

Registration decision: The North Shore Riding Club Incorporated

The facts

1. The North Shore Riding Club Incorporated (the Applicant) was incorporated in March 1939, to promote recreational horse riding on the North Shore.
2. The Applicant applied to the Charities Commission (Commission) for registration as a charitable entity on 1 September 2007.
3. The Applicant's Constitution provides that its objects include:
 - 3.1 *Promote riding as a recreation (on the North Shore)*
 - 3.2 *Establish, maintain and conduct an Adult Riding Club and generally to afford its members the advantages, privileges and convenience of a Club. ...*
 - 3.5 *Provide facilities for, promote, organise, regulate, hold and conduct competition or activities, games and other events and give, provide or contribute towards trophies, prizes and awards thereof."*
4. The Applicant's dissolution clause (clause 20) states that in the event of winding up or dissolution, any remaining real and personal property "shall be vested in The Crown and administered by The Department of Sport and Recreation for the benefit and advantage of equestrian clubs and societies [within] New Zealand."
5. Since an amendment to the Applicant's "alteration of rules" clause of its Constitution (clause 13), made in September 2004, the Applicant has been prohibited from making any changes to its objects, personal benefit or dissolution clauses.
6. The Commission analysed the Applicant's application for registration, and on 27 March 2008, sent the Applicant a notice that may lead to a decline because the dissolution clause did not meet registration requirements. The Commission noted that all "equestrian clubs and societies" would not necessarily be charitable and therefore the Applicant's surplus funds could be directed to non-charitable purposes if it was dissolved.
7. On 14 April 2008, the Applicant sent the Commission a letter stating that, in terms of clause 20, it "felt secure in the knowledge any proceeds would go to worthy and registered equestrian pursuits". The Applicant also noted that clause 13 of its Constitution did not allow clause 20 to be altered.

The issue

8. The issue that the Commission has to consider is whether the Applicant is established and maintained exclusively for charitable purposes, and not carried on for the private pecuniary profit of any individual, as required by section 13(1)(b) of the Charities Act 2005 (the Act). Specifically, whether the Applicant's dissolution clause restricts distribution of its property to charitable purposes.

The law on charitable purposes

9. Under section 13(1)(b) of the Act, a society must be established and maintained for exclusively charitable purposes and not carried on for the private pecuniary profit of any individual. This means that, in order to be charitable, all assets and funds must be directed towards a charitable purpose on winding up.

Charities Commission's analysis


10. The Commission considers that the Applicant's purposes, set out in clauses 3.1, 3.2, and 3.5, are charitable under "other purposes beneficial to the community" because they promote healthy recreation and provide for recreational facilities. (The Commission considers that the remaining clauses, 3.3, 3.4, 3.6, 3.7, 3.8, 3.9, and 3.10, are powers clauses.)
11. As described above, the Applicant's dissolution clause (clause 20) provides that, upon dissolution, the Club's remaining property "shall be vested in The Crown and administered by The Department of Sport and Recreation for the benefit and advantage of equestrian clubs and societies [within] New Zealand."
12. The Commission considers that clause 20 does not restrict distribution to charitable purposes on winding up.

Charities Commission's determination

13. The finding of the Commission is that the Applicant has failed to meet an essential requirement for registration as a charitable entity in that the Applicant is not established and maintained exclusively for charitable purposes, as required by section 13(1)(b)(i) of the Act.

For the above reasons, the Commission declines the Applicant's application for registration as a charitable entity.

Signed for and on behalf of the Charities Commission


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Sid Ashton
Chair

9-7-08
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Date