

Less than a year until tax laws change!

Charitable organisations now have less than a year to apply to register with the Charities Commission, before tax laws change. From 1 July 2008, the law will require entities to be registered with the Charities Commission to be eligible for “charitable purpose” based exemptions from income tax and estate and gift duty.

Just over 600 charitable organisations have been registered since the Charities Commission began to receive applications for registration on 1 February 2007, and another 3,500 applications have been received.

Chief Executive Trevor Garrett says the Commission estimates that 25,000 charities are likely to apply before that date. “If everybody decides to apply just before the deadline though, it could lead to significant delays in registration. Applying now will give charities peace of mind and help avoid uncertainty regarding access to ongoing tax exemptions.”

600th charity registered

The Charities Commission recently registered its 600th charity under the Charities Act – the Mount Cook School Charitable Trust.

Of the 600 charities now registered, the four most popular sectors of operation were education/training/research (54%), health (30%), social services (29%) and community development (24%).

A breakdown of the main centres shows that 11% of registered charities operate in Wellington-Wairarapa, 13% in Canterbury, 9% in Otago, 9% in Auckland and 6% in Waikato.

Position on international charitable activities confirmed

The Charities Commission Board has confirmed its position regarding:

- New Zealand entities that conduct charitable activities overseas and wish to register under the Charities Act
- overseas entities that wish to register under the Charities Act 2005 in New Zealand.

This has followed careful consideration of the Charities Act, submissions from the charitable sector and other interested parties on the Commission's proposed approach, as well as relevant case law, and experience and practice under similar overseas legislation,

The key points are:

- Entities that are resident in, or have a strong connection with New Zealand, will not fail the charitable purpose test simply because the entity has an overseas purpose or the benefit is directed to a public outside New Zealand. The Commission will apply this approach to all four heads of charity, i.e. relief of poverty, advancement of education, advancement of religion and other purposes beneficial to the community.
- In order for the Commission to consider an overseas entity eligible for registration, the entity's connection to New Zealand must be ‘very strong’. The Commission will also consider whether or not it will be able to exercise its monitoring and enforcement functions in relation to that entity.

The Charities Commission will apply this approach on a case-by-case basis, having regard to the facts presented to it.

The Commission's paper setting out its approach to international charitable activities is available at:

www.charities.govt.nz/news/fact_sheets.htm.

Restricting public access to your information on the Charities Register

Once your organisation has been registered, the Charities Register will contain a lot of information about the organisation. The Register is available to the public and they will be able to access it, and the information about your organisation, through the Charity Commission's website or by phoning the free information line 0508 242 748. This will help them understand your organisation and make informed choices about supporting it or using its services.

The Act requires information on the Register to be available to the public. However, it also allows the Charities Commission to prevent the public from seeing information if it is in the "public interest" to do so.

An information sheet explaining the circumstances in which organisations are able to request the Commission to restrict information from the public is available online:

www.charities.govt.nz/news/fact_sheets/restricting_public_access_to_info.html.

What happens once we receive your registration application?

As a guide, correctly completed registration applications take 8-10 weeks to process, from the date we have received all the necessary information and any clarification we need – provided there are no complex issues to consider.

Registering a charity is not a simple "rubber-stamping" process like registering a car or a dog – it requires in-depth analysis to ensure the application meets the criteria of the Charities Act.

Here is an overview of the process a "typical" application goes through.

Initial checking

- The Commission's processing centre receives all applications, and does a quick check to make sure the application is complete, and all the forms are correctly completed;
- Correctly completed applications are sent to a Charities Commission registration analyst (they are processed in the same order they are received);
- If the application is incomplete, however, and the registration analyst agrees, it is sent back to the applicant.

Analysis

- A registration analyst checks each application closely, and applicants who have sent an incomplete application are sent a letter, asking for any missing information or documentation;
- Correctly completed applications are checked by a registration analyst, to make sure they meet the Charities Act's registration criteria;
- Then it is quality checked by a senior analyst;
- The analysis is quite a complex process, and may sometimes require an opinion from our in-house Legal Counsel;
- If the application meets the criteria, the application is approved. A certificate of registration and approval letter are sent out and the newly registered charity's details are entered on the Charities Register, which members of the public can access via the Charities Commission website.
- If there is any uncertainty about an application, the analyst may write a letter requesting additional information or clarification;
- If there are grounds on which the Commission may decline to register an entity, the applicant will be sent a notice setting out the grounds on which the application may be declined and given the

opportunity to make submissions, which will be fully considered by the Commission before a final decision is made.

Registration Committee and the Board

- Because of the number of applications that the Commission needs to consider, most decisions are made by Commission staff specially authorised by the Board for this purpose.
- However, applications that are the first of a kind, that are particularly complex, or likely to lead to a decline may be sent to the Registration Committee of the Charities Commission Board to consider. This may involve further input from the Commission's Legal Counsel.
- The Registration Committee will consider the application and may make recommendations to the Board.
- At its meetings, depending on the matter before it, the Board can do a range of things including making a final decision, requesting further information or returning the application to the Registration Manager to progress. Where the Board makes a final decision, the formal written decision will be released to the applicant. Both the Board and the Registration Committee meet once a month.

Handy online tips for applying

Have you looked at our website lately? We have added a section in the 'what's new' section called 'tips for applying'. We hope this will help with some of the questions you may have while filling out your application.

Suggestions for our annual meetings?

The Commission's annual meetings will be held during November and December this year, with venues yet to be confirmed.

We are considering including a practical presentation on how to fill out Annual Returns. Would this be of interest? If you would like to have this included just before each annual meeting, or if there is anything

else in particular you would like us to consider including, please email your suggestions to info@charities.govt.nz or call our free information line 0508 242 748.

New hours of operation for contact centre

After 6pm Monday to Friday, callers to our contact centre (0508 242 748) will now be answered by an after hours service. Callers will be able to speak to a person who will take their contact details and record their inquiry, and a contact centre representative will be in touch the next working day. Our contact centre operators are still available on Saturday from 9am to 1pm.

Handy tips for sending in applications

- If you change your address for service prior to being registered, please write and let us know so we can keep our records up-to-date. The officer who made the application (or another officer in substitution) must write or email us advising the change. Any changes after registration must be made by on a notice of change form or your annual return.
- Please try to use the correct postcode when giving us your address (you can check it online at www.nzpost.co.nz)
- Please send your application to the processing centre as listed on Form 1 (i.e. Charities Commission, Processing Centre, PO Box 30112, Lower Hutt, 5040), and not the Charities Commission's office.

Common application mistakes

The registration team is finding some recurring application mistakes. Please read the instructions on the form carefully and ensure that all relevant sections are completed correctly.

To avoid having your application returned, please ensure you fill out the following information correctly:

- *Form 1 (Application by entity for registration as a charitable entity)*
 - Question 23: ALL your officers must be listed. Read the front page of Form 2 (Officer Certification Form) to work out who your officers are in terms of the Charities Act, or for a more in-depth explanation: <http://www.charities.govt.nz/guidance/officers.html>.
 - Question 24: you must supply a complete copy of your organisation's rules, including all amendments. We cannot accept draft versions.
 - Certification of Form 1: this form MUST be signed and dated by one of the officers listed in answer to question 23. We cannot accept signatures from any other person.

- *Form 2 (Officer certification form)*
 - Certification of Form 2: In the 'certification' section on page two there are two circles to tick relating to the named officer. One or both of these options must be ticked. This form may be signed and dated by the officer or a person completing the form on the officer's behalf (as long as they can certify that the officer is qualified).

- *Remember to click 'submit' when you've completed your online application*
 - Once you have completed all the fields of your online application (if you are applying electronically) be sure to click 'submit' at the end – otherwise your application won't go anywhere!

Charities Commission's position on advocacy

A reminder that because many charities are interested in the Charities Commission's position on advocacy, the Commission has published *Fact Sheet 19: "Advocacy" and the Charities Act as a guide to help charities decide whether they are eligible to register.*

To read more about this issue, visit http://www.charities.govt.nz/news/fact_sheets/advocacy.htm

We appreciate your patience – we're working as fast as we can!

The Charities Commission is receiving a number of calls from people asking where they are placed in the registration application queue. We are not able to disclose this information. However, once we have received your application and have confirmed that it is complete, we will send you out a letter of acknowledgement. You should receive this within seven working days. If you have not received the letter within this timeframe, then please contact us.

If you'd like to read this newsletter on our website, or print it out in its 2-column format, please visit http://www.charities.govt.nz/news/update_newsletter.htm.

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