instrument any one or more of the charitable purposes mentioned above as the institution's purpose. The process of setting up a charity may be divided into two (2) major phases, namely:

1. the setting up of the vehicle or institution through which the charity will be established; and
2. the registration of such vehicle or institution as a charity.

## Setting up of Vehicle or Institution

A charity in Singapore may be established as:

### **A society registered under the Societies Act;**

A society is generally formed by a group of like-minded people coming together to pursue common interests in accordance with the objectives and rules of their constitution. Any group of 10 or more persons may be granted registration under the Societies Act if it is not already registered under any other law in Singapore. Society is essentially self-governing as its members will typically form a management committee and elect from among themselves the members of the committee to look after its day-to-day affairs.

The Societies Act and regulations issued thereunder prescribe the requirements for the registration of a society.

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## **A public company limited by guarantee registered with the Accounting and Regulatory Authority of Singapore under the Companies Act; or**

A public company limited by guarantee (“**guarantee company**”) may be formed by at least one person at the time of incorporation. It does not have a share capital or shareholders. Instead, each member provides a guarantee that he/ she will contribute a specific, nominal sum of money if the company is wound up. It is not possible to establish a guarantee company as a private company and it is subject to compliance requirements applicable to public companies under the Companies Act.

Guarantee companies are generally set up to carry out non-profit making activities that have some basis of national or public interest. This, however, does not preclude such companies from engaging in profit-making activities. Some charities choose to incorporate as a company limited by guarantee due to the benefits that such a legal entity provides. These benefits include perpetual succession and the ability to hold property under its own name.

### **A trust under a trust deed, in compliance with the Trustees Act.**

In general, a trust is not in itself a legal entity, but a legal concept in which one person holds title to a property, subject to an obligation to keep or use the property for the benefit of another or, in the case of a charitable trust, for a specific charitable purpose. A charitable trust can be created by a trust deed and establishing a fund under the care of trustee(s) to hold the fund in trust for the charitable purposes as specified in the trust deed. Worthy to note is that while charitable trusts will have trustee(s) to administer the trust, it does not have direct individual beneficiaries.

To meet the requirements for registration under the Charities Act, the governing instrument of a charity (i.e., the memorandum and articles of association if it is a company, constitution if it is a society or trust deed if it is established simply as a trust without formation of any legal entity) should also include provisions pertaining to the objectives of establishing the charity, powers of the management, quorum and other requirements for meetings of trustees/members, amendments to the governing instrument and dissolution of the charity.

## **Registering as Charity**

The general rule is that any institution set up for charitable purposes must register as a charity with the Commissioner of Charities. However, the following charitable institutions are exempt from such registration requirement:-

1. any university or educational institution, hospital or religious body established by an Act of Parliament; and

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2. any other institution which the Minister of Culture, Community and Youth by order declares to be an exempt charity.

The founders are responsible for applying for registration as a charity of their respective charitable institutions, and of supplying the documents and information required therefor. An application for registration must be made within three months after the establishment of the charitable institution or such longer period as the Commissioner may allow, and submitted to the Commissioner on the prescribed form. The application and all documentation must be submitted online via the Charity Portal ([www.charities.gov.sg](http://www.charities.gov.sg)) with the use of a SingPass Account.

The following documents are required to be submitted together with the application:

1. a certified true copy of the relevant governing instrument;
2. certified statements of accounts for the last three financial years (if available). The details of proposed charitable activities, proposed fund raising activities and all fund disbursement plans for the two-year period following registration are also required; and
3. particulars of all charity trustees (name, passport or National Registration Identity Card (NRIC) number, address, date of appointment and the position of the office held in the committee).

Each trustee (if a trust is utilised), member of the management committee (if a society is utilised) and director (if a guarantee company is utilised) must provide his/her name, NRIC number, address, date of appointment and position on the trust's governing body, management committee or board, as the case may be.

When the application has been received by the Commissioner, the governing instrument will be examined for the purpose of determining whether the institution's objects and activities are exclusively charitable and that it meets the minimum requirements for registration as a charity. If the Commissioner is satisfied in this regard, a letter will be sent to the applicant informing it of its registration as a charity and its corresponding registration number.

## Moving On

There is more than meets the eye with the setting up and running of a charity. Other important topics pertaining to charities include the registration process of an institution of a public character ("**IPC**") which need not necessarily be a charity as legally defined, the roles of charity trustees, governance structures and the accounting and reporting obligations as well as the tax aspects of charities and IPCs. Such information can be found in our charities primer which will be published in due course on [www.cnplaw.com](http://www.cnplaw.com).

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