



LEGISLATION PROPOSAL

to enact new legislation

to amending existing legislation

1. For the attention of the Chair of the:

- Economic Development Committee
- Education Committee
- Environmental and Natural Resources Committee
- Public Health Committee
- Social and Community Development Committee
- Other:

2. Name of Promoter: Charity Commission for St Helena

Contact details: Chair, Mrs Bronwen Yon, The Castle Jamestown. Telephone 22470 email: Bronwen.yon@sainthelena.gov.sh

3. Background Information

This Bill and draft Regulations seek to amend the Charities Ordinance and Charities Regulations.

The Charity Commission propose the attached legislative amendments in exercise of their powers under the Charities Ordinance, to facilitate the better management of Charities in St Helena. During a review of registered charities in St Helena, the Commission found that there were many organisations that were not submitting financial statements or updated lists of members etc. as required under the Ordinance, but were still operating as Charitable organisation. This made it difficult for the Commission to assess the true financial state of a charity and whether good governance was being exercised by management committees. Although there are express powers under s8 of the Ordinance to remove Charities who do not comply with the Ordinance or their governing documents, the Commission were of the view that a penalty was necessary to ensure compliance in the first instance and that the powers under s8 would be better utilised as a last resort.

The Regulations are amended to effect a proportionate increase in the registration and inspection fee, and to amend the obsolete provision in respect of the viewing place of the Charities Register.

4. Evidence Relied on

Data as collected by the Charity Commission during the review.

5. Details of Proposal
(attach further pages if necessary)

Please see attached Bill and draft Regulations.

6. What will happen if no legislation is made

If there is no amendment to the Ordinance then the only option available to the Commission is to remove a non complying charity from the Register, in which case the charity will be afforded an opportunity to appeal. This is a time consuming process and the Commission is of the view that this should be used as a last resort and an option for a failure that is of a “gross” nature.

There is unlikely to be an impact if there is no change to the Regulations, although an increase in the registration fee is proportionate in terms of the today's economic environment.

7. Impact of the proposed legislation

Implementation of this proposed legislation will ensure good governance and financial accountability of charitable organisations, particularly where public funds are concerned. Furthermore a management committee of a charity has a fiduciary duty to act in the best interest of the charity, including abiding by their legal obligations, The Commission is of the view that a modest financial penalty will ensure this duty is upheld.

8. Proposed timescales

This Bill is included in the legislative programme for the Legislative Council sitting in December 2017.

The draft Regulations are available for the next sitting of Exco.

9. Promoter's Signature & date

Bronwen Yon, Chair of the Charity Commission for St Helena



DECISION OF THE LEGISLATIVE COMMITTEE AFTER CONSIDERATION OF THE PROPOSAL

10. Proposal considered on [date]

11. Officials & guests who discussed the proposal

12.a The Committee recommends no further action because:

or

12.b The Committee recommends that the following be done and the proposal be referred back to the Committee on [date]

or

12.c This is a mandate to the promoter to prepare drafting instructions with the following directions

13. The Committee's proposals for consultation are:

14. This proposal together with an ExCo Memo will be added as an agenda item at the ExCo on [insert date]

15. The ExCo Memo will be prepared by

16. Signature of Chair

17. Date